

**IMPORTANT - USE OF THIS APPLICATION SERVICE IS SUBJECT TO LICENSE RESTRICTIONS.  
CAREFULLY READ THIS AGREEMENT BEFORE USING THE APPLICATION.**

This is a legal agreement concerning the use and distribution of ResortPAL™ software, remote access, hardware, support services, other services, and related materials, (collectively, the "Application") between you, the end user, (either (a) a single legal entity, (b) an individual person, or (c) as a representative of the company acquiring the license, who will be referred to as "you" herein) and the owners of the Application, Orion Software, Inc ("Orion") and Summit Management Resources, LLC ("Summit"), who are referred to as the "Owners." The seller of this service to you is either Orion in Canada or Summit in the United States, and is referred to as the "Seller." The Software is not sold; a license to use the Software is provided with the service. USE OF THE SOFTWARE INDICATES YOUR COMPLETE AND UNCONDITIONAL ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. **If you do not agree to these terms and conditions, you must notify the Seller.** If the Seller receives notice of non-acceptance within 10 days after your receipt of production website access instructions, the Seller will refund you the fees you have paid, prorated for the period of time that has elapsed since receipt of order. The Seller reserves the right to change these terms and conditions from time to time at its sole discretion. Your use of the Software will be subject to the most current version of this Agreement at the time of such use and you shall be subject to any guidelines or rules applicable to the Software posted on the website for this Application ([www.resortpal.com](http://www.resortpal.com)). All such guidelines or rules are hereby incorporated by reference into this Agreement.

**GENERAL DISCLAIMER**

**This Application and other information generated or supplied are for reference only. User must act on local conditions, user's experience and training, and compliance with all relevant laws and regulations. No representation is made or warranty given as to their content, the environmental conditions, or usability or expeditiousness. YOU ASSUME ALL RISK OF USE INCLUDING BUT NOT LIMITED TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT. Owners, Seller and their suppliers assume no responsibility for any loss or delay resulting from such use.**

**1. APPLICATION AVAILABILITY AND ACCESS.** Owners will provide you with remote access to the computers ("Owners' Servers") on which Owners host the ResortPAL™ software ("Software"), and certain software support services ("Support Services") according to the terms established in the Service Level Policy posted on the [www.resortpal.com](http://www.resortpal.com) website. The Owners may change the Service Level Policy from time to time and you hereby agree to those changes. Subject to the terms and conditions of this Agreement, and for as long as you are provided access per this Agreement, Owners grant you a non-exclusive, non-transferable, non-sub-licensable, right to use and access the Software solely for your own internal business operations. You may not make any copies of the Software. You will not: (i) disassemble, reverse engineer, decompile, or otherwise attempt to derive source code from the Software, modify, adapt, create derivative works based upon, or translate the Software; (ii) copy, install or use the Software on any of its computer systems, servers, or networks; (iii) transfer, lease, loan, resell for profit, distribute or otherwise grant any rights in the Software in any form to any other party, including commercial time-sharing, rental, or service bureau use; or (iv) replicate the functionality of the Application. This license is not a sale of the Software and does not convey any rights of ownership in or to the Software. Owners are not granting you any rights in the Software source code. All right, title, and interest in the Software and any updates, upgrades or modifications thereof, or in any ideas, know-how, and programs developed by Owners or their licensors during the course of this Agreement will remain the property of Owners or their licensors. All rights, title, and interest in your data will remain your property.

**2. FEES AND PAYMENT OBLIGATIONS.** All fees are as stated in the order authorization you provided to Seller to commence the implementation of the Application. You hereby agree to pay all fees when due. Seller may send payment due notices, but it is your obligation to make payments as scheduled. Any payment not paid on the due date will be deemed late, and Seller may notify you in writing that payment is to be made immediately and you agree to make payment within 30 days or less of such notification.

**3. CONFIDENTIAL INFORMATION AND PRIVACY POLICY.** You agree that the Software contains proprietary information, including trade secrets, know-how and confidential information that is the exclusive property of Owners. "Confidential Information" shall also mean non-public information that Owners designate as confidential or which, under the circumstances surrounding disclosure, ought to be treated as confidential. Confidential Information includes, without limitation, information relating to released or unreleased software or hardware products, unpublished marketing and promotion materials, unpublished customer lists, and information regarding business policies or practices. Notwithstanding the foregoing, all pricing and all other business terms of this Agreement and all attachments, and all information relating to the Software are deemed Confidential Information. Under no circumstances may you disclose any pricing or business terms to any third-party (including, but not limited to, competitors, industry analysts, or press or media). Owners agree to maintain the confidentiality of your

confidential and proprietary information. "Confidential Information" shall also mean non-public information that you designate as confidential or which, under the circumstances surrounding disclosure, ought to be treated as confidential. Confidential Information includes, without limitation, trade secrets, know-how, information relating to owners, facilities, services, unpublished prices, fees, and rates, unpublished marketing and promotion materials, and information regarding business policies or practices. All provisions of this Agreement related to Confidential Information shall survive termination of the Agreement. You also hereby agree to the Privacy Policy that may be posted on the [www.resortpal.com](http://www.resortpal.com) website.

