



**Act-On Software, Inc.
Subscription Services Agreement**

By agreeing to this Subscription Services Agreement (“Agreement”) you represent that you have the right to bind your organization (“Customer”) to its terms and conditions. If you do not have such right you should not agree to this Agreement or use the Services.

1. **Ordering.** Customer may order from Act-On or an authorized Act-On reseller (a) licenses to access and use Act-On’s online service including any add-ons or modules (collectively, the “**Services**”) and/or (b) related professional services (collectively, “**Professional Services**”). The specifics of each Customer order will be set forth on an order form or similar document agreed to by the relevant parties (“**Order Form**”). Each Order Form constitutes a binding commitment to purchase the items described on such Order Form under this Agreement. All Order Forms are incorporated herein by reference.
2. **Rights and Restrictions.**
 - 2.1. **Scope and Access Rights.** Customer may access and use the Services in accordance with and subject to any restrictions set forth in this Agreement and other documents expressly referenced herein. Subject to the terms and conditions of this Agreement, Act-On hereby grants to Customer a limited, worldwide, non-exclusive, non-transferable, non-sublicensable right to (a) permit its designated users (“**Users**”) to access and use the Services for Customer’s business purposes in accordance with Act-On’s published technical documentation made available by Act-On (collectively, “**Documentation**”); and (b) use the Documentation in connection with the Services. If the Order Form indicates that Customer is an Agency (as defined in the Order Form) or similar licensing structure, then Customer may use the Services for the benefit of its customers and their respective Users, subject to the restrictions set forth in the Order Form and this Agreement. Customer is responsible for ensuring the security and confidentiality of all access credentials and for all liabilities incurred through use of the Services by Users.
 - 2.2. **Restrictions.** Except as expressly permitted hereunder or in an Order Form, Customer agrees not to: (a) reverse engineer, decompile, disassemble, modify, translate or otherwise attempt to discover the source code of or trade secrets embodied in the Services, except to the extent such restriction is not permitted by law; (b) distribute, transfer, sublicense, resell, rent, lease, timeshare, provide service bureau access to, or otherwise make available the Services (or any portion thereof) to third parties other than Users, or as otherwise provided herein; (c) use the Services in violation of the Documentation, the AUP, any usage limits or restrictions set forth in an Order Form, or any applicable law, rule or regulation, including any export/import laws; (d) intentionally interfere with or disrupt the integrity, security, performance or operation of the Services or any third-party data contained therein; (e) access or use the Services to conduct security testing, penetration testing, or vulnerability scanning or to publish any performance or benchmark results, without Act-On’s prior written consent; (f) remove, obscure or alter any proprietary notices in the Services or Documentation; (g) access, use, or copy any portion of the Services to directly or indirectly develop, promote, distribute, sell or support any competitive product or service; or (h) knowingly permit or enable any third party to do any of the foregoing.
 - 2.3. **Support Services.** The terms and conditions pertaining to the availability of the Services and Act-On’s provision of related support services (collectively “**Support Services**”) are set forth at <https://www.act-on.com/legal-documents/> (“**Support Terms**”). Act-On will not materially degrade the overall level of Support Services made available to Customer during the Subscription Term.
 - 2.4. **Professional Services.**
 - 2.4.1. Act-On or its third-party providers will perform the Professional Services set forth on the applicable Order Form (if any). The particulars of each Professional Services engagement will be as set forth in



executed statements of work (each an “**SOW**”) entered into by the parties. Certain Professional Services projects which are discrete in nature may be provided to Customer on a one-time basis without an executed SOW but pursuant to written agreement between the parties (“**One-Time Services**”). All One-Time Services shall be governed by this Agreement.

2.4.2. Act-On will retain all right, title and interest in and to all deliverables (including any and all intellectual property rights therein) provided under each SOW (“**Deliverables**”) except to the extent that they contain any pre-existing Customer intellectual property or Customer Confidential Information. Customer’s rights to the Deliverables shall be the same as Customer’s rights to the Services to which such Deliverables pertain.

