

Referral Partner Program Terms and Conditions

These Referral Partner Program Terms and Conditions (the “Terms and Conditions”) govern the respective rights and obligations of Peer 1 Network (USA), Inc. and its affiliates (collectively, the “Company”) and the referral partner program participant (“you” or “Referrer”). These Terms and Conditions apply to the Referrer’s participation in the Company Referral Program (the “Referral Partner Program”) whereby Referrer may refer potential customers to Company. Referrer acknowledges that Referrer has read and agrees to be bound by the following Terms and Conditions:

Prospects.

A “Prospect” is a potential customer to whom the Referrer recommends the Company for services. To the extent applicable, the term Prospect will extend to and include, without limitation, a Prospect’s parent company and subsidiaries and/or controlled corporation or entities which are directly or indirectly controlled by the Prospect.

A Prospect does not include a third party who (i) is already a customer of the Company; (ii) is a target of the Company’s active sales or marketing efforts; (iii) has been referred to the Company by another person or entity at any time in the six (6) month period prior to the date referred by Referrer; or (iv) a previous customer of Company’s, whose services were terminated by Company for non-payment or other violation of Company’s standard terms and conditions.

If the same Prospect is submitted by multiple entities, then the person or company that first submits the Prospect to Company (as reflected by the time-stamp associated with such submission) will be the only person or company eligible for the payment commission associated with such Prospect.

Referrals.

A “Referral” includes the direct recommendation of Company and its services to a Prospect by the Referrer that has been documented in writing by the Referrer. Referrals may include, without limitation: (i) direct calls made by the Referrer or its representatives; (ii) displays at trade shows and other appropriate public events under the direction of the Referrer; (iii) direct introduction of executives, management level engineers, and purchasing agents of customers to Company; (iv) making similar introductions of Company; (v) suggesting or recommending Company’s products or services to a customer; or (vi) other voluntary marketing coordination between Company’s field, sales, or technical personnel and the sales or marketing personnel of the Referrer. Recommendation made by mass mailings or similar forms of communications are not Referrals.

A successful Referral of a Prospect (“Successful Referral”) is one which satisfies all of the following criteria:

- Referrer completes the referral form from the Company’s web site available at (the “Referral Form”) for each Prospect it refers to Company. It is Referrer’s responsibility to ensure that Company actually receives the Referral Form and Company will not be responsible for any errors in transmission or other factors affecting Company’s receipt of the Referral Form, regardless of whether such errors or other factors were within Company’s reasonable control. In order for Referrer to be eligible for any credit or

payment from Company, the Referral Form must be completed prior to the Prospect being contacted by Company or ordering the Service;

- After the Prospect is contacted by Company, the Prospect orders the applicable Company service (PEER 1 Managed Hosting, PEER 1 Colocation Hosting, PEER 1 Bandwidth and Network Services, or ServerBeach Dedicated Hosting) (the "Service") under the individual or company name listed on the Referral Form;
- The Service is ordered in the Prospect's name and contains complete, accurate and current billing and contact information specific to the Prospect and cannot match any other contact information in Company's customer database;
- Referrer provides reasonable assistance to Company in concluding a qualified contract, including the provision of all non-confidential information reasonably requested by Company;
- Company enters into a qualified contract with Prospect; and
- Prospect maintains the Service ordered for a minimum of ninety (90) consecutive calendar days and Prospect pays for two (2) full months of the Service.

All orders for Services placed by Prospects are subject to credit approval, availability, and other Company terms and conditions. Company, in its sole discretion, may accept or reject any Prospect referred by Referrer. If Company does not enter into a Qualified Contract with Prospect within sixty (60) days after the date a Prospect is referred to Company, then all such information submitted by Referrer will automatically expire.

Relationship.

Company and Referrer are independent contractors and nothing contained in these Terms and Conditions places Company and Referrer in the relationship of principal and agent, master and servant, partners or joint venturers. Neither party has, expressly or by implication, or may represent itself as having, any authority to make contracts or enter into any agreements in the name of the other party, or to obligate or bind the other party in any manner whatsoever. Referrer is solely responsible for all expenses associated with referring Prospects to Company.

