# ACTIVESTATE PLATFORM TEAM TIER TERMS OF SERVICE (TTOS)

ver. January 11, 2022

THESE TERMS AND CONDITIONS ("AGREEMENT") ARE APPLICABLE TO ANY THIRD PARTY, WHO INSTALLS, DOWNLOADS, AND/OR USES SERVICE ("CUSTOMER or YOU or YOUR"). BEFORE YOU SELECT "I AGREE" OR "I ACCEPT" IN REFERENCE TO THIS AGREEMENT, PLEASE CAREFULLY READ THE TERMS AND CONDITIONS OF THIS AGREEMENT, AS THEY DEFINE YOUR RIGHTS AND OBLIGATIONS WITH RESPECT TO THE SERVICE. BY SELECTING "I AGREE" OR "I ACCEPT" OR INSTALLING, DOWNLOADING OR USING THE SERVICE IN ANY MANNER, YOU ARE AGREEING TO BE BOUND BY AND TO BECOME A PARTY TO THIS AGREEMENT.

ActiveState Software Inc., ("ActiveState or We or Us or Our") and You agree that this Agreement shall be applicable from the date of acceptance ("Effective Date") of this Agreement.

## 1. DEFINITIONS

1.1 "ActiveState Platform" refers to ActiveState's ActiveState Platform located at www.activestate.com and all content, services, Runtimes, Komodo, and any and all products provided by ActiveState at or through the ActiveState Platform. It also refers to ActiveState-owned subdomains of [www.activestate.com](www.activestate.com). Occasionally, websites and or products owned by ActiveState may provide different or additional terms of service. If those additional terms conflict with this Agreement, the more specific terms apply to the relevant page or service.

1.2 "Active Runtime" means a Runtime that is installed and being used regularly on a Node. Active Runtimes includes but is not limited to activities such as activating the Runtime, executing code, updating dependencies or interpreters via ActiveState's or third-party command line interface ("CLI"), and installing additional dependencies via CLI.

1.3 "Content" refers to content featured or displayed through the ActiveState Platform, including without limitation text, data, articles, images, photographs, graphics, software, applications, designs, features, and other materials that are available on the ActiveState Platform or otherwise available through the Service. Content also includes Services.

1.4 "Fork/Forked" means allowing others to view and make their own copies of Your Platform Content from your projects in projects they control.

1.5 "Team Tier" means as described in ActiveState pricing page which is found at: [https://www.activestate.com/solutions/pricing](https://www.activestate.com/solutions/pricing).

1.6 "Machine Account(s)" means an account set up by an individual human who accepts the Terms on behalf of the account, provides a valid email address, and is responsible for its actions. A machine account is used exclusively for performing automated tasks. Multiple users may direct the actions of a machine account, but the owner of the account is ultimately responsible for the machine's actions.

1.7 "Node" means a single installation of an Operating System running on a machine (virtual or physical) that is capable of utilizing a Runtime.

1.8 "Operating System" means supported platform for using Services offered by ActiveState.

1.9 "Personal Information or Personal Data or PI" means User-name, User email address, User IP address, and the date and time of User's access to the ActiveState Platform.

1.10 "Quote or Invoice or Order Form" means the form issued by ActiveState directly to Customer or through a third-party reseller for selling or reselling of the Products.

1.11 "Runtime" means the collection of open-source components and or other components provided by ActiveState in compiled form (if needed) that must be present in order to perform an activity. Examples of activities shall include but are not limited to development, running an application, using a language interpreter, linting, reformatting or compiling source code.

1.12 "Service" means the applications, software, products, Runtimes and services provided by ActiveState and the ActiveState Platform.

1.13 "Static Runtime(s)" means a specific version of a specific language from ActiveState that is permanently installed on a Node.

1.14 "Term" means the time period during which a Customer uses the Service. Term starts when a Customer makes an account and accepts this Agreement and ends when their usage is either terminated or suspended under this Agreement.