2.5. **Customer Content.** Customer shall be solely responsible for the accuracy and quality of any and all content and data that it or its Users upload via the Services (“**Customer Content**”). Customer acknowledges that the performance of the Services is dependent on the accuracy and quality of Customer Content and Customer’s compliance with industry best practices with respect to use of the Services. Customer understands that Act-On cannot guarantee deliverability of the Customer Content to Recipients (defined below). Customer is allotted 4 gigabytes (GB) of media storage space (“**Default Capacity**”). Customer may purchase additional capacity beyond the Default Capacity in blocks of 10GB each. Act-On may collect and use information derived from general use and operation of the Services (“**Usage Data**”) for its own internal product development purposes, and may only disclose Usage Data in an anonymous, aggregated format that in no way identifies Customer, its Users or any of the recipients of Customer Content (“**Recipients**”).

2.6. **AI Features.**

2.6.1. As used herein: (a) “**AI Feature**” means any generative artificial intelligence/machine learning features that Act-On makes available within the Service; (b) “**Third-Party AI Services**” means third-party services including large language models that enable the AI Features including, without limitation, services offered by OpenAI, Inc., Anthropic PBC, and Amazon.com, Inc./Amazon Web Services, Inc.; (c) “**Input**” means any Customer Content or other content or data that Customer or its Users provide to be processed by AI Features; and (d) “**Output**” means any content or data generated and returned to Customer or its Users, or generated and transmitted on Customer’s behalf, by AI Features based on the Input.

2.6.2. Act-On will identify each AI Feature as such. If Customer elects to use an AI Feature, Customer acknowledges that the AI Feature will be subject to this Agreement as well as the standard terms and conditions required by Third-Party AI Service providers, which will be presented to Customer prior to enabling usage of the relevant AI Feature.

2.6.3. Customer Inputs and Outputs will not be: (a) used to train, re-train, fine tune or otherwise improve any artificial intelligence model, machine learning algorithm or similar technology, except in the form of Usage Data; or (b) used for any other purpose that would result in any artificial intelligence model learning, retaining or memorizing information from the Input or Output. Customer Inputs will be shared with Third-Party AI Service providers as necessary to make available the AI Features.

2.6.4. Customer is solely responsible for ensuring that the Input, Output and Customer’s and its Users’ use of the AI Features do not violate any applicable law or infringe, violate or misappropriate any proprietary, privacy or other rights of any third party. Customer has all rights, licenses, permissions, notices and consents required to provide and use Inputs and Outputs.



2.6.5. Notwithstanding anything to the contrary, and without limiting any other disclaimers in this Agreement, Act-On makes no warranty with respect to AI Features, Output, the results that may be obtained from use of AI Features at Customer's own risk and Features, or the accuracy, completeness, reliability, non-infringement, legality or suitability of any Output. Customer should perform its own review of Outputs prior to making any decisions, taking or not taking any actions based on Outputs.

3. **Compliance and Data Protection.**

3.1. **Compliance.** Customer shall (a) comply with this Agreement, Act-On's Acceptable Use Policy (found at: <https://www.act-on.com/legal-documents/> and incorporated herein by this reference) (the "AUP"), and all applicable laws relating to its use of the Services, including, without limitation, any privacy laws applicable to the collection, use and sharing of Customer Content via the Services; (b) ensure that Customer and Act-On have the right to collect, use and share Customer Content via the Services; and (c) provide adequate notice to, obtain any necessary consents from, and establish any applicable terms and conditions with Recipients and any other third parties, as required under all applicable laws with respect to Customer Content, collected, used, transmitted and shared by Customer or by Act-On via the Services. Act-On shall comply with all applicable laws in its performance of its obligations under this Agreement.

3.2. **Personal Data Transfers.** To the extent that Act-On processes Customer's Personal Data in its performance of its obligations under this Agreement, the Data Processing Addendum to the Agreement found at: <https://www.act-on.com/legal-documents/> (the "DPA") shall apply. During the Subscription Term, Act-On may not materially modify the DPA in a manner that imposes any additional material obligations on Customer or materially impairs Customer's use of the Services without Customer's prior consent, except as required by law. Pursuant to the terms of the DPA, Customer authorizes Act-On and its sub-processors to transfer Customer's Personal Data across international borders, including, without limitation, from the European Economic Area, Switzerland, and/or the United Kingdom to the United States. In the event of any conflict between the DPA and this Agreement, the DPA shall control with respect to Act-On's processing of Customer's Personal Data.

