



Actility terms and conditions of sale



Actility

These Standard Terms and Conditions apply to any proposal and agreement and/or purchase order relating to equipment, services or license sold and /or granted by Activity with its principal place of business at 65 rue de la Victoire 75009 Paris, France acting on its behalf and on behalf of its Affiliates including but not limited to Abeeway and hereinafter referred to as “Activity” to a customer (“Customer”). These terms and conditions, together with the related proposal and agreement and/or accepted valid purchase order shall constitute the entire agreement (“Agreement”) between the Parties.

1. Scope

If Customer has agreed, either electronically or via a signed document with Activity to terms and conditions applicable to this sale of Products and Services or Software license, then those terms and conditions (“Specific Terms and Conditions”) shall apply to this sale of Products and/or Services and Software license. In the event of a contradiction, the Specific Terms and Conditions shall prevail. If no Specific Terms and Conditions exist, then the terms and conditions contained herein-including any information made available via an hyperlink herein (together “Terms and Conditions”) shall apply to all quotations (“Quotations”) made by Activity and shall therefore constitute a sale agreement (“Agreement”) entered into between Activity and Customer, irrespective of whether Customer accepts these Terms and Conditions by a written acknowledgement by implication, or by acceptance of Products and/or Services hereunder. The terms and conditions shall form part of any order placed by Customer (“Order”). Acceptance by Activity of an Order sent by Customer shall not be deemed an acceptance of any conflicting or additional terms and conditions. Activity specifically rejects any different or additional terms and conditions proposed by Customer, unless those terms and conditions are mutually agreed in writing.

2. Orders

All Orders must quote the single Quotation Number provided by Activity and have to be signed. The Activity General Terms and Conditions of Sale will prevail. Information contained in a quotation or are disclosed to Customer by Activity’s agents or employees constitutes an invitation to treat but does not constitute an offer by Activity to supply Products and/or Services or grant a license to the Software. By placing an Order, Customer makes an offer to Activity to purchase the Products and/or Services. Any Order shall be subject to acceptance by Activity and Activity may decline any Order in whole or in part, for any lawful reason whatsoever. If Activity accepts expressly Customer’s Order, Activity will notify Customer of its acceptance by sending an Order Confirmation. Whilst Activity will make every effort to supply Customer with the Products and/or Services listed on the Order Confirmation, there may be grounds where Activity is unable to supply these Products and/or Services because, for example, (i) such Products or Services are no longer being manufactured or available, (ii) Activity is unable to source relevant components or (iii) there was a significant pricing update from a third-party hardware supplier. In such circumstances Activity will contact Customer immediately and will suggest alternative Products or Services that Customer might wish to purchase (at the same or at a different price). If Customer does not accept Activity’s alternative, then Activity will cancel the Order and refund any money that Customer may have paid to Activity with respect of the Order. Refund will be the sole remedy for Customer if Activity is unable to deliver the Products and/or Services ordered by Customer. Orders may not be cancelled or modified without the prior written consent of Activity. If Activity agrees such modification or cancellation, Activity reserves the right to apply its own handling and processing fees in addition to any cancellation/ rescheduling fees that may be invoiced by its suppliers/ third party manufacturers.

3. Delivery, shipment and Payment terms

Activity will supply to Customer (but not install) the Products and/or Services mentioned on the Order Confirmation. Delivery dates which might be specified in the Order, the Order Confirmation, or in any other communication from Activity (whether oral or in writing) are estimates only and Activity will not be liable for any delay of shipment or delivery. Activity will directly pass-through lead-times and any other contractual terms of its suppliers/ third party manufacturers to the Customer for the purchase of Products.

Shipping conditions are set forth below and prices will be established accordingly:

“Ex works France” for all the orders of hardware products available in stock (or can be made quickly in stock) in Activity or Abeeway central warehouse;

“Ex works factory” for all the orders of third party hardware products not available in stock;

“Ex works Malaysia” for all the orders of Abeeway products not available in stock (production on demand: specific model or large quantities).

Upon receipt of Purchase Order, Customer will receive a Purchase Order acknowledgment stating the shipping terms based on the stock availability of products ordered.

