ACTIVESTATE MASTER TERMS OF SERVICE

ver. March 19, 2026

The ActiveState Master Terms of Service ("TOS") sets out the terms and conditions under which ActiveState Software Inc. ("ActiveState") provides access to and use of its Products and Services (as defined below). By purchasing, installing, downloading, or otherwise using the Services, you ("You", "Your", "Customer" or "User") acknowledge that you have read, understood, and agree to be bound by the terms of this Agreement. If you access the Services through the execution of an order form, through a product interface, by clicking an acceptance button or similar mechanism, or in any other manner this Agreement will be deemed accepted as of that moment. **If you do not agree to these terms, you may not install, download, access, or use the Products or Services.**

1.   DEFINITIONS

1.1   "ActiveState Content" means all materials made available through the Service by ActiveState, including without limitation text, data, articles, images, photographs, graphics, software, applications, designs, features, and other resources.

1.2   "ActiveState Platform or "Platform" means the ActiveState's web- based platform located at www.activestate.com, including its subdomains, platform functionalities, Products and/or Services provided therein. Some services or pages may have additional terms, if those differ from this Agreement, the more specific terms apply.

1.3   "Agreement" means these Terms of Service (TOS), including any referenced policies, linked policies, Order Forms, or custom terms agreed upon in writing.

1.4   "Artifact(s)" or "Component(s)": means a single open-source package that is defined by a unique combination of package name, versions, OS versions, and language versions, which is consumable by the Customer.

1.5   "AUP" means ActiveState's [Acceptable Use Policy](#) as linked.

1.6   "Concurrent Runtime Subscriptions" means the number of Runtimes permanently installed or regularly and concurrently on a Node.

1.7   "Customer" means a User, including its authorized personnel, that has entered into a paid subscription or other commercial arrangement with ActiveState for a Product License Grant or use and access to the Service.

1.8   "Documentation" means user guides, manuals, or technical materials provided to assist with use of the Service or Product.

1.9   "Distribution" means any of the custom distributions for any ecosystem comprised of Artifacts or Components that the ActiveState Platform builds, maintains, updates, hosts, and distributes to Users. Derivatives of those collections or files are also included within this definition.

1.10   "Ecosystem" means a collection or source of software components for a specific programming language, operating system, container registry or other technical platform.

1.11 "Free Tier" means the unsupported version of ActiveState's Products or Services available at no cost, which are subject to specific limits and features.

1.12 "Fork/Forked" means allowing others to view and copy Your Content from Your projects into projects they control.

1.13 "Indemnification Icon" means an indemnification icon that marks which Products or components are covered by indemnity under this Agreement.

1.14 "Indemnified Distributions" shall mean Managed Distribution(s), and/or the Self-Serve Indemnified Distribution(s).

1.15 "Machine Account(s)" means an account created by a person for automated tasks. The owner of the account is responsible for how it is used, even if others help manage it.

1.16 "Managed Distribution" means a Distribution or set of Distributions built, maintained, and managed by ActiveState according to specifications in the Order Form or a Statement of Work, including Product Type, Product Version, Operating System, and included packages or modules.

1.17 "Managed Services" means services provided by ActiveState, as detailed in an Order Form or a Statement of Work, designed to assist Customers in efficiently managing their open-source software requirements.

1.18 "Node" means a single installation of an Operating System running on a machine (virtual or physical) capable of executing a Runtime.

1.19 "OEM Distribution" means any distribution or use of the Products by, others outside Customer's organization as either a bundled add-on to, or embedded component of another application, with such application being made available to its users as, but not limited to, an on-premises application, a hosted application, a software-as-a-service offering or a subscription service for which the distributor of the application receives a license fee or any form of direct or indirect compensation and whether for commercial or non-commercial purposes.

1.20 "Operating System" means a supported system for running the Product as offered by ActiveState.

1.21 "Order Form" means the form issued by ActiveState or a reseller to specify the Products or Services purchased by the Customer.

1.22 "Personal Data" means information, which is protected as "personal data", "personally identifiable information" or "personal information" under any Applicable Data Protection Laws.

1.23 "Product (s)" means any Distribution, Runtime, Product Type, and/or any other products licensed by ActiveState and accessed via the Platform or by other means. For the avoidance of doubt, this term shall not include the ActiveState Platform itself.

1.24 "Product Type" means the software language specific variant of a Product, including associated source code, binaries, documentation, related resources, and derivatives of that collection and/or those files.

1.25 "Product Version" means the number which identifies a specific version of the Product Type.