1.15 "Third Party Content" means Content that You did not create or do not own and then post to, or otherwise make available on, the Service, including the ActiveState Platform.

1.16 "User(s)" means the users of the ActiveState Platform.

1.17 "User Data" means all information and data collected by the ActiveState Platform or otherwise transmitted by the ActiveState Platform to ActiveState and or by other ActiveState products, including any metadata, metrics, statistics, or other information relating to the performance, operations, resource, health, or other conditions of the ActiveState Platform and or resulting Runtimes created by the ActiveState Platform, any component thereof (including third party components), host names, interpreter used, and system architecture, which includes filenames, full path, file size, and content hash.

1.18 "User Data License" means a royalty-free, perpetual, irrevocable, transferable, worldwide non-exclusive right to reproduce, analyze, review, process, diagnose, or otherwise use the User Data (in whole or in part) for the purpose of supporting, maintaining, and providing the Service, and any related services provided by ActiveState relating to the Service.

1.19 "Your Platform Content or Platform Content" means Content that you create or own and then post to, or otherwise make available on, the Service, including the ActiveState Platform. Your Platform Content would include, but is not limited to, any open-source components of the User that User may elect to use in conjunction with the Platform or any output of any User program using a runtime built on the Platform as part of the Service. Your Platform Content should not include any proprietary source code that User wishes to keep confidential.

## 2. ACCOUNT TERMS

2.1 You must provide a valid email address in order for you to use certain features of our Service. ActiveState Platform does not require and collect any PI during the signup process.

2.2 Following rules shall apply to usage of the Service by a User:

i. You must be a human to create an account. Accounts registered by "bots" or other automated methods are not permitted. We do permit Machine Accounts. You may maintain no more than one free Machine Account in addition to your free personal account.

ii. One person shall only maintain one free account (Machine Account can only be used for running a machine).

iii. You must be aged 13 years or older. ActiveState reserves the right to terminate any account made by a User under the age of 13. If You are a resident of a country outside the United States or Canada, You are responsible for complying with Your country's laws.

iv. Your login may only be used by one person i.e., a single login may not be shared by multiple people.

v. You are responsible for keeping Your account secure while You use Our Service.

vi. You are responsible for all content posted and activity that occurs under Your account.

vii. You are responsible for maintaining the security of Your account and password. You will promptly notify Us if You become aware of any unauthorized use of, or access to Our Service through Your account, including any unauthorized use of Your password or account.

## 3. ACCEPTABLE USE

3.1 Your use of the Service must not violate any applicable laws, including copyright or trademark laws, export control laws, or other laws in your jurisdiction. You are responsible for making sure that Your use of the Service complies with laws and any applicable regulations.

3.2 You may create or upload Your Platform Content and or Third Party Content while using the Service. You are solely responsible for the content and for any harm resulting from any Content that You post, upload, link to or otherwise make available via the Service. We are not responsible for any public display or misuse of Content by You via the Service.

3.3 You agree that You will not under any circumstances upload, post, host, or transmit any Content that:

- is unlawful or promotes unlawful activities; prohibited by local laws and regulations; contains sexually obscene content; libelous, defamatory, or fraudulent; discriminatory or abusive toward any individual or group;

- contains or installs any active malware or exploits, or uses Our platform for exploit delivery (such as part of a command and control system);
- infringes on any proprietary right of any party, including patent, trademark, trade secret, copyright, right of publicity, or other rights;
- impersonates another person or entity, or falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material;
- restricts or inhibit any other user from using and enjoying the Service;
- interferes with or disrupts the Service or servers or networks connected to the Service or disobey any requirements, procedures, policies or regulations of networks connected to the Services;
- creates User Accounts by automated means or under false or fraudulent pretenses; or
- transmit any viruses, worms, defects, trojan horses, or any items of a destructive nature.

3.4  You may not access the Service for the purpose of monitoring its availability, performance and functionality, or for any other benchmarking or competitive purposes.