4. Risk and Title

4.1. Unless otherwise notified by Activity in writing, title to and the right to retake possession of the Products purchased from Activity shall remain with Activity until all sums owing to it by Customer in respect of the Products shall have been paid in full. Activity may, at Customer’s expense, retake possession of the unpaid Products. So long as such title to and rights over Products remains with Activity, Customer shall keep the Products stored in such a manner which enables them to be identified as the Products and, wherever required by Activity, identify the Products to Activity.

4.2. Risk of loss or damage to all Products hereunder will pass to Customer according to the Incoterms as defined by Activity.

5. Acceptance

Unless otherwise agreed in writing all shipments (which for the purpose of this clause shall be deemed to include the contents of packaged Products as well as the packages themselves and the number of packages) shall be deemed correct and undamaged unless at the time of delivery Customer specifies on Activity’s copy of the delivery documentation the precise shortfall or error in delivery or inform Activity of such shortfall or error in writing within fourteen (14) business days after the original delivery date of the given shipment. Customer’s failure to inform Activity within this delay shall constitute a waiver of any such claim. All communications with Activity must include the single Quotation Number provided in Activity’s Quotation, and the exact nature of the discrepancy between the order and shipment in number or type of Products shipped. With regards to under-shipments, Activity shall, at its sole discretion, issue a replacement shipment, or a credit to Customer’s account if Activity has granted credit terms to Customer within thirty (30) days of receipt of Customer written notice.

6. Price

Activity’s global price list is not binding and communicated upon request for information only as well as any yearly update. Price will require a confirmation by Activity prior to the issuance of order by Customer.

Prices do not include value added tax or other local taxes or duties (collectively “Taxes”). All Taxes if any, due on account of purchases hereunder shall be paid by Customer. All amounts shall be paid in Euros or in US Dollars. Freight and insurance may be ordered by Customer.

7. Invoicing and Payment

Unless stated otherwise in the purchase order:

Unless stated otherwise in the commercial proposal: Activity (the parent company registered in France) will invoice as follows:

- a. 60% of charges for the sale of Hardware upon the coming into force of a purchase order or any duly executed commercial proposal will be invoiced and the remaining 40% upon delivery of Hardware;
- b. 100% of charges for the license of Software will be invoiced upon the activation keys;
- c. 100% of charges for the Right to use the Software will be invoiced upon or access to SaaS credentials;
- d. 100% of charges for the sale of Support and Maintenance Services (if any) will be invoiced upon the coming into force of a purchase order;

- e. 50% of charges any other non-recurring initial charges (for instance professional services) will be invoiced upon the coming into force of a purchase order or any duly executed commercial proposal and the 50% of the balance of any other non-recurring initial charges upon delivery of services;
- f. Any other charges not covered by a, b and c, d and e will be invoiced as and when incurred;

The Customer shall pay all charges, a) immediately upon receipt of invoice for every down payment (the order will not be fulfilled until down payment is fully paid to Activity) or within thirty (30) days of the receipt of the relevant invoice. Orders that are subject to down payment will not be fulfilled by Activity nor any shipment will occur until such down payment is fully paid to Activity.

Any invoice will be considered as implicitly accepted by the Customer unless an objection is stated expressly by the Customer within six weeks from the date of the invoice. Equally, any invoice that has been paid prior to this delay will be deemed accepted likewise if the products have been delivered prior this delay of objection.

All invoiced sums shall be paid in full in the currency of the invoice without deduction or set off (statutory or otherwise) and in cleared funds. Activity reserves the right to set off any amount owed by Activity to Customer against any amount due to it by Customer. All invoices must be paid within the payment terms agreed with Activity. Where no credit facility has been granted to Customer or where this has been withdrawn payment will be required in full in cleared funds prior to shipment. If Activity has reasonable grounds to believe that Customer will fail to comply with the present payment terms or with the agreed credit terms, Activity shall be entitled to postpone or to refuse delivery of an Order.

At the sole discretion of Activity, Customer may be required to grant mechanism of payment bank guarantee such as letter of credit.

Any payments by Customer that are not paid on or before the date such payments are due under this Agreement shall bear interest at the lower of (a) nine percent (9%) yearly and (b) the maximum rate allowed by law. Interest shall accrue beginning on the first day following the due date for payment and shall be compounded quarterly. The damaging effect of a late payment on Customer credit scores may result in more stringent invoicing terms and conditions.

