

End User License/Right to Use Agreement

READ THIS END USER LICENSE/RIGHT TO USE AGREEMENT ("AGREEMENT") BEFORE DOWNLOADING, INSTALLING, OR USING THE SOFTWARE OR THE SERVICES. BY DOWNLOADING, INSTALLING, USING THE SOFTWARE OR THE SERVICES OR OTHERWISE EXPRESSING YOUR AGREEMENT TO THE TERMS CONTAINED HEREIN, YOU (AS CUSTOMER OR IF YOU ARE NOT THE CUSTOMER, AS A REPRESENTATIVE/AGENT AUTHORIZED TO BIND THE CUSTOMER) CONSENT TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT OR CANNOT AGREE TO THE TERMS CONTAINED HEREIN, THEN (A) DO NOT DOWNLOAD, INSTALL, OR USE THE SOFTWARE OR THE SERVICES, AND (B) YOU MAY CONTACT ACTILITY REGARDING LICENSE TERMS.

These general terms and conditions constitute the first part of the Agreement that applies to the provision of license/ Right to Use to clients as the case may be by Actility. In case of discrepancies between the first part and the second part (Specific Terms and Conditions), the latter shall prevail.

- **The Parties.** The parties to this Agreement are (i) Actility (such applicable entity being referred to herein as "Actility"), and (ii) the person or organization that originally purchased from Actility or an authorized Actility reseller the applicable license(s) for use of the Software ("Customer") (collectively, the "Parties").
- **Audit.** Customer shall maintain accurate records as necessary to verify compliance with this Agreement. Upon request by Actility, Customer shall furnish such records to Actility and certify its compliance with this Agreement.
- **Confidentiality.** The Parties agree that Software/Right to Use and associated documentation are the confidential property of Actility. As such, Customer shall maintain the Software/Right to Use and associated documentation in confidence, which at a minimum includes restricting access to the Software to Customer employees and contractors having a need to use the Software for Customer's internal business purposes.
- **Warranty, Limitation of Liability, Disclaimer of Warranty.** The warranty applicable to the Software/Right to Use shall be as set forth in the Agreement and as may be further specified by Actility from time to time: (the "Warranty Statement"). Nothing in this Agreement shall give rise to any obligation to support the Software. Support services may be purchased separately. In no event shall the aggregate liability of each party together with all of its affiliates arising out of or related to this agreement exceed the portion of the total amount actually paid by Customer hereunder for the deliverables giving rise to the liability in the twelve months preceding the first incident out of which the liability arise. This limitation is cumulative and not per incident; the portion of the total amount will vary depending on the deliverables giving rise to the liability. For software delivered on right to use recurring subscription based, give rise to the liability, then the portion will be 3 (three) months paid for recurring subscription services affected by the claim. If software delivered on one time license fee based, give rise to the liability, then the portion will be 25% of the amount paid for the software affected by the claim. To the maximum extent permitted by applicable law, and notwithstanding anything to the contrary contained in this agreement, in no event shall either party have any liability or obligation whatsoever for any lost profits, loss of data or costs of procurement of substitute goods or services, or for any special, incidental, indirect, exemplary, or consequential damages arising out of or under this agreement or any transaction contemplated hereunder, whether arising by contract, tort or, under any other theory of liability, including, without limitation, those resulting from the use of product purchased hereunder, or the failure of products or services to perform, or for any other reason, even if either party is informed in advance of the possibility of such damages occurring. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy. This section will not exclude any liability for damages that cannot be excluded by applicable law, provided that to the maximum extent permitted by applicable law any such damages will be subject to the total aggregate liability limit set forth in this section above. Actility cannot be held liable for any delay or failure to perform the obligations in case of non-coverage of the network, outage related to the card or default in the installation of the card, geolocation failure, error made by the product during the transmission of the instruction, failure during the connection of the product to the network, malfunctioning related to act of non-authorized third party or any cause out of the control of Actility when the default is caused by the compliance of the product with compulsory legislative or regulatory rules ("ordre public"
- **Term and Termination.** The license agreement shall commence on the start date and shall continue for and until the end of the Subscription Period. Any breach of this Agreement or failure by Customer to pay any applicable fees due shall result in automatic termination of the license/Right to Use granted herein. Upon such termination, Customer shall destroy or return to Actility all copies of the Software and related documentation in Customer's possession or control.
- **Subscription Period.** The Subscription Period for the Software will begin on the day of the activation and end one year thereafter or any other longer ordered period. Customer agrees to pay the Subscription Fee for the Subscription Period. Customer subscription to the software will automatically renew for a new Subscription Period unless Customer provides written notice of non-renewal to Actility or Actility authorized Partner at least five (5) business days prior to the end of the then current Subscription term. Renewal date will start one (1) day after the end of the prior subscription period. Actility reserves the right to change the Subscription Fee for any renewal Subscription Periods. Each new Subscription Period will be subject to the same terms and conditions set forth in this Agreement, which may be updated by Actility from time to time. Actility or any Actility authorized partner may disable the Software, without any further notice if Customer has not paid the Subscription Fee to renew the subscription. At every renewal period, an invoice will be sent to the Customer by Actility authorized partner or Actility.