**4. LIMITED WARRANTY.** Owners warrant that during the warranty period the Application, when properly and used, will substantially conform to the functionality set forth in the **Application Description** as posted on the [www.resortpal.com](http://www.resortpal.com) website. The warranty period is 90 days from the day you accept this agreement by first using the Application. You must notify the Seller in writing, including by email, of any nonconformity within the warranty period. This warranty shall not be valid if the Application has been subject to misuse, unauthorized modification or installation. Any supplements or updates to the Application not covered by any warranty or condition, express, implied or statutory after the expiration of the initial ninety (90) day Limited Warranty period that began when you entered into this agreement by using the Application. OWNER'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY SHALL BE, AT OWNER'S OPTION, EITHER (a) REFUND A PRORATA PORTION OF THE FEES ALREADY PAID UPON CESSATION OF ACCESS TO AND USE OF THE APPLICATION, OR (b) MODIFICATION OR REPLACEMENT OF ALL OR PART OF THE APPLICATION THAT DOES NOT MEET THIS LIMITED WARRANTY, PROVIDED YOU HAVE OTHERWISE COMPLIED WITH THIS AGREEMENT. THE WARRANTIES SET FORTH IN THIS SECTION 5 ARE EXCLUSIVE.

YOU AGREE THAT THE OWNERS HAVE MADE NO EXPRESS WARRANTIES TO YOU REGARDING THE APPLICATION OTHER THAN AS STATED HEREIN. OWNERS DO NOT WARRANT THAT APPLICATION WILL MEET YOUR REQUIREMENTS OR THAT OPERATION OF APPLICATION WILL BE UNINTERRUPTED OR ERROR FREE. OWNERS MAKE NO WARRANTIES WITH RESPECT TO: (a) SERVICES; (b) SOFTWARE WHICH IS MADE AVAILABLE AT NO COST, OR AS PART OF A FREE TRIAL; OR (c) BETA VERSIONS, ALL OF WHICH ARE PROVIDED "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE." OWNERS MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APPLICATION, INCLUDING WITHOUT LIMITATION, SOFTWARE, REMOTE ACCESS, HARDWARE, SUPPORT SERVICES, OTHER SERVICES, AND RELATED MATERIALS PROVIDED UNDER THIS AGREEMENT. OWNERS HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY (IF ANY) IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF PROTECTION AGAINST MALICIOUS PROGRAMS -- SUCH AS VIRUSES -- THAT ALTER COMPUTER BEHAVIOR, PERFORMANCE OR DATA, OF ACCURACY OR COMPLETENESS OF RESPONSES, OF RESULTS, AND OF LACK OF NEGLIGENCE OR LACK OF WORKMANLIKE EFFORT, ALL WITH REGARD TO THE APPLICATION, INCLUDING WITHOUT LIMITATION, SOFTWARE, REMOTE ACCESS, HARDWARE, SUPPORT SERVICES, OTHER SERVICES, AND RELATED MATERIALS PROVIDED UNDER THIS AGREEMENT. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, OF QUIET ENJOYMENT, QUIET POSSESSION, AND CORRESPONDENCE TO DESCRIPTION, OR OF NO ENCUMBRANCES, OR OF NO LIENS, OR OF NONINFRINGEMENT WITH RESPECT TO THE APPLICATION. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE APPLICATION IS WITH YOU. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE OF THIS AGREEMENT.

**5. LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL OWNERS OR SELLER BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR SAVINGS, LOST DATA, INABILITY TO ACCESS WEB SERVICES, BUSINESS INTERRUPTION, OR INJURY TO PERSONS OR PROPERTY) WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF OWNERS OR SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OWNERS' AND SELLER'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID BY YOU FOR USE AND ACCESS TO THE APPLICATION. IN THE CASE WHERE NO AMOUNT WAS PAID, OWNERS AND SELLER SHALL NOT HAVE ANY LIABILITY FOR ANY DAMAGES WHATSOEVER. THIS EXCLUSION OF DAMAGES SHALL BE EFFECTIVE EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. You agree to indemnify and hold Owners, Seller, and their subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to your use of the Application, your violation of this Agreement, or your violation of any rights of another person or entity.