8. Taxes

All fees payable under any purchase by Customer are exclusive of tax. Customer shall be responsible for paying Taxes arising from the purchase of all or part of the Deliverables. If applicable, valid exemption documentation for each taxing jurisdiction shall be provided to Activity prior to invoicing, and Customer shall promptly notify Activity if their exemption is revoked or modified. All payments made by Customer shall be net of any applicable withholding tax. Customer will provide reasonable assistance to Activity in connection with such withholding taxes by promptly providing Activity with valid tax receipts and other required documentation showing Customer's payment of any withholding taxes; completing appropriate applications that would reduce the amount of withholding tax to be paid; and notifying and assisting Activity in any audit or tax proceeding related to transactions hereunder. Customer shall comply with all applicable tax laws and regulations, and Customer will promptly pay or reimburse Activity for all costs and damages related to any liability incurred by Activity as a result of Customer's non-compliance or delay with its responsibilities herein. Customer's obligations under this Section shall survive termination or expiration of this Agreement.

9. Renewal

Subscription Activity's pre-packaged services terms and conditions have a minimum of one-year terms. Customer will be invoiced for the initial year of Services that Activity provides. The Subscription services shall automatically renew for successive one-year periods, unless and until Customer provides written notice of non-renewal to Activity at least one (1) business day prior to the end of the then-current Subscription Term. Activity shall invoice Customer for the initial year of Services. Renewal date will start one (1) day after the end of the prior subscription period. If Customer selects a multi-year services Option in advance, Customer will pay Activity for the entire term of the selected services Option in advance. When Customer has selected a multiyear license subscription in advance, the license shall automatically renew for successive period which term will be identical to the initial period of engagement. If the renewal period desired by the Customer is different that the initial period (that shall not be less than one (1) year), then the updated order has to be sent to Activity at least one (1) business day prior to the end of the then-current Subscription Term. The invoice will be sent automatically by Activity within a few days from the date of the renewal for the entire new period.

10. GDPR and Data protection

10.1. By placing an Order, Customer agrees and understands that Activity may store, process and use data collected from Customer's Order form or phone/fax/email Order for the purposes of processing the Order. Activity may also share such data globally within the Activity group of companies. All Activity companies shall protect Customer's information in accordance with the Activity Customer Privacy Policy available upon request.

10.2. With regards to Personal information owned by Activity and in the course of performing Services, Activity and its affiliated entities are responsible for processing Customer personal information. As to Personal information

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owned by Activity customers, Activity is a data processor of the ThingPark online services on behalf of its Customers. Personal data recorded into the system by Customer is owned by Customer and remain under his responsibility. Personal data managed by European Customer on ThingPark has to be compliant with GDPR regulations.

10.3. If Customer wishes to have access to the information that Activity holds concerning Customer, or wants to make any change, or does not want to receive information from Activity or third-party companies, Customer is required to contact Activity's Data Protection Officer.

10.4 Activity has undertaken critical actions against GDPR compliancy such undertaking a systematic review of the personal data it stores, manages, maintains, collects, processes and controls.

11. License and Right to Use

11.1 Customer, as an end -user, is licensed to use any software subject to the terms of the license accompanying the Product, if any, and the applicable patent, trademark, copyright and other intellectual property laws. With regards to Activity Software, the license will be subject to the then current standard Activity terms and conditions of license.

11.2 If Activity SaaS is delivered, Activity hereby grants to the Customer, in return for the compensation, a limited, non-exclusive and transferable right to allow its End -user access to the. It is expressly understood that said right is limited to the scope of the Services. With regards to Activity Right to Use the Software as a Service, the license will be subject to the then current standard Activity Right to Use the Software as a Service terms and conditions.

12. Equipment and Access

Activity may require installing Equipment on the Customer's Premises to enable Activity to provide the Services. Subject to the provisions of this Agreement, Customer hereby grants to Activity the right to set up, install and operate such Equipment at the Customer's Premises and will use its best effort to provide Activity, its employees, representatives and authorized agents, as may be reasonably required, network access to the Equipment, 24 hours a day, 7 days a week in accordance with the access procedures agreed between the Customer and Activity. Customer shall furnish reasonable, appropriate environmental conditions for the Equipment (including, without limitation, protection from weather, security, availability of power, including a back-up generator, ventilation, heating, and cooling). If Customer reasonably requires to temporarily disconnect the power supply to the Equipment, except in an emergency, Customer will give Activity at least fourteen (14) written days' notice in advance of such disconnection and will use all reasonable efforts to ensure minimum disruption. The Customer undertakes (a) not to replace Equipment located on the Customer Premises, (b) not to make any modification, alteration or connection to the same other than by prior agreement in writing with Activity (c) make any disconnection therefrom otherwise than agreed in writing with Activity and (d) provide Activity with the evidence of the insurance relating to the Equipment located on its premises and if Equipment located in other premises, will do its best efforts to give the evidence of such insurance.