3.5  You agree that You are responsible for Your own conduct and content while using the Service and for any consequences thereof.

3.6  You agree not to reproduce, duplicate, copy, sell, resell or exploit any portion of the Service, use of the Service, or access to the Service without ActiveState's express written permission.

3.7  You agree not to use the Service directly or indirectly to any external or a third party. For the avoidance of doubt any external use of the Service or any use of the Service with the intent to commercially benefit from the Service either directly or indirectly or making the Service a part of the larger offering or including the direct or indirect installation of the Service. .

3.8  If we determine that Your bandwidth, storage, and or compute usage to be significantly excessive in relation to other Users, we reserve the right to suspend Your account or throttle Your usage of the Service until You can reduce Your resource consumption and alternatively qualify to the next tiered usage.

3.9  We do not pre-screen Content posted or otherwise made available on the Service by Users, but we have the right (though not the obligation) to refuse or remove any such Content that, in our sole discretion, violates any ActiveState terms or policies.

## 4.  LICENSE GRANTS

4.1  Upon ActiveState's acceptance of Customer's order and Customer's payment of associated fees and for the duration of the Term, Customer shall have a worldwide, personal, revocable, limited, non-exclusive, non-transferable, non-sub-licensable right and license to use the Service for Customer's internal use only subject to compliance with the terms of this Agreement. Services are for the use of Customer only, and may not be resold, leased, sublicensed, distributed or otherwise transferred or made available to or for the benefit of any other party. The Services are not sold but licensed for the duration of the Term. Customer has no other rights to the Service except as specified in this Agreement. The Services shall be used only as expressly permitted in this Agreement. Customer shall be required to submit a signed certificate to ActiveState, upon request verifying that the Service is being used pursuant to this Agreement, including any user limitations.

4.2  Customer shall be responsible for obtaining and maintaining any equipment and ancillary services including internet connectivity, needed to connect to, access or otherwise use the Services. Customer shall also be responsible for maintaining the security of Customer's account or passwords or use of ActiveState Platform by Users with or without Customer's knowledge or consent, and Customer hereby acknowledges and agrees that ActiveState shall have no responsibility for such matters. Customer may not terminate this Agreement or request any refund based on failure of its equipment or any ancillary service required for proper functioning of Services.

4.3  Customer agrees to act as a reference to prospective ActiveState customers and agrees to grant ActiveState the right to include Customer's name and logo as a Customer in product promotional material, the consent can be rescinded by Customer at any time by sending an email to marketing@activestate.com.

## 5.  TERM

5.1  Services shall be provided for the period of one (1) year ("Initial Term") and shall automatically renew for the same period as the Initial Period ("Renewal Term") unless Customer provides written notice of termination at least sixty (60) days prior to the end of the Initial Term or any Renewal Term. All applicable fees must be paid prior to the provisioning of the Services.

**6. RUNTIME(S)**

6.1 Services that are consumed by the Customer shall be measured as a unit of Active and Static Runtimes.

6.2 Customer shall have to purchase a minimum of 1 Static and 3 Active Runtimes in order to qualify under the Team Tier. Upon the payment of all applicable fees the Customer will be able to use the Runtime(s).

6.3 Additional Active Runtimes can be purchased up to a maximum of 50 Static and 150 Active Runtimes on the Team Tier. If You want to consume in excess of this limit, You have to be on the Enterprise Tier, please contact sales@activestate.com.

**7. FEES**

7.1 Customer agrees to pay for all Services ordered in the Quote. Services shall be invoiced to Customer annually in advance unless otherwise agreed in the Quote. All fees due under this Agreement are non-cancellable and the sums paid are non-refundable. All amounts invoiced hereunder are due and payable within 30 days of the date of the invoice.