4. **Fees.** All fees and payment terms for access to and use of the Services and/or for provision of Professional Services (collectively, the "Fees") will be set forth on the applicable Order Form and Customer will pay Act-On or its designated reseller such Fees in accordance with such terms. Act-On reserves the right to charge overage fees during the Subscription Term in the event Customer exceeds the scope of the license set forth in the Order Form. Customer is responsible for any and all applicable sales, use and other taxes (other than taxes based on Act-On's income). Each party is responsible for its own expenses under this Agreement. Customer agrees that its purchases are not contingent on (a) any specific level of deliverability of Customer Content or (b) the delivery of any future functionality or features or promises related thereto.

5. **Term and Termination.**

5.1. **Term.** This Agreement shall continue in effect until terminated as set forth herein. The term of each license to the Services purchased by Customer will commence on the date set forth on the applicable Order Form and will continue for the period set forth on such Order Form, including any renewal term, as set forth below (collectively, the "Subscription Term"). Unless otherwise set forth on the applicable Order Form, Customer's license to the Services will automatically renew for successive twelve (12) month terms, unless either party gives the other party written notice of its intent not to renew at least thirty (30) days prior to the end of the applicable Subscription Term.

5.2. **Termination and Suspension.** This Agreement and/or any Order Form, if applicable, may be terminated (a) by either party if the other party materially breaches this Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party, (b) as set forth in Section 8.2 or (c) by either party if the other party provides proof that it has made a general



assignment for the benefit of creditors, suffered or permitted the appointment of a receiver for its business or assets, or availed itself of or became subject to any proceeding under the US Federal Bankruptcy Act or any other foreign or domestic statute, law, rule or regulation relating to insolvency or the protection of rights of creditors. Act-On may suspend Customer's access to or use of the Services if Customer (i) fails to make any overdue payments of undisputed Fees within ten (10) days of Act-On's delivery of written notice to Customer of such overdue payments, (ii) violates any of the terms of this Agreement in a manner that, in Act-On's reasonable determination, exposes Act-On, its vendors and/or its other customers to an imminent security, legal, operational or other material threat ("**Actionable Threat**"), (iii) uses the Services in a manner that, in Act-On's reasonable determination, harms or threatens to harm Act-On, its vendors and/or its other customers, or (iv) is the subject of abuse complaints from Recipients or third parties. Act-On will provide Customer with advance notice prior to any suspension under this Section 5.2, except where Act-On reasonably determines that immediate suspension is necessary to prevent an Actionable Threat. Act-On will reasonably cooperate with Customer in the event of any suspension and will promptly reinstate Customer's access to the Services following Customer's remedy of the issue giving rise to suspension. Any suspension related to the foregoing will not relieve Customer of its payment obligations under this Agreement and any then current Order Forms. If Customer does not remedy an issue resulting in a suspension within fifteen (15) days after notice by Act-On, Act-On may terminate the relevant Order Form.

5.3. **Effect of Termination.** Upon any termination of this Agreement or an Order Form (a) all rights licensed and obligations required thereunder shall immediately cease; provided that Sections 2.2, 4, 5.3, 6, 7, 8.2, 8.3, 8.4 and 9 shall survive termination, and (b) Customer shall pay to Act-On any Fees accrued or outstanding prior to the date of termination. Customer may download all Customer Content at any time. Act-On will retain Customer Content for 30 days following termination or expiration of this Agreement or an Order Form and, during such period, upon request Act-On will permit Customer to have read-only access for a period not to exceed five (5) business days to download a copy of the Customer Content. After such 30-day period all Customer Content will be permanently marked for deletion and can no longer be accessed by Customer.

6. **Proprietary Rights.** As between the parties, Act-On or its partners will retain all ownership rights in and to the Services, all updates and/or upgrades thereto, the Documentation, Deliverables, and other derivative works of the Services and/or Documentation that are provided by Act-On or its partners, including any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the Services, and all intellectual property rights incorporated into or related to the foregoing. As between the parties hereto, Customer will retain all ownership rights in and to all Customer Content. Additionally each party will retain all right, title and interest in and to its intellectual property owned or developed prior to the effective date of this Agreement or independently of this Agreement.