Company may from time to time provide to the Referrer promotional materials with respect to one or more of the Company's services, and the Referrer may use and display such promotional materials in promoting the applicable services to leads. The Referrer may, at its own expense, provide materials and advertising to promote Company's services; provided that such promotional materials have been pre-approved in writing by Company in each instance and comply with all applicable laws, rules and regulations, and all trademark and other Company rules and policies. In no event shall the Referrer use Company's name in any mass mailings that could reasonably be considered spam without the prior written consent of Company.

Referrer and Company may, from time to time, each in its sole discretion, agree that Referrer will perform additional tasks, such as installation and certain maintenance services with respect to the Company's services on Company's behalf. Such additional services will only be agreed and performed pursuant to a separate agreement executed by both Parties.

The Parties shall exercise a duty of good faith and fair dealing between one another during the performance of this Agreement. Company will provide information about itself and its business to reasonably enable the Referrer to make a fair and accurate representation to the Prospect about Company's business. The Referrer warrants that any information subsequently provided to third parties or Prospects about Company will be accurate based on information actually received from Company and that such Referrals will reasonably reflect a real and legitimate business opportunity for Company.

Nothing in this Agreement shall require the Referrer to refer Prospects to Company or to engage in any activities on behalf of or for the benefit of the Company.

The Parties are free to enter into similar agreements with other people and entities. The Parties further agree that no exclusive arrangement is implied or agreed to as a result of the Company agreement to pay Commissions for Successful Referrals hereunder.

Commission Payments on Qualified Contracts.

Company will pay Referrer a commission on each Successful Referral that enters into a qualified agreement for services with Company. Commission payments will not be paid on (i) one time and setup fees or (ii) contracts for services to be used by Referrer, or its affiliates and subsidiaries. In order for Referrer to be eligible for commission payments, the accounts of a Successful Referral must be current and in good standing with the Company at the time of payout. No commission payments will be paid for accounts that are past-due or for accounts that are cancelled before the conditions for Successful Referrals or commission payments are met. Company reserves the right to revise the One Time Payment or Revenue Sharing Option at any time with 30 days written notice, in its sole and absolute discretion. Any revision will only apply to new Successful Referrals submitted by the Referrer after the revision becomes effective.

The Referrer will be able to choose from the following two commission payment options listed below:

One Time Payment Option

Referrer may choose a "One Time Payment" option for qualified monthly and annual contracts with a Successful Referral. A One Time Payment on qualified contracts will be made as follows:

Monthly recurring cost (MRC) stated in Qualified Contract	Referrer Commission
Less than \$2,000.00	100% of MRC
\$2,000.00 - \$9,999.99	100% of MRC up to \$2,000.00 + 50% of MRC above \$2,000.00
\$10,000.00 - \$19,999.99	100% of MRC up to \$2,500.00 + 50% of MRC above \$2,500.00
\$20,000.00 and over	100% of MRC up to \$3,000.00 + 50% of MRC above \$3,000.00

One Time Payments shall be paid by Company to the Referrer the month following the Successful Referral having maintained an account with Company for a minimum of ninety (90) consecutive calendar days and paying for two (2) full months of service.

Revenue Share Payment Option

Referrer may choose a "Revenue Share Payment" option for qualified twelve (12) month agreements and a maximum of twelve (12) additional months for upgrades of qualified contracts. A minimum of \$1,000 in referred revenue is required in order to become eligible for Revenue Share Payments. Revenue Share Payments on qualified contracts will be made as follows:

Referral Partner Level: (based on aggregate MRC referred over previous 12 calendar months)	Monthly Commission Rate: New Orders / Upgrades (during initial term of customer agreement)
Level 1: \$1,000-\$4,999	7.5%
Level 2: \$5,000-\$9,999	10%
Level 3: \$10,000-\$14,999	12.5%
Level 4: \$15,000+	15%

Qualified contracts with Successful Referrals must be at current Company list prices. If the price on the qualified contract is discounted, then Company reserves the right in its sole discretion to reduce the standard Commission Rate for that qualified contract.