7.2 Customer is responsible to pay for any sales, value-added or other similar taxes imposed by applicable law that ActiveState must pay based on the Services ordered, except for taxes based on ActiveState's income. Fees for services listed on the Quote are exclusive of taxes and expenses. All fees are exclusive of all goods and services tax (GST), foreign export duties, withholding taxes, or any other similar taxes, however designated or levied against the sale, and/or use of the Services. Customer will pay any such tax ActiveState may be required to collect or pay. ActiveState reserves the right to increase fees upon the anniversary of this Agreement, with thirty (30) calendar days' prior written notice to Customer.

7.3 Customer shall pay ActiveState interest at a rate of one and a half percent (1.5%) per month on the balance remaining unpaid, beyond the payment due date. Any expenses associated with collections on past due invoices will be paid by Customer.

7.4 Disputes for invoiced items must be received by ActiveState in writing explaining the reason for dispute along with the supporting documentation supporting the claim within ten (10) business days of Customer's receipt of invoice. Payment for the total amount of invoice, excluding the item(s) in any written dispute notice, shall be due pursuant to the invoice terms. ActiveState will use its reasonable efforts to respond to any disputed item within ten (10) business days of receipt of notice of the written dispute. Once any dispute is resolved, invoice shall be paid within ten (10) days.

**8. OWNERSHIP AND MORAL RIGHTS**

8.1 You retain all moral rights to Your Platform Content that you upload, publish, or submit to any part of the Service, including the rights of integrity and attribution. However, you waive these rights and agree not to assert them against us, to enable us to reasonably exercise the rights granted in this Agreement.

8.2 To the extent this Agreement is not enforceable by applicable law, you grant ActiveState the rights needed to use Your Platform Content without attribution and to make reasonable adaptations of Your Platform Content as necessary to render the ActiveState Platform and provide the Service.

8.3 If You believe that content of Our website violates Your copyright, please contact Us at support@activestate.com. Before sending a takedown request, You must consider legal uses such as fair use and licensed uses. We will terminate the Users that repeatedly misuses this Section.

8.4 You exclusively own all right, title and interest in and to all of Your User Data. You will be solely responsible for the accuracy, quality, integrity, legality and acquisition of Your User Data.

**9. OWNERSHIP OF SERVICE**

9.1 Subject to the limited rights expressly granted hereunder, ActiveState reserves all right, title and interest in and to the Service and retains ownership of all intellectual property rights of any kind related to the Service. We reserve all rights that are not expressly granted to You under this Agreement or by law. You may not duplicate, copy, or reuse any portion of the HTML/CSS, Javascript, or visual design elements or concepts without express written permission from ActiveState.

9.2 You shall not create derivative works based on the Service; copy, frame or mirror any part or content of the Service; reverse engineer the Service; or access the Service in order to build a competitive product; or copy any features, functions or graphics of the Service; or permit any third party to access the Service.

9.3 Any trademarks, logos and ActiveState marks displayed on the ActiveState sites are the property of their owners, whether ActiveState or third parties. If You would like to use ActiveState's trademarks, You must follow all of

Our trademark guidelines and seek written permission from ActiveState prior to use of any of ActiveState's trademarks.

## 10. OPEN-SOURCE SOFTWARE

10.1 The Service may include or use open-source software components and/or You may utilize additional open-source software components from the Service, each of which is licensed to You under its own applicable license terms and conditions, which can be found in the license file or the corresponding source files for such software component. Nothing in this Agreement limits or grants You rights that supersede the terms of any applicable open-source software license for the applicable open-source components. You are responsible for complying with open-source license requirements.

## 11. CONFIDENTIAL INFORMATION

11.1 Each party acknowledges that, while performing its duties under this Agreement, it may obtain information relating to the other party, which is of a confidential and proprietary nature ("Confidential Information"). Such Confidential Information may include, but is not limited to, pricing and proposals; any intellectual property including but not limited to computer software, trade secrets, know-how, inventions, techniques, processes, programs, schematics; data; customer lists; financial information; and sales and marketing plans. Each party shall at all times maintain in the strictest confidence and trust all such Confidential Information, which shall not be less than those measures employed by each party in protecting its own Confidential Information of equivalent value. Customer and its employees agree not to disclose such information to any third party.