7. **Confidential Information and Related Obligations.**

7.1. **Definition.** "**Confidential Information**" means, with respect to a party (the "**disclosing party**"), information that pertains to such party's business, including, without limitation, technical, marketing, financial, employee, planning, product roadmaps and documentation, performance results, pricing, commercial terms, security information, APIs, non-public features and functionality of the Services, and other proprietary information. Confidential Information will be designated and/or marked as confidential when disclosed, provided that any information that the party receiving such information (the "**receiving party**") knew or reasonably should have known is considered confidential or proprietary by the disclosing party, will be considered Confidential Information of the disclosing party even if not designated or marked as such.

7.2. **Obligations of Confidentiality.** The receiving party shall preserve the confidentiality of the disclosing party's Confidential Information and treat such Confidential Information with at least the same degree of



care that the receiving party uses to protect its own Confidential Information, but not less than a reasonable standard of care. The receiving party will use the Confidential Information of the disclosing party only to exercise rights and perform obligations under this Agreement. Confidential Information of the disclosing party will be disclosed only to those employees, contractors, affiliates, professional advisors, auditors, financing sources, and subcontractors of the receiving party with a need to know such information and who are bound by confidentiality obligations no less protective than those set forth herein. The receiving party shall remain responsible for any breach of this Section 7 by any person or entity to whom it discloses Confidential Information.

- 7.3. **Exceptions.** The receiving party shall not be liable to the disclosing party for the release of Confidential Information if such information: (a) was known to the receiving party on or before the effective date of this Agreement without restriction as to use or disclosure; (b) is released into the public domain through no fault of the receiving party; (c) was independently developed solely by the employees of the receiving party who have not had access to Confidential Information; (d) is rightfully received from a third party without restriction as to use or disclosure; or (e) is divulged pursuant to any legal proceeding or otherwise required by law, provided that, to the extent legally permissible, the receiving party will notify the disclosing party promptly of such required disclosure and reasonably assists the disclosing party in efforts to limit such required disclosure.
- 7.4. **Deletion Obligations.** Upon the disclosing party's written request or upon termination or expiration of this Agreement, the receiving party will return or destroy the disclosing party's Confidential Information, except that the receiving party may retain copies as required by law, professional obligations, or bona fide internal record retention policies, or in archival or backup systems, subject to the confidentiality obligations in this Section 7.
- 7.5. **Remedies.** Unauthorized use or disclosure of Confidential Information may cause irreparable harm for which monetary damages may be an inadequate remedy, and the disclosing party may seek injunctive or other equitable relief without posting bond, in addition to any other remedies available at law or in equity. Nothing in this Section 7 limits either party's obligations under the DPA.

8. **Warranties, Indemnification, and Limitation of Liability.**

8.1. **Warranties.**

- 8.1.1. **By Act-On.** Act-On represents and warrants that (a) the Services, as delivered and when used in accordance with the Documentation, will perform in all material respects as specified in the Documentation and comply with all applicable laws, rules, regulations, and this Agreement (including the DPA), (b) the Professional Services will be performed in a professional and workmanlike manner in accordance with the standards in Act-On's industry and, as delivered, will comply with all applicable laws, rules, regulations and this Agreement (including the DPA), and (c) Act-On will not knowingly introduce any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus," "preventative routines" or other computer software routines within the Services that are intentionally designed to permit unauthorized access to or use of either the Services or Customer's computer systems ("**Viruses**"). In the event of any breach of the warranty in subsections (a) or (b) above, Act-On shall, as its sole liability and Customer's sole remedy absent a separate breach of this Agreement (including the DPA), diligently remedy any deficiencies that cause the Services or Professional Services, as applicable, to not conform to the foregoing warranty promptly after its receipt of written notice from Customer. Act-On will not be liable to the extent that any breach of the foregoing warranties are caused by (i) third-party components (including in combination with the Services) not provided or recommended by Act-On; (ii) unauthorized use or use of the Services other than in accordance with this Agreement; (iii) Customer Content; or (iv) Viruses introduced by Customer or its agents (collectively, "**Exclusions**").