1.26 "Runtime" means a collection of open-source components and or other components provided by ActiveState in compiled form (if needed) necessary 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, executing code, updating dependencies or interpreters via ActiveState's or third-party command line interface ("CLI"), installing additional dependencies via CLI and or any other deployment methodologies offered by the ActiveState Platform.

1.27 "Service" means any functionality, application, or features made available by ActiveState under this Agreement, including the ActiveState Platform, Managed Distributions, Managed Services, API (application programming interface), compliance scanning tools, hosted or cloud-based, web interfaces, documentation, dashboards and any related tools or support.

1.28 "Self-Serve Indemnified Distribution" means a Distribution or set of Distributions built by the Customer using the Platform and consisting solely of components marked with the Indemnification Icon. The final output must also carry this icon. ActiveState can remove this icon at any time.

1.29 "Statement of Work" or "SOW" means a mutually agreed document detailing the Managed Services, Fees, and each party's obligations.

1.30 "Term" means the Initial or any Renewal Term as specified in Section 6 herein.

1.31 "Trademarks" means the trademarks, whether registered or unregistered, used by ActiveState and/or its affiliates or licensors.

1.32 "Usage Cap" means the limits of Customer's authorized use of the Products and Services as stated in the Order Form.

1.33 "User(s)" means any individual or entity that accesses or uses the Product or Service, including Customers and their authorized personnel, or individuals who register for free tier use and access as permitted under this Agreement.

1.34 "User Data" means metadata and system data collected by the Service, including usage statistics, metrics, information relating to the performance, operations, resource, or other conditions of the Service and/or Products (including third party components, host names, interpreter used, and system architecture, which includes filenames, full path, file size, and content hash.)

1.35 "Your Content" means any content or data You create, own, upload, or otherwise make available through the Service, including, but not limited to, any open-source code or any output of any User program using the Service. Your Content should not include any proprietary source code or software dependency information that You wish to keep confidential.

2. PRODUCT LICENSE GRANT

2.1 **License Grant:** Subject to the terms of this Agreement and the applicable Order Form, ActiveState grants Customer a limited, personal, revocable, limited, non-exclusive, non-transferable, and non-sublicensable license to download, install, and use the Products during the Term subject restrictions per ActiveState's AUP and applicable Usage Caps as defined in the Order Form.

2.2 **Perpetual License to custom Products**: Customer is also granted a perpetual, worldwide license to use any adaptations or customizations to the Products authored and delivered

by ActiveState exclusively during the Term subject to any limitations in the Order Form.

2.3 **Reservation of Rights:** All rights not expressly granted to the Customer in this Agreement are reserved by ActiveState. No rights to the source code of any Product are granted unless otherwise stated. Use of the Service or Products beyond the scope of this license constitutes a material breach.

3. ACCESS AND USE OF THE SERVICE

3.1 **Service Access and Availability:** During the Term and subject to Customer's compliance with this Agreement, ActiveState will provide Customer with access to the Service, including the ActiveState Platform and any Managed Services as may apply per the Customer's Order Form. ActiveState may suspend access to the Service with reasonable notice if Customer's access or use violates the ActiveState AUP or this Agreement.

3.2 **Connectivity and Control:** Customer shall be responsible for:

    i. obtaining and maintaining any equipment, devices, internet connectivity, and any other systems needed to connect to, access or otherwise use the Service or Product,

    ii. maintaining the Customer's account secure, including managing passwords and controlling access by Users. Customer hereby acknowledges and agrees that ActiveState shall have no responsibility for such matters,

    iii. ensuring compliance with the ActiveState AUP.

4. EARLY ADOPTER, TRIAL, OR PROOF OF VALUE (POV) ACCESS

4.1 **Access to Pre- Release Services:** ActiveState may offer access to certain Services, Products, features, or related materials that are in a pre- release or beta form ("**Early Adopter Access" or "EAA**") or provided on a limited temporary basis for evaluation purposes (**"Trial or "POV"**). These offerings are made available at ActiveState's sole discretion and are provided on an *as-is basis*, and are not subject to warranties, indemnities, or support and maintenance obligations.

4.2 **Termination and Transition of EAA**: ActiveState may terminate the EAA, Trial, or Pov access at any time. ActiveState also reserves the right to modify, withhold, or discontinue any pre-release or evaluation offering entirely, and is not obligated to release them as commercial offerings. Continued access to any commercial service offerings after the EAA, Trial, or POV ends will require a separate agreement and will be subject to applicable fees.

5. Free Tier Access and Use

5.1 **Eligibility and Access:** Free Tier Products and Services are available only to natural persons who register with a valid email address whether through the Platform or by other means. Automated registrations are prohibited.