13. Proprietary Rights

Customer shall not use Activity's name, logo, trademarks, trade names, trade dress, design, look and feel or other proprietary rights (together "Proprietary Rights") in any of its advertising, communications, publications or other work without the prior written permission of Activity. Customer must not remove, obfuscate, deface, cover or alter any Activity mark or other mark nor add any Activity mark or other mark to any materials provided by Activity nor to any Product or its packaging. Neither Customer nor its agents will register or use any trademark that may cause confusion with Activity Proprietary Rights.

14. Warranty

14.1 Activity shall provide one (1) year warranty for hardware Products and ninety (90) days warranty on Activity Software Products (the “Warranty Period”) which shall commence on the date of shipment of the Product. The Activity limited does not cover third parties’ products and/or services. For any Third-party products (hardware)– Activity assigns and passes through to Customer, and Customer shall have the benefit of, all rights it obtains under representations, warranties and indemnities given by its suppliers/ third party manufacturers in connection with any Products provided by Activity pursuant to the Agreement to the extent permitted by the applicable suppliers/ third party manufacturers. Third Party Software Third-party software will be provided with the accompanying license(s), of its respective owner(s) that will comprise the relevant warranty.

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14.2 Activity warrants that for the applicable Warranty Period, the Activity branded hardware purchased from Activity by Customer (“Hardware”) shall be free of defects in material and workmanship. During the Warranty Period, Activity shall upon receiving notice from Customer at Customer’s sole and exclusive remedy, and Activity’s sole and exclusive liability and at its sole discretion either repair or replace any damage or defective Hardware at no charge, using new replacement parts and new Hardware or refund the purchase price of the Hardware. Activity’s obligations hereunder are conditioned upon Customer’s return of the Hardware to Activity in accordance with the terms of this Limited Warranty.

14.3 Activity software (“Software”) – Activity warrants for a period of 90 days from the date of activation of the Activity branded Software that: (i) the media on which the Software is delivered will be free of defects in material and workmanship under normal authorized use consistent with the Product instructions; and (ii) the Software will perform in accordance with Activity’s standard specifications. In the event that Activity receives notice during the warranty period for Software that any Software does not conform to the aforesaid warranty, Customer’s sole and exclusive remedy, and Activity’s sole and exclusive liability Activity shall repair or replace the defective media or refund the Fees paid for such Software. Activity’s obligations hereunder are conditioned upon Customer’s compliance with the standard Activity terms of license or right to use the software as a service conditions, as the case may be. Activity does not warrant that the Software will operate uninterrupted or error-free.

No warranty or maintenance will apply if the Hardware (i) has been altered in any way, including, but not limited to, the removal or alteration of the original identification marks, except when such alterations are made by Supplier; (ii) has not been installed, operated, repaired, or maintained in accordance with the Documentation; (iii) has not been imported in compliance with relevant Laws; (iv) has been serviced by parties not trained by or on behalf of Supplier; or (v) has been subjected to unreasonable physical, thermal or electrical stress, misuse, negligence, or accident or (vi) use by Customer of Materials and Work Products in combination with any firmware, hardware or other products, which leads to total or partial malfunction of the Products or (vii) non coverage of the network or (viii) failure relating to sim card or mis-installation of the sim card or (ix) absence of GPS position, or (x) product malfunction during radio instruction transmission or (xi) backhaul failure into the connection of the product to the Network (cellular Wifi or Lan connectivity failure) or (xii) Damage to Products caused by water, abrasive materials, water, corrosion due to aggressive fluids, lightning, improper voltage supply, mishandling or misapplication or (xiii) breakdowns, and voltage pikes in charging voltage (e.g. lightning induction spikes) or (xiv) damages related to consumable parts, including batteries.