- **Taxes.** Unless otherwise expressly agreed to in writing by Actility, all amounts payable under this Agreement are exclusive of applicable taxes. Customer shall pay all sales, use, VAT, property, ad valorem, income and similar taxes; all customs, duties, import fees, or similar charges; stamp duties, license fees, and similar costs; and all other mandatory payments to government agencies of whatever kind with respect to the license and Services ("Taxes"). Customer will make all payments required hereunder to Actility free and clear of, and without reduction for, any Taxes. Except withholding Taxes, in the event the Government imposes any income tax on Actility and requires Customer to withhold such tax from the payment of the price, Customer may deduct such tax from the said payment and pay it to the appropriate tax authority. Any Taxes imposed on any payments hereunder to Actility will be Customer's sole responsibility, and Customer will, upon Actility's request, provide Actility with official receipts issued by the appropriate taxing authority, Customer shall provide Actility with a tax exemption certificate acceptable to the taxing authorities. Customer shall promptly reimburse Actility for any and all Taxes that Actility pays or is required to pay in connection with this Agreement or Actility's performance under this Agreement due to a lack of compliance of Customer in relation to withholding taxes for any income tax imposed on Actility. In addition, Customer shall indemnify, defend, and hold harmless Actility and its officers, directors, agents, and employees from and against any and all claims, demands, actions, litigation, investigations, and proceedings arising out of or related to Customer's obligation to pay all Taxes as set forth hereunder.
- **Export.** Customer agrees to comply with all applicable export laws and restrictions and regulations of any United States and any applicable foreign agency or authority, and not to export or re-export the Software or any direct product thereof in violation of any such restrictions, laws or regulations, or without all necessary approvals. Customer shall be liable for any such violations. The version of the Software supplied to Customer may contain encryption or other capabilities restricting Customer's ability to export the Software without an export license.
- **Interface Information.** To the extent required by applicable law, and at Customer's written request, Actility shall provide Customer with the interface information needed to achieve interoperability between the Software and another independently created program, on payment of applicable fee, if any. Customer shall observe strict obligations of confidentiality with respect to such information and shall use such information in compliance with any applicable terms and conditions upon which Actility makes such information available.
- **Force Majeure** Neither of the Parties shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated party. Both parties will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either of us may cancel unperformed services upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or your obligation to pay for the services.
- **Customer Data** In performing the services, Actility will comply with the Actility Privacy Policy, which is available upon request. The Actility Privacy Policy is subject to change at Actility's discretion; however, Actility policy changes will not result in a material reduction in the level of protection provided for Customer data during the period for which fees for the services have been paid. Customer has to provide any notices and obtain any consents related to its use of the services and Actility's provision of the services, including those related to the collection, use, processing, transfer and disclosure of personal information. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of its data. Because Actility operates globally, Customer understands and agrees that any personal information that Customer may provide may be processed by Actility as data processor and Actility may, for example, transfer such information within Actility's global operations consistently with Actility's privacy policy. Customer complies with any applicable data privacy rules or regulations, any of its contractual obligations, or any of its internal privacy policies.
- **Miscellaneous** This Agreement shall be governed by and interpreted in accordance with the laws of France except for its choice of law rules. Any disputes arising out of this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce. Such arbitration shall be held in Paris, France in accordance with the said rules by three (3) arbitrators appointed in accordance with the same rules. The language to be used in the arbitration shall be English. The award rendered by the arbitrators shall be final and binding upon both parties and may be entered by any court of competent jurisdiction for execution forthwith. Each party shall bear its own expenses and attorneys' fees in connection with the arbitration. This Agreement constitutes the entire and sole agreement between Actility and the Customer with respect to the Software/Right to Use, and supersedes all prior and contemporaneous agreements relating to the Software/Right to use, whether oral or written (including any inconsistent terms contained in a purchase order), except that the terms of a separate written agreement executed by an authorized Actility representative and Customer shall govern to the extent such terms are inconsistent or conflict with terms contained herein. No modification to this Agreement nor any waiver of any rights hereunder shall be effective unless expressly assented to in writing by the party to be charged. If any portion of this Agreement is held invalid, the Parties agree that such invalidity shall not affect the validity of the remainder of this Agreement. This Agreement and associated documentation have been written in the English language, and the Parties agree that the English version will govern.