11.2 The commitments set forth above shall not apply to any Confidential Information which:
  i.    is now generally known or available or which hereafter through no act or failure on the part of the receiving party becomes generally known or available;
  ii.   is legally known to the receiving party at the time of receiving such information;
  iii.  is hereafter furnished to the receiving party by a third party without restriction on disclosure, where such third party legally obtained such information and the right to disclose it to the receiving party; or
  iv.   is independently developed by the receiving party without violation of any legal rights which the disclosing party may have in such information.

11.3 Both Parties agree that all Confidential Information disclosed hereunder shall remain the property of the discloser and may only be copied or reproduced as expressly permitted herein. Upon expiration or termination of this Agreement, Recipient shall return all Confidential Information to discloser along with all copies and portions thereof or certify in writing that all such Confidential Information has been destroyed. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. All Confidential Information disclosed hereunder is provided by discloser without representation or warranty of any kind. The provisions of this Section 13 shall survive the expiration or termination of this Agreement for a period of three (3) years.

## 12. API TERMS

12.1 Abuse or excessively frequent requests to ActiveState via the API may result in the temporary or permanent suspension of Your account's access to the API. ActiveState in its sole discretion will determine abuse or excessive usage of the API. We will make a reasonable attempt to warn You via email prior to suspension.

12.2 You may not share API tokens to exceed ActiveState's rate limitations.

12.3 You may not use the API to download data or Content from ActiveState for spamming purposes, including for the purposes of selling ActiveState Users' personal information to recruiters, headhunters, and job boards.

12.4 All use of the ActiveState API is subject to this Agreement.

12.5 ActiveState may offer subscription-based access to API for those Users who require high-throughput access or access that would result in resale of ActiveState's Service.

## 13. TERMINATION

13.1 ActiveState may terminate this Agreement upon thirty (30) days written notice if:
  i.    Customer materially breaches any of the terms or conditions of this Agreement and fails to cure the breach within thirty (30) days; or
  ii.   if Customer becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

iii.    ActiveState may agree in its sole discretion to extend the thirty (30) day period for so long as the Customer continues reasonable efforts to cure the breach. ActiveState will have the right to suspend or terminate Customer's right to use the Service, if Customer fails to pay any and all required fees, attempts a transfer or assignment of the right to use the Services except as expressly herein permitted or otherwise materially breaches this Agreement.

13.2  Customer shall cease using the Service immediately and certify to ActiveState that Customer has destroyed or has returned to ActiveState any applicable components of the Service and all copies. This requirement applies to copies in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

13.3  ActiveState may retain any document (including any electronic document) containing the Customer's Confidential Information after the termination of this Agreement if ActiveState is obliged to retain such document by any law or regulation.

## 14.  COMMUNICATIONS WITH ACTIVESTATE

14.1  You consent to receive communications from ActiveState in an electronic form via the email address you have submitted or via the Service and agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that those communications would satisfy if they were on paper. This section does not affect your non-waivable rights.

14.2  Communications made through email or ActiveState Support's messaging system will not constitute legal notice to ActiveState or any of its officers, employees, agents or representatives in any situation where notice to ActiveState is required by contract or any law or regulation. Legal notice to ActiveState must be in writing and served at legal@activestate.com.

## 15.  WARRANTIES

15.1  During the Term and upon payment of all Fees ("Warranty Period"), ActiveState warrants to Customer that the Services:
    i.    are compatible with the Operating System and will operate in conformance with all the applicable Documentation and specifications as authorized by ActiveState;
    ii.    do not contain any known viruses, routines, programs, or devices that could interfere with Customer's use of the Services; and
    iii.    do not include any timer, clock, counter, or other limiting mechanism that would allow ActiveState to disable the Services or cause the Services to be erased, inoperable or otherwise incapable of being used by Customer.