This limited warranty does not cover damages caused by lightning strikes or a power supply surge.

In addition, Hardware or Software is not designed or intended for use in and Activity disclaims any express or implied warranty of fitness for uses of the Hardware or Software in (A) the design, construction, operation or maintenance of any nuclear facility, (B) navigating or operating aircraft; or (C) operating life-support or life-critical medical equipment. Activity is not responsible for backing up programs and data to protect against loss or corruption of such programs or data. Activity’s warranty obligations do not include installation support. This limited warranty does not cover damages caused by lightning strikes or power supply surge.

Specific terms for Abeeway products

Customer is required to: always charge the devices using chargers certified under USB implementers forum specifications, which will never exceed 5V, and will be properly protected against voltage spikes; never used (discharged follow exactly the firmware upgrades procedures, particularly never interrupt power supply during a firmware upgrade or never interrupt a firmware upgrade/disconnect the connector before a firmware update is completed; use only service providers/resellers for maintenance or repair which have been authorized or appointed by Abeeway. Unauthorized use of the Product or software can impair the Product performance and may invalidate this Limited Warranty; and ensure that: (i) the device is never charged outside the 0°C to 45°C temperature range;(ii) the device is outside of the -10°C, 65°C temperature range;(iii) the battery is never left fully discharged for an extended period of time. Devices must be recharged as soon as fully discharged; (iv) in addition, the system

is warranted for a maximum of 300 charging cycles. Violation of any of the above conditions for a given equipment will void warranty for this equipment. With regards to internal and built-in rechargeable lithium-polymer battery that should last the lifetime of the Material and if Customer suspects battery may be dead, Customer shall try and charge it several times. If the battery does not recharge, Abeeway shall be notified. Removal of the built-in battery invalidates the warranty and may destroy the Material. Customer shall not: disassemble or attempt to disassemble the Material. Ingress Protection Code (IP Code) rating mentioned on the

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datasheet will indicate the level of protection against solid and liquid object. Depending on the IP Code rating, the Device may be splash resistant but must not be immersed at any time, or in contact with water or other liquids; spill chemical products on the Material; leave the device in a humid or steamy area which can cause condensation inside the casing; short or damage the battery as it might result in a risk of fire, explosion or chemical burn; expose the Materials to excessive heat such as direct sunlight, fire, heating equipment such as microwaves, ovens, stoves. The battery may get severely damaged or explode.

Dead on Arrival

For purposes of this DOA policy, “fail to operate” shall mean a material failure to substantially perform in accordance with Documentation so that it was not possible to connect to the network and shall not include cosmetic or other deficiencies that do not materially affect Hardware performance and Customer must send notification to Activity within fourteen (14) days after the date of delivery of the products at Customer’s premises. Provided DOA units are returned in their original packaging and have not been installed, at its own discretion, Activity will either repair or proceed to the replacement of the faulty unit within a maximum of period of sixty (60) days from the date of receipt of the faulty unit at Activity premises.

Hardware replacement With respect to Hardware purchased through Activity, the replacement of the Hardware is handled by Activity in accordance with then current Return Material Authorization Policy available upon request.

14.2 Open Source Software Activity informs Customer that certain open source software may be included into the Software being delivered to Customer in compliance with open source conditions and list may be available upon request.

14.3 Activity makes no other warranty to customer, either express or implied, with respect to the products and services, to the fullest extent permitted by law. Except as expressly provided in the warranty statement to the extent permitted by law, Activity disclaims any and all warranties in and to the Software (whether express, implied, statutory, or otherwise) including any implied warranty of merchantability, fitness for a particular purpose or non-infringement. In no event, does Activity warrant that the software, or any equipment or network running the software, will operate without error or interruption, or will be free of vulnerability to intrusion or attack.

15. Support and Maintenance Services

Additional Maintenance and Support may be ordered for onetime payment software license. Though a subscription yearly model, Activity will provide curative and evolutive maintenance to the Software during the end user’s subscription period of one(1) year.

16. Liability

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 and its affiliates hereunder for the deliverables giving rise to the liability in the twelve months preceding the first incident out of which the liability arose. 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.

A. If hardware give rise to the liability, then the portion will be 50% of the amount paid for the hardware affected by the claim.

B. 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.

C. If 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.

D. If support and maintenance services give rise to the liability, then the portion will be 50 % of the charges paid for the support and maintenance service affected by the claim.