SPECIFIC TERMS AND CONDITIONS

SPECIFIC TERMS AND CONDITIONS RELATING TO LICENCE OF SOFTWARE

- **The Software.** In this Agreement, “Software” means the program modules and features of Actility or Actility -supplied software, for which Customer has paid the applicable license or support fees to Actility or an authorized Actility reseller, or which was embedded by Actility in equipment which Customer purchased from Actility or an authorized Actility reseller. “Software” also includes updates, upgrades and new releases of such software if relevant support and maintenance services have been purchased by the End User.
- **License Grant.** Subject to payment of the applicable fees and the limitations and restrictions set forth herein, Actility grants to Customer a non-exclusive and non-transferable license, without right to sublicense, to use the Software, in executable form only, subject to the following use restrictions:
 - Customer shall use Software solely as embedded in, and for execution on, Actility equipment originally purchased by Customer from Actility or an authorized Actility reseller;
 - Customer shall use the Software on a single hardware chassis having a single processing unit, or as many chassis or processing units for which Customer has paid the applicable license fee;
 - Product purchase documents, paper or electronic user documentation, and/or the licenses purchased by Customer may specify limits to Customer’s use of the Software. Such limits may restrict use to a maximum number of seats, registered endpoints, concurrent users, sessions, calls, connections, subscribers, clusters, nodes, realms, devices, links, ports or transactions, or require the purchase of separate licenses to use particular features, functionalities, services, applications, operations, or capabilities, or provide throughput, performance, configuration, bandwidth, interface, processing, temporal, or geographical limits. In addition, such limits may restrict the use of the Software to managing certain kinds of networks or require the Software to be used only in conjunction with other specific Software. Customer’s use of the Software shall be subject to all such limitations and purchase of all applicable licenses;
 - For any trial copy of the Software, Customer’s Right to Use the Software expires 30 days after download, installation or use of the Software. Customer may operate the Software after the 30-day trial period only if Customer pays for a license to do so. Customer may not extend or create an additional trial period by re-installing the Software after the 30-day trial period;
 - The foregoing license is not transferable or assignable by Customer. No license is granted herein to any user who did not originally purchase the applicable license(s) for the Software from Actility or an authorized Actility reseller.
- **Use Prohibitions.** Notwithstanding the foregoing, the license provided herein does not permit the Customer to, and Customer agrees not to and shall not: (a) modify, unbundle, reverse engineer, or create derivative works based on the Software; (b) make unauthorized copies of the Software (except as necessary for backup purposes); (c) rent, sell, transfer, or grant any rights in and to any copy of the Software, in any form, to any third party; (d) remove any proprietary notices, labels, or marks on or in any copy of the Software or any product in which the Software is embedded; (e) distribute any copy of the Software to any third party, including as may be embedded in Actility equipment sold in the secondhand market; (f) use any ‘locked’ or key-restricted feature, function, service, application, operation, or capability without first purchasing the applicable license(s) and obtaining a valid key from Actility, even if such feature, function, service, application, operation, or capability is enabled without a key; (g) distribute any key for the Software provided by Actility to any third party; (h) use the Software in any manner that extends or is broader than the uses purchased by Customer from Actility or an authorized Actility reseller; (i) use Software on non-Actility equipment; (j) use Software (or make it available for use) on Actility equipment that the Customer did not originally purchase from Actility or an authorized Actility reseller; (k) disclose the results of testing or benchmarking of the Software to any third party without the prior written consent of Actility; or (l) use the Software in any manner other than as expressly provided herein.
- **Warranties** Except as specifically provided in this Agreement, the Software is provided “as is” without warranty of any kind, express or implied, including but not limited to warranties of performance, merchantability, fitness for a particular purpose, accuracy, omissions, completeness, and delays. Customer agrees that outputs from the Software will not, under any circumstances, be considered legal or professional advice and are not meant to replace the experience and sound professional judgment of professional advisors in full knowledge of the circumstances and details of any matter on which advice is sought.
- **Ownership.** Actility and Actility’s licensors, respectively, retain ownership of all right, title, and interest (including copyright) in and to the Software, associated documentation, and all copies of the Software. Nothing in this Agreement constitutes a transfer or conveyance of any right, title, or interest in the Software or associated documentation, or a sale of the Software, associated documentation, or copies of the Software.
- **Third Party Software.** Certain third-party software may be provided with the Software and is subject to the accompanying license(s), if any, of its respective owner(s).