5.2 **Limits and Exclusions**: Free Tier for the ActiveState Platform personal use is limited to one (1) User while Organizations (including affiliates and subsidiaries) may register up to two (2) Users, any excess use will require any upgrade to the applicable paid Product License. All Users must comply with ActiveState's AUP. All Free Tier Products and Services are

provided "as is" and "as available," and are expressly excluded from any warranties, support, maintenance or indemnity obligations under this Agreement.

5.3 **Your Content License**: By submitting Your Content to a Free Tier Product or Service, You grant ActiveState, its affiliates, sublicensees, and successors a worldwide, non-exclusive, royalty-free, perpetual, irrevocable, and transferable license to use, process, copy, display, store, back up, analyze, share, distribute, and commercialize Your Content as needed to operate, maintain, improve, and deliver the Service. This includes anonymized or aggregated data that does not identify You. You waive any moral rights to the extent permitted by law and, where not waivable, You grant ActiveState the right to use Your Content without attribution and make reasonable modifications to deliver the Service.

5.4 **Public Content and Forking:** If You make Your Content publicly available, You grant other Users a non-exclusive, worldwide, royalty-free license to use, reproduce and display it through the Service. You are responsible for ensuring third-party content is properly licensed for such use. If Your Content is submitted as a contribution to a project governed by a separate license, Your contribution is deemed to be licensed under those terms unless otherwise agreed in writing. This license ends when You remove Your Content from our servers, except where it has been Forked by another User.

5.5 **Account Cancellation**
You may cancel your account at any time by emailing support@activestate.com. It is Your sole responsibility to ensure and complete the cancellation process. ActiveState will delete your profile and your project content within 90 days, unless retention is required for legal, backup, dispute resolution, or enforcement purposes. Deleted data cannot be recovered. Your Content contributed to other projects or Forked by other Users will not be deleted. If requested within 90 days, we will make reasonable efforts to provide a copy of your lawful, non-infringing content. ActiveState may suspend or terminate access at any time, with or without notice or cause, and may refuse access at its discretion.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 **Ownership:** ActiveState and its licensors own all rights title, interest, including all intellectual property rights to the Services and ActiveState Platform, and any underlying technology, software, patents, know-how, associated documentation, including all improvements, enhancements, modifications, derivative works and anything developed or delivered under this Agreement.

6.2 **Feedback:** You may voluntarily provide suggestions, ideas, or other feedback to ActiveState about the Services or Products ("Feedback"). You grant ActiveState a non-exclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free license to use, modify, and incorporate that Feedback into its products and services, without obligation or compensation to you.

6.3 **Your Content:** You retain all rights and title to Your Content along with any data that is derived from the User Data provided back to You as part of the Services.

6.4 **Infringement Risk**: The User acknowledges that use of the Product or Service in beyond the authorized Usage Cap, without paying applicable fees, constitutes a material breach of this Agreement and may infringe ActiveState's intellectual property rights.

7.   **Certification and Audit Rights**:
Upon request, no more than once per year, User will provide a signed certificate confirming compliance with this Agreement, including (i) a list of Products in use and quantities; (ii) timeframes of use; and (iii) general use case descriptions. ActiveState may, upon prior notice and during normal business hours, audit the User's environment to verify compliance.

8.   **OPEN-SOURCE SOFTWARE**

8.1   Third-Party Licenses: All open-source components included in the Products are licensed to the User under their respective third- party licenses, and nothing in the Agreement overrides those terms or expands the User's rights under them.

8.2   **Open-Source Software**: The User acknowledges and understands to be solely responsible for distribution or deployment of Product instances containing any Open-Source Components.

9.   **FEES & PAYMENTS**

9.1   **Fees and Invoicing**: The Customer agrees to pay all fees as specified in the Order Form. Unless otherwise stated, fees are billed annually in advance and are due within thirty (30) days of the invoice date. All fees are non-cancellable, and payments made are non-refundable.

9.2   **Taxes**: Fees are exclusive of taxes and charges, including any wire transfer or other banking payment related fees. Customers are responsible to pay for any sales, value-added or other similar taxes imposed by applicable law, except for taxes based on ActiveState's income. Customers will pay any such tax or charges that ActiveState may be required to collect or pay.

9.3   **Late Payment**: Overdue amounts will accrue interest at a rate of one and a half percent (1.5%) per month, beyond the payment due date. Any expenses associated with collections on past due invoices will be paid by the Customer.

9.4   **Disputed Charges:** Billing disputes must be submitted in writing within ten (10) business days of invoice receipt. The Customer must pay the undisputed amounts on time. Resolved disputed amounts must be paid within ten (10) days of the resolution between the parties.