E. If professional services give rise to the liability, then the portion will be 50% of the charges paid for the professional services affected by the claim.

The foregoing limitation will apply whether an action is in contract or tort and regardless of the theory of liability but will not affect customer’s and its affiliates’ payment obligations under the “fees and payment” section above 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.

17. Anti bribery

Each Party hereby undertakes that, at the date of the entering into force of the Agreement, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with the Contract and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.

The Parties agree that, at all times in connection with and throughout the course of the Agreement and thereafter, they will comply with and that they will take reasonable measures to ensure that their subcontractors, agents or other third parties, subject to their control or determining influence, will comply with the following provisions: Parties will prohibit the following practices at all times and in any form, in relation with a public official at the international, national or local level, a political party, party official or candidate to political office, and a director, officer or employee of a Party, whether these practices are engaged in directly or indirectly, including through third parties: a) Bribery is the offering, promising, giving, authorizing or accepting of any undue pecuniary or other advantage to, by or for any of the persons listed above or for anyone else in order to obtain or retain a business or other improper advantage, e.g. in connection with public or private procurement contract awards, regulatory permits, taxation, customs, judicial and legislative proceedings. Bribery often includes: (i) kicking back a portion of a contract payment to government or party officials or to employees of the other contracting Party, their close relatives, friends or business partners or (ii) using intermediaries such as agents, subcontractors, consultants or other third parties, to channel payments to government or party officials, or to employees of the other contracting Party, their relatives, friends or business partners. b) Extortion or Solicitation is the demanding of a bribe, whether or not coupled with a threat if the demand is refused. Each Party will oppose any attempt of Extortion or Solicitation and is encouraged to report such attempts through available formal or informal reporting mechanisms, unless such reporting is deemed to be counter-productive under the circumstances. c) Trading in Influence is the offering or Solicitation of an undue advantage in order to exert an improper, real, or supposed influence with a view of obtaining from a public official an undue advantage for the original instigator of the act or for any other person. d) Laundering the proceeds of the Corrupt Practices mentioned above is the concealing or disguising the illicit origin, source, location, disposition, movement or ownership of property, knowing that such property is the proceeds of crime. "Corruption" or "Corrupt Practice(s)", as used in this ICC Anti-corruption Clause, shall include Bribery, Extortion or Solicitation, Trading in Influence and Laundering the proceeds of these practices. 4 ICC Anti-Corruption Clause With respect to third parties, subject to the control or determining influence of a Party, including but not limited to agents, business development consultants, sales representatives, customs agents, general consultants, resellers, subcontractors, franchisees, lawyers, accountants or similar intermediaries, acting on the Party's behalf in connection with marketing or sales, the negotiation of contracts, the obtaining of licenses, permits or other authorizations, or any actions that benefit the Party or as subcontractors in the supply chain, Parties should instruct them neither to engage nor to tolerate that they engage in any act of corruption; not use them as a conduit for any corrupt practice; hire them only to the extent appropriate for the regular conduct of the Party's business; and not pay them more than an appropriate remuneration for their legitimate services. If a Party, as a result of the exercise of a contractually-provided audit right of the other Party's accounting books and financial records (such audit right provided by the current Agreement, or otherwise, brings evidence that the latter Party has been engaging in material or several repeated breaches of above, it will notify the latter Party accordingly and require such Party to take the necessary remedial action in a reasonable time and to inform it about such action. If the latter Party fails to take the necessary remedial action or if such remedial action is not possible, it may invoke a defence by proving that by the time the evidence of breach(es) had arisen, it had put into place adequate anti-corruption preventive measures, as described in Article 10 of the ICC Rules on Combating Corruption 2011, adapted to its particular circumstances and capable of detecting corruption and of promoting a culture of integrity in its organization. If no remedial action is taken or, as the case may be, the defence is not effectively invoked, the first Party may, at its discretion, either suspend or terminate the Contract, it it being understood that all amounts contractually due at the time of suspension or termination of the Contract will remain payable, as far as permitted by applicable law and be reimbursed for direct, indirect and consequential damages including any expenditure associated with an investigation if such an investigation into an alleged act of bribery or corruption is substantiated. Neither limitation of liability nor consequential damages waiver will be in effect in the event the above anticorruption clause would be

violated by any Party Any entity, whether an arbitral tribunal or other dispute resolution body, rendering a decision in accordance with the dispute resolution provisions of the Contract, shall have the authority to determine the contractual consequences of any alleged non-compliance with this ICC Anti-corruption Clause.