8.1.2. By Customer. Customer represents and warrants that (a) Customer owns or has sufficient rights to all Customer Content, Input and Output, and has obtained and will maintain all rights, licenses, permissions, notices, consents and applicable terms and conditions with Recipients, Users and any other third parties, in each case as necessary to permit Customer and Act-On to collect, use, process, transmit, disclose and share Customer Content and Input via the Services, to use, transmit and disclose Output, and for Act-On to perform its obligations and exercise its rights under this Agreement; and (b) Customer's and its Users' use of the Services, AI Features, Customer Content, Input and Output will comply with this Agreement, the DPA, the AUP, the Documentation, any usage limits or restrictions expressly set forth in an Order Form, and all applicable laws, rules and regulations, including any privacy laws applicable to the collection, use, transmission and sharing of Customer Content, Input and Output via the Services.

8.1.3. Disclaimer. THE EXPRESS WARRANTIES IN SECTION 8.1 ARE THE EXCLUSIVE WARRANTIES OFFERED BY EACH PARTY AND ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, QUIET ENJOYMENT, TITLE, MERCHANTABILITY AND THOSE THAT ARISE FROM ANY COURSE OF DEALING OR COURSE OF PERFORMANCE ARE HEREBY DISCLAIMED.

8.2. Indemnification.

8.2.1. By Act-On. Act-On will defend, indemnify and hold harmless Customer and its officers, directors, employees and agents from and against any third-party claims, demands, suits or proceedings, and any resulting liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees, to the extent arising from an allegation that (a) the Services or Deliverables infringe or misappropriate any third-party intellectual property right, or (b) Act-On has violated applicable laws, rules or regulations in its performance of its obligations or exercise of rights under this Agreement.

8.2.2. By Customer. Customer will defend, indemnify and hold harmless Act-On and its officers, directors, employees, agents, partners and vendors from and against any third-party claims, demands, suits or proceedings, and any resulting liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees, to the extent arising from or related to (a) Customer Content, or (b) Customer's or its Users' violation of applicable laws, rules, regulations or Section 8.1.2(a) in its performance of its obligations or exercise of rights under this Agreement.

8.2.3. Indemnification Procedures; Remedies; Exclusions. The indemnifying party's obligations under this Section 8.2 are conditioned on the indemnified party: (a) promptly notifying the indemnifying party in writing of the applicable claim, except to the extent the indemnifying party is materially prejudiced by any delay; (b) giving the indemnifying party sole control of the defense and any related settlement negotiations, provided that the indemnifying party may not settle any claim in a manner that admits fault or imposes non-monetary obligations on the indemnified party without the indemnified party's prior written consent; and (c) reasonably cooperating and, at the indemnifying party's reasonable request and expense, assisting in the defense. If the Services or any Deliverable becomes, or in Act-On's opinion is likely to become, the subject of an infringement claim, Act-On may, at its option and expense, (i) procure for Customer the right to continue exercising the rights licensed to Customer in this Agreement, (ii) replace or modify the Services or Deliverable so that it becomes non-infringing and remains substantially functionally equivalent, or (iii) if neither of the foregoing options is commercially reasonable in Act-On's reasonable opinion, terminate the affected Services or Deliverable and refund to Customer a pro-rata portion of any applicable prepaid Fees for the terminated portion. Neither party will have any indemnification obligation under this Section 8.2 to the extent a claim arises from or relates to (A) the indemnified party's breach of this Agreement, negligence, willful misconduct or violation of applicable laws; (B) modifications made by or on behalf of the indemnified party without the indemnifying party's



authorization; (C) use of the Services or Deliverables in combination with products, services, data, content, software, hardware or business processes not provided or authorized by the indemnifying party, where the claim would not have arisen but for such combination; (D) use of the Services or Deliverables other than in accordance with this Agreement, the Documentation or the applicable Order Form; or (E) the indemnified party's failure to use an update, modification or replacement provided by the indemnifying party that would have avoided the claim. Act-On will have no indemnification obligation to the extent a claim arises from or relates to Customer Content or any Exclusions. This Section 8.2 states each party's sole and exclusive remedy and the other party's entire liability for claims subject to indemnification under this Section 8.2 absent a separate breach of this Agreement.