9.5   **Fees for Unauthorized Use**: Continued or excess use of the Product or access to the Service beyond the Term or Usage Cap stated in the Order Form will be billed at ActiveState's then current rates and may be deemed a renewal under the terms of this Agreement, and You agree to be bound accordingly.

9.6   **Reseller Purchases:** When the Product or Service is procured through a reseller:
   i.   ActiveState's obligations depend on a fully executed Order Form or reseller agreement between ActiveState and the reseller;
   ii.   all fees, credits, payments and refunds are handled through the reseller, and Customer remains responsible if payment is not received by ActiveState; and
   iii. resellers are not authorized to modify this Agreement or make representations on ActiveState's behalf.
   iv.   The Customer's acceptance of the reseller pricing and terms and conditions

shall bind Customer to the obligations of this Agreement and any applicable Order Form.

10.   WARRANTIES

10.1   Mutual Warranties: Each party represents and warrants that (i) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization, (ii) has the right, power and authority to enter into this Agreement, and (iii) entering into and performing this Agreement will not conflict with or violate any applicable laws or agreements to which it is bound.

10.2   Service Warranty: ActiveState warrants that, during the Term and subject to timely payment of all applicable fees, the Services are provided in a professional and workmanlike manner, consistent with industry standards.

10.3   Support and Maintenance: ActiveState will provide support as defined in our [Support Services Exhibit](#). The Services may be temporarily unavailable due to scheduled or emergency maintenance.

10.4   Exclusive Remedy: Customer's sole and exclusive remedy for any breach of the warranties in this Section shall be to correct or replace the ActiveState Platform, Products, Services and/or Documentation within a reasonable time. ActiveState shall only be liable for any breach of Warranties claim when notified in writing during the Warranty Period.

10.5   Warranty Exclusions: These warranties are void and shall not apply to errors that result from:

     i.   use of the Product or Service in an environment not approved by ActiveState

     ii.   unauthorized modifications made to the Product or Service by the Customer or third parties.

     iii.   issues caused by third-party systems, hardware, or software not provided by ActiveState.

     iv.   using a Product Type or Product Version that is end of life, no longer maintained by ActiveState, or any other than recommended by ActiveState.

10.6   Disclaimer: EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS SECTION, ACTIVESTATE PLATFORM AND PRODUCTS ARE PROVIDED BY ACTIVESTATE AND ACCEPTED BY THE CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ACTIVESTATE GIVES TO THE CUSTOMER 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 ACTIVESTATE PLATFORM OR PRODUCTS OR THE OPERATION THEREOF IS OR WILL BE ERROR-FREE OR UNINTERRUPTED OR MEETS OR WILL MEET THE CUSTOMER'S 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 FATRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

11.   LIMITATION OF LIABILITY

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, BARGAIN, OR BUSINESS, INABILITY TO ACCESS ACTIVESTATE SERVICES, 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. ACTIVESTATE'S LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION, SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER TO ACTIVESTATE IN THE PRECEDING TWELVE (12) MONTHS. ACTIVESTATE SHALL HAVE NO LIABILITY FOR ANY CUSTOM DEVELOPMENT. NO ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY TRANSACTION HEREUNDER MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ARISEN, EXCEPT FOR AN ACTION FOR NON-PAYMENT. THE CUSTOMER AGREES THAT IT HAS READ AND UNDERSTOOD THIS SECTION. IN CASE OF ANY CONFLICT BETWEEN THIS SECTION AND ANY OTHER SECTION OF THIS AGREEMENT, THE PROVISIONS OF THIS SECTION SHALL PREVAIL. FOR THE AVOIDANCE OF ANY DOUBT, THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING THE TERMINATION, REPUDIATION OR EXPIRY OF THIS AGREEMENT.

12.   INFRINGEMENT INDEMNITY

12.1   Infringement by and Indemnified Distributions: Subject to the limitations below, ActiveState will defend and indemnify Customer against final judgments issued by a court of competent jurisdiction, including costs and direct damages, against Customer that definitively concludes that Customer's authorized use of Indemnified Distributions infringe an existing US copyright or misappropriation a trade secret of any third party. For the avoidance of doubt, ActiveState's indemnity obligations hereunder shall only apply towards Indemnified Distributions.

12.2   Infringement by ActiveState Platform: Subject to the limitations below, ActiveState will defend and indemnify Customer against final judgments, issued by a court of competent jurisdiction, including costs and direct damages, against Customer that definitively concludes that the ActiveState Platform infringes an existing patent or copyright or misappropriates a trade secret of any third party.