SPECIFIC TERMS AND CONDITIONS RELATING TO RIGHT TO USE THE SOFTWARE AS A SERVICE

- **Software as a service** consists of system administration, system management, and system monitoring activities that Activity performs for Activity programs, and includes the Right to Use the Activity programs, support services for such Activity programs, as well as any other services provided by Activity in a hosted mutualized datacenter, as defined in the ordering document (collectively, the “services”). The term “program documentation” refers to the program user manual as well as any other materials provided by Activity as part of the services. The term “Activity programs” refers to the software products owned or distributed by Activity to which Activity grants Customer access as part of the services, including program documentation, and any program updates provided as part of the services. The term “users” shall mean those individuals authorized by you or on your behalf to use the services, as defined in the ordering document. The term “Customer data” refers to the data provided by Customer that resides in its services environment.
- **Rights granted** Upon Activity’s acceptance of Customer order and for the duration of the services term defined in the ordering document, Customer has the nonexclusive, non-assignable, worldwide limited Right To Use the services for its internal business operations, its operations with customers and subject to the terms of the agreement and to payment terms and conditions as defined by Activity. Customer may allow its users to use the services for this purpose and Customer is responsible for its users and customers’ compliance with the agreement. The services are provided as described in, and subject to, the services policies referenced in the ordering document. Customer acknowledges that Activity has no delivery obligation and will not ship copies of the Activity programs as part of the services. Customer agrees that it does not acquire under the agreement any license to use the Activity programs in excess of the scope and/or duration of the services. Upon the end of the agreement or the services hereunder, Customer’s right to access or use the Activity programs shall terminate.
- **Restrictions on Use of the Services** You agree not to use or permit use of the services, including by uploading, emailing, posting, publishing or otherwise transmitting any material, for any purpose that may (a) menace or harass any person or cause damage or injury to any person or property, (b) involve the publication of any material that is false, defamatory, harassing or obscene, (c) violate privacy rights or promote bigotry, racism, hatred or harm, (d) constitute unsolicited bulk e-mail, “junk mail”, “spam” or chain letters; (e) constitute an infringement of intellectual property or other proprietary rights, or (f) otherwise violate applicable laws, ordinances or regulations. In addition to any other rights afforded to Activity under the agreement, Activity reserves the right to remove or disable access to any material that violates the foregoing restrictions. Activity shall have no liability to you in the event that Activity takes such action. You agree to defend and indemnify Activity against any claim arising out of a violation of your obligations under this section.
- **Warranties** Activity does not guarantee that the services will be performed error-free or uninterrupted, or that Activity will correct all services errors. Customer acknowledges that Activity does not control the transfer of data over communications facilities, including the internet, and that the service may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. Activity is not responsible for any delays, delivery failures, or other damage resulting from such problems. to the extent not prohibited by law, these warranties are exclusive and there are no other express or implied warranties or conditions including for hardware.
- **Services Tools** Activity may use tools, scripts, software, and utilities (collectively, the “tools”) to monitor and administer the services and to help resolve your Activity service requests. The tools will not collect, report or store any of your data residing in the service production environment, except as necessary to troubleshoot service requests or other problems in the service. Data collected by the tools (excluding production data) may also be used to assist in managing Activity’s product and service portfolio and for license management. You agree that (a) except as set forth in the following paragraph, you may not access or use the tools, and (b) you will not use or restore the tools from any tape backup at any time following termination of the agreement.
- **Statistical Information** Activity may compile statistical information related to the performance of the services, and may make such information publicly available, provided that such information does not incorporate your data and/or identify your confidential information or include your company’s name. Activity retains all intellectual property rights in such information.
- **Ownership and Restrictions** Customer retains all ownership and intellectual property rights in and to its data. Activity or its licensors retain all ownership and intellectual property rights to the services and Activity programs. Activity retains all ownership and intellectual property rights to anything developed and delivered under the agreement. Customer Right to Use third-party technology if any, is governed by the terms of the third-party technology license agreement specified by Activity and not under the agreement. Customer may not: • remove or modify any program markings or any notice of Activity’s or its licensors’ proprietary rights; • make the programs or materials resulting from the services available in any manner to any third party for use in the third party’s business operations (unless such access is expressly permitted for the specific program license or materials from the services Customer has acquired); • modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the services (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs), or access or use the services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to Activity; • disclose results of any services or program benchmark tests without Activity’s prior written consent; and • license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the services, Activity programs or materials available, to any third party other than, as expressly permitted under the terms of the agreement. The rights granted to Customer under the agreement are also conditioned on the following: • the rights of any user licensed to use the services (e.g., on a “named user” basis) cannot be shared or used by more than one individual (unless such license is reassigned in its entirety to another authorized user, in which case the prior authorized user shall no longer have any right to access or use the license); • except as expressly provided herein, no part of the services may be copied, reproduced, distributed, republished, downloaded,

displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording, or other means; and • you agree to make every reasonable effort to prevent unauthorized third parties from accessing the services. Actility has no obligation to retain Customer data and Customer data may be irretrievably deleted following the termination of the Agreement.