Commissions paid on a qualified contract that is terminated by the customer other than for Company's breach, or is terminated by Company for customer's breach, within six (6) months shall be deducted from future commissions payable to Referrer under these Terms and Conditions, or at Company's sole option, must be refunded by Referrer.

Commission payments will not be paid for accounts established through any channels other than as described herein. Commission payments will be mailed quarterly to Referrer at the address listed on the Referral Form within thirty (30) days following completion of the preceding quarter in which the conditions for payment of the commission payment as described herein are met. Upon request, Company agrees to provide reasonable access to financial statements associated with a Successful Referral to resolve any questions or disputes regarding compensation or other billing related issues.

Referrer shall bear all taxes, duties, levies, and other similar charges (and any related interest and penalties), however designated or imposed on it as a result of the existence or operation of any commission payment it receives or related in any way to the Referral Partner Program, including any income, sales, or use tax on profits which may be levied against it.

FOR REFERRERS IN THE UNITED STATES: Within thirty (30) days following submission of a Prospect, Referrer must complete and submit to Company a completed IRS Form W-9. Company will not make any payments to Referrer until Company has received a completed Form W-9 from the Referrer. The Form W-9 is located at: and, once completed, should be faxed to Company at 604-484-2013. If any information submitted by the Referrer on the W-9 is

incomplete, incorrect or inaccurate, payments due Referrer may be delayed or withheld at Company's sole discretion. It is the Referrer's responsibility to ensure that Company has a complete and accurate Form W-9 on file.

Term and Termination.

These Terms and Conditions will commence on the date of acceptance by Referrer and will remain in effect until terminated by either of the parties in accordance with the terms hereunder. Referrer or Company may terminate these Terms and Conditions at any time without cause on 30 days prior written notice to the other party. If either of the parties materially breaches these Terms and Conditions and fails to cure the breach within 14 days of notification by the non-breaching party, the non-breaching party may, at its option, terminate these Terms and Conditions upon written notice. These Terms and Conditions will terminate automatically upon the occurrence of bankruptcy, insolvency, dissolution, or abandonment of business efforts of either party.

Any provision contained in these Terms and Conditions that, by its nature, is applicable to circumstances arising after the termination or expiration of this Agreement shall survive such termination or expiration and remain in full force and effect, and no termination or expiration of this Agreement shall relieve either party from any liability arising out of any breach of this Agreement occurring prior to said termination or expiration. Company's obligations to pay Referrer commissions under these Terms and Conditions will continue for a maximum period of three months following the expiration or termination of these Terms and Conditions, provided that Referrer remains in compliance with the surviving terms of these Terms and Conditions.

Referrer's Representations and Warranties.

Referrer hereby represents and warrants to Company that: (i) the information submitted by Referrer to Company is true and correct in all material respects; (ii) Referrer will not make any representations concerning the Services except those that have been approved or published by Company; (iii) Referrer will not distribute any documents or materials describing the Services except those that have been approved or published by Company; (iv) any information provided to third parties or Prospects about Company will be accurate and will reasonably reflect a real and legitimate business opportunity for Company; (v) Referrer will not make any statement, or take any action, that could reasonably be expected to reflect poorly on Company or on the reputation of Company or its products and services; and (vi) Referrer has obtained from Prospects any and all approvals and permissions that are necessary for Referrer to submit the Prospect's information to Company.

Company's Acceptable Use Policy.

Referrer will abide by and utilize, the Referral Partner Program, Company's other products and services, and the Company's web site, only in accordance with Company's Acceptable Use Policy located at <http://www.peer1.com/aboutus/aup.php> (the "Acceptable Use Policy"), and as such Acceptable Use Policy may be modified from time to time. The Acceptable Use Policy is hereby incorporated herein and made a part hereof by this reference. Referrer shall familiarize itself with the Acceptable Use Policy and periodically access Company's web site to determine if Company has made any changes thereto.