15.2  Customer acknowledges that the Services may be temporarily unavailable due to scheduled maintenance or for unscheduled emergency maintenance, either by ActiveState or by third-party providers.

15.3  Customer acknowledges, understands and agrees that complex Services are never wholly free from errors and/or defects and ActiveState gives no warranty or representation that the Services will be wholly free from such errors and/or defects. ActiveState does not warrant or represent that the Services will be compatible with any other software or systems that are not specified as compatible in the Documentation.

15.4  Service is provided by ActiveState and accepted by You on an "as is" and "as available" basis and ActiveState gives to You no other representations or warranties of any kind, and disclaims all warranties, oral or written, express, implied or statutory, with respect to the Service or the performance or results of use thereof. Without limiting the foregoing, ActiveState does not warrant that the Service or the operation thereof is or will be error free or uninterrupted or meets or will meet Your requirements, and ActiveState gives no implied warranty of any kind, including, without limitation, with regard to merchantability, non-infringement or fitness for any particular purpose and whether arising by usage of trade, course of dealing or course of performance.

15.5  ActiveState shall make available to Customer the Support Services as outlined in Exhibit B.

15.6  The Customer warrants the legality of the customer data and shall indemnify ActiveState and its indemnitees for any actual or alleged claim, action, lawsuit or any formal or informal proceeding resulting from the legality of the customer data or information that customer inputs while using the Service.

15.7  The Warranties are void and shall have no application with respect to any error:
    i.    that results from Customer's use of the Services in an environment other than recommended by ActiveState;
    ii.    that results from any modifications to the Services made by Customer that are not authorized by ActiveState or, if such authorization is granted, is made using software other than ActiveState recommended software;

iii.    caused by any bug, defect, virus or error in other software or hardware used by Customer with the Services.

## 16.    INDEMNITY RELEASE AND LIMITATION OF LIABILITY

16.1 If You have a dispute with one or more Users, You agree to release and indemnify ActiveState from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes.

16.2 To the maximum extent as permitted by law, in no event shall ActiveState be liable for any damages resulting from loss of use or loss or corruption of data, account, profit, inability to access service, performance related delays, computer viruses or for any punitive, exemplary, special, direct, indirect, incidental or consequential damages, whether arising in contract, tort or other legal theory even if ActiveState has been advised of the possibility of such damages.

## 17.    GENERAL

17.1 The interests of Customer in this Agreement are personal and shall not be assigned, transferred, shared, or divided in any manner by Customer without the prior written consent of ActiveState. ActiveState shall be entitled to assign this Agreement and the rights granted hereunder to any affiliate or subsidiary or successor in interest or in the event of a merger or sale of all or substantially all of the stock or assets of ActiveState. This Agreement shall enure to the benefit of the parties permitted successors and assigns.

17.2 Subject to any express restrictions elsewhere in this Agreement, ActiveState may subcontract any of its obligations under this Agreement.

17.3 All the projects created or made by User(s) using the Service under this Agreement will be classified as "Public" projects, meaning the project would not qualify as confidential or proprietary and shall be available to general public. User(s) will have to qualify to Team or Enterprise tier in order to have their projects classified as "Private" projects. ActiveState shall only have confidentiality obligations towards Private projects.

17.4 Customer agrees to comply with all applicable export and reexport control laws and regulations of Canada or United States, including the Export Administration Regulations ("EAR") maintained by the United States Department of Commerce. Specifically, Customer covenants that it shall not directly or indirectly sell, export, reexport, transfer, divert, or otherwise dispose of any software, source code, or technology (including products derived from or based on such technology) received from the other party under this Agreement to any country (or any individual national thereof) subject to antiterrorism controls or U.S. or Canadian embargo, or to any other person, entity, or destination prohibited by the laws or regulations of the United States or Canada, without obtaining prior authorization from the competent government authorities as required by applicable laws and regulations. Customer shall be bound by the ActiveState Export Control Policy.

