This Software Development and License Agreement is a legal agreement between Peakey Enterprise LLC (from this point forwards being recognized as the Licensor) and \_\_\_\_\_\_ (from this point forwards known as the Licensee) for the use of one copy of The Komodo Creator software set forth in the specification by Peakey Enterprise LLC (the "Licensed Software") for use by Licensee. The Licensed Software is licensed, not sold, to Licensee by Licensor for use only under the following terms, and Licensor reserves any rights not expressly granted to Licensee.

Software Development. Peakey Enterprise LLC will provide the Licensed Software for use by Licensee, per the specifications set forth by Licensee in the request from \_\_\_\_\_\_. Any invention, improvement, product, process, apparatus, work of authorship or design conceived or resultant from the efforts of Licensor hereunder will be owned by Licensor.

**License.** Licensor hereby grants to Licensee a non-exclusive, non-transferable license to use the Licensed Software which will not expire so long as Licensee complies with the terms of this Agreement. The Licensed Software includes computer software and electronic documentation.

License Fee. The Licensee will pay Licensor a license fee of \$47.99 for the Licensed Software. This will include the initial set up of the web site on the Licensor's Web Servers. This will include one Domain Name Registration and DNS service for one Domain Name, Peakey Enterprise LLC can however provide additional domain names at a reasonable cost and manage them for the Licensee if so desired.

License Hosting Fees. The Licensee will pay Licensor a monthly Hosting fee of \$15.99 per month for the Licensed Software, Hosting, service, patches and updates (see **Updates** for more details)

**Late Payments.** Payment is due on or before the  $1^{\rm st}$  of every month. If payment is not received by the  $10^{\rm th}$  of the month, the site will be suspended. Site suspension will continue until payment is received or for 60 days. There is a \$10 reactivation fee. Payments more than 60 days late will be considered a termination of this agreement and License will be terminated.

**Updates.** The Licensor will endeavor to provide updates on request via a "wish list" (see **Wish List**) as part of the ongoing software development program. There will be no preferential treatment allocated to any of the Licensee's.

Wish Lists. The wish list is the ability of any Licensee to request via a web interface any type of update, functionality or change to the architecture of the software; these will be approved and integrated at the Licensor's discretion and where the technology and available resources allows (see also Wish List Exceptions).

Wish List Exceptions. A licensee may ask for bespoke developments and

have these developed specifically to their requirements, these will be developed in priority to the Wish List, but will remain the Intellectual Property of Peakey Enterprise LLC and will be distributed to all other Licensees within the user group / subscribers. These will also be chargeable to the licensee.

Software Protection. Licensor represents that the Licensed Software is the property of Licensor and contains confidential information and trade secrets of Licensor. Licensee agrees to use the Licensed Software only as provided in this Agreement and agrees not to make the Licensed Software available to any third party without the written consent of Licensor. Licensee may not rent, lease, loan, resell for profit, or distribute the Licensed Software, or any part of the Licensed Software. Licensee may not reverse engineer, decompile, or disassemble the Licensed Software. The obligations of this paragraph shall survive the termination of this Agreement and shall apply to the Licensed Software regardless of its incorporation by Licensee into any other programs not provided by Licensor. These restrictions shall not apply to any Licensed Software which is or becomes part of the public domain through no fault of Licensee or is in Licensee's possession before the disclosure by Licensor.

No Support of Licensed Software. Licensor is under no obligation to support the Licensed Software in any way, or to provide Licensee with updates, bug fixes, builds or error corrections (collectively, "Software Updates"). If Licensor, at its sole option, supplies Software Updates to Licensee, such Software Updates will be considered part of the Licensed Software, subject to the terms and conditions of this Agreement.

**Termination**. This Agreement will terminate immediately without notice from Licensor if Licensee fails to comply with any of its provisions. Upon termination Licensee must destroy the Software and all copies thereof, and Licensee may terminate this Agreement at any time by doing so.

Cooling Off Cancellation Period. As per consumer rights legislation the Licensor acknowledges the "Right to cancel" should the Licensee wish to cancel the agreement within 14 days of the commencement of this agreement then they may do so. A 25% cancellation fee will be applicable.

Ownership and Copyright. All right, title and interest in and to the Licensed Software, the accompanying documentation, and any copies of the Licensed Software are owned by Licensor. The Licensed Software is protected by copyright laws and international treaty provisions. UNAUTHORIZED REPRODUCTION OR DISTRIBUTION IS SUBJECT TO CIVIL AND CRIMINAL PENALTIES.

Intellectual Property rights. The software any concepts, ideas, developments or anything else related to the design, implementation or upgrading of the software will always remain the Intellectual Property of the Licensor.

**Training.** The License fee will include one 1/2 day of free training in the use of the software; this can be performed from any PC with a connected and enabled Internet Link.

Support. The Licensor will provide help files via a web interface as and where the development budget allows. Initially through all Version 1.0 to Version 2 these will be at the Licensors discretion, on completion of Version 2.0 a specific and comprehensive web Interface will become available. A hard copy development manual will also become available at this point.

**Assignment.** Licensee's rights under this software may not be assigned by Licensee without Licensor's prior written approval. Licensor may assign this Agreement, in which case this Agreement shall be binding upon Licensors assignee.

Warranty Disclaimer, Limitation of Remedies and Damages. LICENSEE RECOGNIZES THAT THE LICENSED SOFTWARE IS PROVIDED BY LICENSOR ON AN AS-IS BASIS. NEITHER LICENSOR NOR ANY AFFILIATED COMPANY OF LICENSOR NOR Peakey Enterprise LLC SHALL HAVE ANY LIABILITY WHATSOEVER TO LICENSEE OR ANY OTHER PERSON INCLUDING LICENSEE'S CUSTOMERS FOR OR ON ACCOUNT OF ANY INJURY, LOSS, OR DAMAGE, OF ANY KIND OR NATURE SUSTAINED BY, OR ANY DAMAGE ASSESSED OR ASSERTED AGAINST, OR ANY OTHER LIABILITY INCURRED BY OR IMPOSED UPON LICENSEE OR ANY OTHER PERSON, ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THE PRODUCTION, USE OR SALE OF THE LICENSED SOFTWARE OR ANY APPARATUS, PRODUCT, OR PROCESS OR ADVERTISING OR OTHER PROMOTIONAL ACTIVITIES WITH RESPECT TO ANY OF THE FOREGOING, AND LICENSEE SHALL HOLD LICENSOR, AND ANY AFFILIATED COMPANY OF LICENSOR, HARMLESS IN THE EVENT LICENSOR, OR ANY AFFILIATED COMPANY OF LICENSOR, IS HELD LIABLE. LICENSORS LIABILITY TO LICENSEE FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL BE LIMITED TO THE AMOUNT PAID FOR THE SOFTWARE THAT CAUSED THE DAMAGES. NEITHER LICENSOR, NOR ANY OF ITS EMPLOYEES, MAKES ANY WARRANTY, EXPRESS OR IMPLIED, OR ASSUMES ANY LEGAL LIABILITY RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY DATA, APPARATUS, PRODUCT, OR PROCESS DISCLOSED, OR REPRESENTS THAT ITS USE WOULD NOT INFRINGE PRIVATELY OWNED RIGHTS.

**General.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be amended or modified in any respect except by written instruments signed by both parties. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent permissible and the remaining provisions of this Agreement will remain in full force and effect.

By Signing Below I am state that I have read and agree to the terms set forth in this license.

Name Date