Company Intellectual Property.

Company's trademarks, tradenames, service marks, logos, other names and marks, and related product and service names, design marks and slogans are the sole and exclusive property of Company. Except as otherwise provided in these Terms and Conditions, Referrer may not use any of the foregoing in any manner without the prior written consent of Company.

Any feedback, data, answers, questions, comments, suggestions, ideas or the like which Referrer sends to Company relating to any service provided by Company will be treated as being non-confidential and non-proprietary. Company may use, disclose or publish any ideas, concepts, know-how or techniques contained in such information for any purpose whatsoever.

Disclaimer of Warranties.

Any service warranty in a contract with a Prospect referred by Referrer hereunder will be for the benefit of the Prospect and not Referrer. Company makes no representations or warranties whatsoever to Referrer regarding its services. To the extent permitted by applicable law, Company disclaims any and all express or implied warranties or conditions not expressly stated herein including, without limitation, any warranties of merchantability, fitness for a particular purpose, and non-infringement.

Limitation of Liability.

IN NO EVENT WILL COMPANY'S LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS OR RELATED TO THE REFERRAL PARTNER PROGRAM, WHETHER IN CONTRACT, OR TORT, OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO REFERRER HEREUNDER DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. COMPANY SHALL NOT BE LIABLE IN ANY WAY TO THE REFERRER OR ANY OTHER PERSON FOR ANY LOST PROFITS OR REVENUES, LOSS OF USE, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LICENSES OR SERVICES OR SIMILAR ECONOMIC LOSS, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGES OF ANY NATURE, WHETHER FORESEEABLE OR NOT, UNDER ANY WARRANTY OR OTHER RIGHT HEREUNDER, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS AND CONDITIONS, OR FOR ANY CLAIM AGAINST REFERRER BY A THIRD PARTY, REGARDLESS OF WHETHER REFERRER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES.

Indemnification of Company.

Referrer shall defend, indemnify and hold harmless Company, its affiliates and their respective present, former and future officers, directors, employees and agents, and their respective heirs, legal representatives, successors and assigns (collectively the "Company Indemnitees"), from and against any and all losses, damages, costs, liabilities and expenses (including, without limitation, amounts paid in settlement and reasonable attorneys' fees) which any of the Company Indemnitees may suffer, incur or sustain resulting from or arising out of (i) Referrer's breach of any representation, warranty, or covenant contained in these Terms and Conditions, (ii) services provided by the Referrer to any Company customer, and (iii) claims or actions of third parties alleging unfair or deceptive trade practices or false advertising in connection with statements or claims made by Referrer pertaining to Company's services.

Confidentiality.

“Proprietary Information” means all technical, business and other information of a party (i) that is not generally known to the public, (ii) that derives value, economic or otherwise, from not being generally known to the public or to other Persons who can obtain value from its disclosure or use, and (iii) which information is subject to efforts that are reasonable under the circumstances to maintain the secrecy thereof.

Each party will not, without the prior written consent of the other party, use or disclose to any Person any Proprietary Information of the other party disclosed or made available to it, except for use of such Proprietary Information as required in connection with the performance of its obligations or use of the Services hereunder. Each party will (i) treat the Proprietary Information of the other party as secret and confidential, (ii) limit access to the Proprietary Information of the party to those of its employees who require it in order to effectuate the purposes of these Terms and Conditions, and (iii) not disclose the Proprietary Information of the other party to any other Person without the prior written consent of the other party. Each party acknowledges that disclosure of any aspect of the Proprietary Information of the other party shall immediately give rise to continuing irreparable injury to the other party inadequately compensable in damages at law, and, without prejudice to any other remedy available to the other party, shall entitle the other party to injunctive or other equitable relief.