17.5 ActiveState shall not be liable for any failure or delay caused by events beyond its reasonable control, including but not limited to, an act of war or hostility or terrorism or sabotage or act of God or electrical, internet, or telecommunication outage that is not caused by the obligated party or government restrictions (including the denial or cancellation of any export or other license) or other event outside the reasonable control of the obligated party or a pandemic or an epidemic ("Force Majeure Event"). Upon the occurrence of a Force Majeure Event, ActiveState shall be excused from further performance of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as such Force Majeure Event continues.

17.6 The laws of the Province of British Columbia, excluding its conflict of laws provisions, shall govern this Agreement. Provincial and Federal Courts in Vancouver shall have exclusive jurisdiction under this Agreement.

17.7 If a court of competent jurisdiction holds any provision in this Agreement to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way, and a court of competent jurisdiction is authorized to modify the affected provision to preserve the parties' intended benefits to the fullest extent permitted by law. Either party's failure, at any time, to require the other party's performance of any provision of this Agreement shall in no way affect that party's right to enforce such provision, nor shall either party's waiver of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision or any other provision.

17.8 ActiveState shall perform activities under this Agreement only as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

17.9 The headings in this Agreement are for convenience only and shall not affect the meaning or construction of the clauses to which they relate.

17.10 The application of the United Nations Convention of Contracts for the International Sale of Goods and any local implementation, including the British Columbia International Sales of Goods Act, is expressly excluded.

17.11 ActiveState Platform is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government end users may only the Service with only those rights as are granted to all other end users pursuant to this Agreement. Unpublished rights are reserved under the copyright laws of Canada and United States.

17.12 This Agreement contain and constitute the entire understanding and agreement between You and ActiveState with the subject matter of this Agreement and supersede all prior discussions or representations or warranties or understandings. Any representations, warranties, statements, and assurances which are not expressly set out in this Agreement will not be of any effect whether by virtue of any usage or course of dealing or otherwise.

17.13 ActiveState reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the ActiveState Platform (or any part of it) with or without notice. You agree that ActiveState shall not be liable to You or any third party for any modification or cessation of the Service. You acknowledge that ActiveState has no express or implied obligation to provide or continue to provide the Service or any part thereof, now or in future. ActiveState may update this Agreement at any time, and You are solely responsible to review this Agreement on a regular basis on ActiveState's website. You understand and agree that your continued use of the Service after the Agreement has been updated constitutes your acceptance of the revised Agreement.

**EXHIBIT A**
**SUPPORT SERVICES**

Upon payment of all applicable Fees to ActiveState, ActiveState will provide the following support services (the "Support Services").

To provide the Support Services, ActiveState's support representative will provide email support to a maximum of one (1) contact Monday to Friday, 8am to 5pm PST, excluding U.S. Federal holidays in accordance with the response times set forth below (based on the severity level of the problem with the applicable Service):

| Criteria | Response Time |
|---|---|
| MINOR IMPACT – General inquiries and a problem of the Services which disables or impairs the performance of a minor function of Your Business, fixes/corrections as made available. ActiveState provides no time commitment on resolution time for fixes/corrections. | 2 business day |

Support Services inquiries should be addressed to support@activestate.com.

**RESTRICTIONS**
ActiveState reserves the right, at its sole discretion, to limit or cancel the Support Services, in whole or in part: (1) for any module, extension, script or other software program that has become obsolete or has been superseded by more recent modules, extensions, scripts or programs or (2) upon the discontinuance of support by the manufacturer of a platform, to limit or cancel support for such platform (the "Archived Platform") upon notice to Customer. ActiveState will provide the Support Services solely to Customer's one (1) designated contact and any additional contact(s) for which Customer has paid applicable Fees. ActiveState will not provide any support services to Customer's third-party customers.