8.3 Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS OR LOST DATA), WHETHER FORESEEABLE OR NOT AND WHETHER SUCH PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, BOTH PARTIES' AGGREGATE CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE SERVICES, PROFESSIONAL SERVICES AND INTELLECTUAL PROPERTY PROVIDED HEREUNDER, SHALL NOT EXCEED, IN THE AGGREGATE AND REGARDLESS OF WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, THE TOTAL OF THE FEES ACTUALLY PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE ONE (1) YEAR PERIOD PRIOR TO THE DATE THAT SUCH LIABILITY FIRST ARISES ("FEES PAID"); PROVIDED HOWEVER, EACH PARTY'S LIABILITY FOR ITS INDEMNIFICATION OBLIGATIONS SHALL BE TWICE THE FEES PAID AND THERE IS NO LIMITATION ON ANY LOSS, CLAIM OR DAMAGES TO THE EXTENT ARISING FROM A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD.

8.4 Insurance. Act-On, at its own expense, will maintain at a minimum the following insurance coverages with insurers rated at least A- VII by A.M. Best or otherwise reasonably acceptable to Act-On: (a) Commercial General Liability Insurance with coverage in an amount equal to or greater than US\$1,000,000 per occurrence combined single limit, (b) Commercial Automobile Liability Insurance with coverage in an amount equal to or greater than US\$1,000,000 per occurrence/aggregate, (c) Worker's Compensation Insurance with coverage complying with at least the statutory limits of coverage within the relevant state of employment, (d) Errors and Omissions Insurance with coverage in an amount equal to or greater than US\$5,000,000 per occurrence/aggregate, including coverage for technology errors and omissions, network security, privacy liability, data breach response, cyber extortion, business interruption and media liability, and (e) Umbrella/Excess Liability Insurance with coverage in an amount equal to or greater than US\$10,000,000 per occurrence/aggregate. Upon Customer's written request, Act-On will provide certificates of insurance evidencing the foregoing coverages. Act-On will provide Customer with notice of cancellation or material adverse change in the foregoing coverages promptly after Act-On receives notice thereof from its insurer.

9. **Miscellaneous.** Except with respect to Customer's payment obligations, each party will be excused from any delay or failure in performance hereunder solely to the extent it could not perform due to any occurrence or contingency beyond its reasonable control, including but not limited to acts of God, earthquakes, labor disputes and strikes, riots, war, terrorism, pandemics or global health emergencies, and governmental requirements or restrictions. The obligations and rights of the party so excused will be extended on a day-to-day basis for the period equal to that of the underlying cause of the delay. The parties are independent contractors with respect to each other, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership or a joint venture between the parties. This Agreement controls the actions of all party Users, representatives, officers, agents, employees and associated individuals. The terms of this Agreement shall be binding on the parties, and all successors to the foregoing. Except as otherwise set forth herein, neither party will assign, transfer or delegate its rights or obligations under this Agreement (in whole or in part) without the other party's prior written consent,



except that no such consent shall be required for an assignment or transfer in connection with the transfer of all or substantially all of such party's business and assets, whether by merger, sale of assets, sale of stock, or otherwise. Any attempted assignment, transfer or delegation in violation of the foregoing shall be null and void. All modifications to or waivers of any terms of this Agreement must be in a writing that is signed by the parties hereto and expressly references this Agreement. This Agreement shall be governed by the laws of the State of Delaware, without regard to its conflict of laws rules. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement for claims brought by Customer shall be the state or federal courts located in Wilmington, Delaware. Each party waives any objection (on the grounds of lack of jurisdiction, forum non conveniens or otherwise) to the exercise of such jurisdiction over it by any such courts. If any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. This Agreement includes the AUP, the DPA, the Support Terms, any Order Forms and any SOWs agreed to by the parties in writing and all expressly referenced documents. Collectively the foregoing constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements or communications, including, without limitation, any purchase orders, quotations or proposals or other documents submitted by the parties. The terms on any purchase order or similar document submitted by Customer to Act-On will have no effect and are hereby rejected. All notices, consents and approvals under this Agreement must be delivered in writing by courier or by certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address set forth in this Agreement and/or the applicable Order Form and, if sent to Act-On, will be sent to its Legal Department.