The following shall not be considered Proprietary Information: (i) any information that the receiving party can demonstrate by written documentation was within its legitimate possession prior to the time of disclosure by the disclosing party; (ii) any information that was in the public domain prior to disclosure by the disclosing party as evidenced by documents that were published prior to such disclosure; (iii) any information that, after disclosure by the disclosing party, comes into the public domain through no fault of the receiving party, (iv) any information that is disclosed to the receiving party without restriction by a third party who has legitimate possession thereof and the legal right to make such disclosure; or (v) any information that, two years after the exchange of such the Proprietary Information, does not constitute a trade secret under applicable law.

Modification.

Company may modify the content, terms, and conditions of this Referral Partner Program from time to time. Referrer should visit Company’s web site at from time to time to stay abreast of such changes. Any change to this Referral Partner Program will be effective immediately when posted to Company’s website.

Miscellaneous.

Governing Law; Mandatory Arbitration. The validity and effect of these Terms and Conditions shall be governed by and construed and enforced in accordance with the laws of the State of Washington, without regard to its conflicts of laws principles. Each party agrees that any dispute between the parties arising out of these Terms and Conditions or in any manner relating to the Referral Partner Program must be submitted by the parties to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association before a single arbitrator, appointed in accordance with such rules. Judgment upon the award may be entered in any court having jurisdiction thereof. Any such arbitration will be held in Seattle, Washington. Any action filed by either party in any court in violation of this Mandatory Arbitration provision should be dismissed pursuant to this Section.

Headings. The headings herein are for convenience only and are not part of these Terms and Conditions.

Notices. All notices and demands required or contemplated hereunder by one party to the other shall be in writing and shall be deemed to have been duly made and given upon date of delivery if delivered in person or by an overnight delivery or postal service, upon receipt if delivered by facsimile the receipt of which is confirmed by the recipient, or upon the expiration of five days after the date of posting if mailed by certified mail, postage prepaid, to the addresses or facsimile numbers (i) for the Referrer, the address listed on the Referral Form, and (ii) for Company, as designated on Company's web site for the giving of notices. Either party may change its address or facsimile number for purposes of these Terms and Conditions by notice in writing to the other party as provided herein.

Waiver. No failure or delay by any party hereto to exercise any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy by any party preclude any other or further exercise thereof or the exercise of any other right or remedy. No express waiver or assent by any party hereto to any breach of or default in any term or condition of these Terms and Conditions shall constitute a waiver of or an assent to any succeeding breach of or default in the same or any other term or condition hereof.

Assignment. Referrer may not assign or transfer its right or obligations under these Terms and Conditions without the prior written consent of Company. Any attempted assignment in violation of the foregoing provision shall be null and void and of no force or effect whatsoever. Company may assign its rights and obligations under these Terms and Conditions, and may engage subcontractors or agents in performing its duties and exercising its rights hereunder, without the consent of Referrer. These Terms and Conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Limitation of Actions. No action, regardless of form, arising by reason of or in connection with these Terms and Conditions may be brought by either party more than two years after the cause of action has arisen.

Government Regulations. Referrer may not export, re-export, transfer or make available, whether directly or indirectly, any regulated item or information to anyone outside the United States in connection with these Terms and Conditions without first complying with all export control laws and regulations which may be imposed by the United States government and any country or organization of nations within whose jurisdiction Referrer operates or does business.

Marketing. Referrer agrees that Company may publicly refer to Referrer, orally and in writing, as a participant in Company's Referral Partner Program. Company may include Referrer's name and logo in Company customer lists included in any Company marketing collateral, financial reports, or on Company's Web site, subject to any Referrer trademark and logo usage guidelines that are provided by Referrer.

Entire Agreement; Severability. These Terms and Conditions set forth the entire agreement and understanding between the parties as to the subject matter contained herein and supersede all prior discussions, agreements, or understandings, and is not intended to confer upon any other person other than the parties any rights or remedies hereunder. If any provision of contained herein is deemed unenforceable, the remainder shall not be affected and shall be enforced to the greatest extent permitted by law.