18. Audit

Customer shall maintain accurate records as necessary to verify compliance with this Agreement. Upon request by Activity, Customer shall furnish such records to Activity and certify its compliance with this Agreement. Customer shall give access to its platforms for Software delivered on Customer premises for the purpose of assessing the licensing conditions compliance.

19. Governing Law

These terms and conditions shall be interpreted in accordance with and governed by the laws of France without reference to the conflict of laws provisions thereof. All claims shall be brought before the courts of Paris, France.

20. Confidentiality

Except where required by law, Customer and Activity will not without the written agreement of the other party disclose to third parties any technical or commercial information received from the other party which is designated and clearly marked as confidential. However, the following information will not be considered to be confidential or subject to the foregoing restrictions: (i) information presently in the public domain or which becomes part of the public domain except as a result of a breach of the foregoing restrictions; and (ii) information independently developed by the recipient of the information. The Parties agree that aspects of the Software and associated documentation are the confidential property of Activity. As such, Customer shall exercise all reasonable commercial efforts to maintain the Software 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.

21. Export Law

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.

22. Hardship

If, prior to the date of delivery of the goods and or services, the conditions of economic equilibrium existing to date that existed at the date of conclusion of the agreement should change to such an extent as to make it impossible for Activity to be reasonably required to fulfill one or more of its obligations under the agreement, and if such change could not have been reasonably foreseen by such party, then Activity and Customer shall jointly investigate whether such hardship can be removed in a manner acceptable to Activity.

In the present case, the parties acknowledge that the price was established taking into account the current economic situation and all the constraints, both financial and logistical, known to date. Thus, any new event affecting the price will meet the conditions provided for in this section.

The Parties shall confer as soon as possible and no later than thirty calendar days of receipt of the notice in view to revise financial conditions on an equitable basis to avoid the excessive burdens for Activity. The request to review does not have any suspension effects as to the execution of this Agreement.

If no agreement is reached within thirty calendar days, the injured party shall be entitled to terminate the agreement.

23. Exchange rate

If prior to the date of delivery of the goods and or services, there is a significant Exchange rates USD/EUR fluctuation, Activity reserves the right to vary its Euros price to take into account the changes in exchange rate at invoice date.

24. General Terms

24.1 Force Majeure – Neither party will be responsible for any failure or delay in performance due, in whole or in part, directly or indirectly, to any contingency, delay, failure, or cause of any nature beyond its reasonable control, including, without in any way limiting the generality of the foregoing, fire, terrorism, epidemic, earthquake, storm, flood or other weather, unavailability of necessary utilities or raw materials, strike, pandemic confinement, lockdown due to legal authorities lockout, unavailability of components, war, riot, regulation, ordinance, or instructions of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such party of this Agreement) or other event that is traditionally recognized by courts of France as an event of force majeure. In the event of any such delay, performance of the affected obligation shall be suspended for a period of time equal to the time of such delay save that in the event that the delay continues for more than two (2) months, Activity may elect to terminate this Agreement with immediate effect without incurring any liability.

24.2 No waiver – The waiver by either party of any default by the other party shall not waive subsequent defaults by such other party of the same or different kind.

24.3 Severability – If any of the provisions, either in part or in full, of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable or invalid, such provision shall be enforced to the maximum extent possible or permissible and this Agreement will be adjusted, if possible, so as to give maximum effect to the original intent and economic effect of the parties with respect to the unenforceable provision and the remaining portions of this Agreement shall remain in full force and effect.

24.4 No assignment – Customer may not assign this Agreement, nor any Order related thereto, and Customer may not delegate its duties under the Agreement without Activity's prior written consent which shall not be unreasonably withheld. Activity may assign the Agreement without Customer's consent and upon written notification.

24.5 Modification – No modification to this Agreement shall be binding unless in writing and signed by an authorized representative of each party.

24.6 Entire Agreement These Terms and Conditions constitutes the entire and sole agreement between Activity and the Customer with respect to the Software, and supersedes all prior and contemporaneous agreements relating to the Software, 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 Activity 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.