**6. INFRINGEMENT.** Owners will defend or settle, at their option and expense, any action brought against you alleging that the Application infringes a patent or copyright in the United States and will pay any costs and damages finally awarded against you that are directly attributable to the claim, provided that you: (a) notify Seller promptly in writing of the action; (b) provide Owners all reasonable information and assistance to settle or defend the claim; and (c) grant Owners sole authority and control of the defense or settlement of the claim. If an

infringement claim is made, Owners may, at their option and expense, either (a) replace or modify the Application so that it becomes non-infringing, or (b) procure for you the right to continue using the Application. If Owners determine that neither of those alternatives is financially practical or otherwise reasonably available, and may require the cessation of use of the Application, and refund to you any fees paid, less a reasonable allowance for use. Owners have no liability to you if the alleged infringement is based upon: (a) the combination of the Application with any product, service, or application not provided under this agreement; (b) the modification of the Software other than by the Owners; (c) the use of the Application as part of an infringing process; or (d) a product that you design or market. THIS SECTION STATES THE ENTIRE INFRINGEMENT LIABILITY OF OWNERS AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY ALLEGED PATENT OR COPYRIGHT INFRINGEMENT BY ANY SOFTWARE LICENSED OR APPLICATION USED UNDER THIS AGREEMENT.

**7. TERM, RENEWAL, EXPIRATION AND TERMINATION.** This Agreement remains effective until expiration or termination. The initial term of this agreement is for one year from the date you first access the Application under this agreement. Upon the expiration of the initial term of this Agreement, the term shall renew for successive twelve-month terms at Owners' then-current renewal pricing or at no more than 10% in excess of the prior year's pricing (whichever is less). If you notify Seller in writing of your intent to let the agreement expire, no less than 60 days prior to the end of the term, this Agreement shall expire without renewal at the end of the term. This Agreement will automatically terminate if you fail to comply with any term or condition of this Agreement, or if you fail to pay any fees when due and such failure to pay continues for a period of 30 days after written notice from the Seller. Upon any termination or expiration, you agree to cease all use of the Application, and Owners may at their sole discretion limit your access to the Application.

**8. PUBLICITY.** Owners may issue a press release announcing the relationship outlined in this Agreement, as well as other press releases as may be mutually agreed to from time to time. Owners shall have the right to include quotes from you in Owners' press releases upon your prior approval of such quotes, which approval not to be unreasonably withheld or delayed. You agree that Owners may use your name and logo in press releases, product brochures and similar marketing materials, financial reports and prospectuses indicating that you are a customer. Owners may create a description detailing the business case and your experience. Upon approval of the description by you, Owners will retain the right to use the description in its marketing materials. Owners will provide the description to you for your own use at no charge. You agree to provide references for the ResortPAL™ application, if requested by Owners.

**9. EXPORT.** You agree that you will not export in any manner any Software or direct product of Software, without first obtaining all necessary approval from appropriate local and United States government agencies.

**10. THIRD PARTY BENEFICIARY.** This Agreement does not create any third party beneficiary rights.

**11. ASSIGNMENT.** Customer may not assign any of its rights or delegate any of its obligations under this Agreement, whether by operation of law or otherwise, without the prior express written consent of the Owners. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns. Neither party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other party; provided, however, that if such assignment is in connection with the acquisition of the assigning party by means of a merger, consolidation or other business combination, or sale of all or substantially all of its assets, to an entity that could not reasonably be considered a competitor of the other party, approval of the non-assigning party shall not be required.

**12. CONTROLLING LAW.** Your use of the Application and the interpretation of this Agreement shall be governed by the statutes and laws of the State of Colorado, without regard to the conflicts of laws principles thereof. You also agree and hereby submit to the exclusive jurisdiction and venue of the courts of Arapahoe County, Colorado, and the United States District Court for Colorado with respect to such matters.

**13. SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be void, invalid, unenforceable or illegal, such provision shall be severed from this Agreement and the remaining provisions will remain in full force and effect.

**14. MISCELLANEOUS.** This Agreement contains the entire understanding between the parties relating to its subject matter and supersedes all prior or contemporaneous agreements, including, but not limited to, any purchase order terms and conditions, except valid agreements expressly superseding the subject matter of this Agreement which are physically signed by you and the Owners. This Agreement may only be modified by a physically signed writing between you and the Owners. Waiver of terms or excuse of breach must be in writing and shall not constitute subsequent consent, waiver or excuse. The prevailing party in any legal action regarding the subject matter of this Agreement shall be entitled to recover, in addition to other relief, reasonable attorneys' fees and expenses.