12.3   Customer Obligations for Indemnification Claim: Customer must provide ActiveState with prompt written notice of the initiation of any such suit, proceeding, or claim, and in all cases no later than ten (10) calendar days after receiving notice. The Customer shall grant ActiveState full authority to control the defense and settlement of the claim, provide all relevant information and reasonable assistance at ActiveState's expense (except as otherwise provided, and permit ActiveState to assume defense upon request. Failure to provide timely notice or cooperation shall relieve ActiveState of its indemnification obligations under this Section.

12.4   Infringement Remediation: If the ActiveState Platform, , and Indemnified Distributions has become or in ActiveState's opinion are likely to become, the subject of an infringement claim, ActiveState may at its option and expense either:
   i.   obtain the right for Customer to continue using the infringing item
   ii.   replace the infringing item with a non-infringing option and functionally

equivalent
iii. modify the infringing item to become non-infringing; or
iv. if none of the above are commercially reasonable, ActiveState can terminate this Agreement and Customer's use.

12.5 Exclusions from Indemnity: Notwithstanding anything to the contrary, ActiveState shall not be liable for any losses, costs, or damages, and Customer will indemnify, defend, and hold ActiveState harmless from any expenses, damages, costs, or losses resulting from any suit or proceeding based upon a claim arising from:
i. any modification to the ActiveState Platform,, and Indemnified Distributions by anyone other than ActiveState;
ii. use of other than a current or unaltered release of the or Indemnified Distributions, if the claim would have been avoided using a current or unaltered version, or any portion thereof; or
iii. use of the services in any manner contrary to this Agreement.
iv. unauthorized use by the Customer of an open source Copyleft license.
v. commitments or a settlement made without ActiveState's prior written consent.
vi. use or access to a Free tier Product or Service

12.6 Customer Indemnity Obligation: Customer shall defend, indemnify, and hold harmless ActiveState against claims, actions, proceedings, losses, damages, expenses, and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with Customer's use of the Product or Service in an unlawful manner or any violation of this Agreement.

13. TERM AND TERMINATION

13.1 Term and Renewal: The Product and Service will be provided for the subscription term as specified in the Order Form ("Initial Term"). This Agreement commences on the Order Form subscription start date and will continue unless expired or terminated in accordance with this Agreement. Unless otherwise stated in the Order Form, the subscription will automatically renew for successive terms of equal duration to the Initial Term ("Renewal Term"). ActiveState may apply a built-in price increase of up to ten per cent (10%) per Renewal Term. Either party may opt out of renewal by providing written notice of termination at least sixty (60) days prior to the end of the then current term.

13.2 Termination for Cause: Either party may terminate this Agreement with thirty (30) days' written notice if the other party materially breaches any term of this Agreement and fails to cure the breach within that period. This period may be extended at the non-breaching party's discretion if reasonable efforts to cure are underway. Termination is also permitted if a party becomes subject to bankruptcy, insolvency, or similar proceedings. ActiveState may suspend or terminate access to the Services if Customer fails to pay applicable fees, attempts to assign its rights improperly, or otherwise materially breaches this Agreement.

13.3 Termination Requirements: To effect termination, Customer must submit both written notice and, upon ActiveState's request, a signed certificate of software destruction. If the certificate is not provided, ActiveState may enforce its audit right pursuant to Section 3.3

and/or apply Section 7.5 of this Agreement. When termination is initiated by ActiveState, a signed certificate of software destruction from the Customer is not necessary for termination to be effective.

13.4 Effect of Termination: Upon termination or expiration, Customer must immediately stop using the Services and delete or return all copies of the Product or Service within thirty (30) days. This includes all formats and all locations, whether modified or integrated. Upon Customer request, ActiveState will make Your Content available for download for up to thirty (30) days after termination; afterward, it will be deleted. For the avoidance of doubt, if no request is received, customer data will be automatically deleted after termination.

14.   CONFIDENTIAL INFORMATION

14.1 Confidential Information: "Confidential Information" means any non-public, proprietary, or sensitive information disclosed under this Agreement, including but not limited to pricing, proposal, intellectual property including such as User Data, business plans, computer software, trade secrets, know-how, inventions, techniques, processes, programs, schematics, customer lists, financial information, sales and marketing plans. Each party agrees to protect such information using safeguards at least as strong as those it uses for its own confidential information, and not to disclose it to any third party without prior written consent, unless required by law. The Customer and its employees agree not to disclose such information to any third party.

14.2 Exclusions: These confidentiality obligations do not apply to information that:
  i.   is or becomes publicly available without breach of this Agreement,
  ii.   was known to the receiving party prior to disclosure,
  iii.   is lawfully disclosed by a third party,
  iv.   is independently developed by the receiving party without use of the disclosing party's Confidential information.

14.3 NDA Precedence: Where the parties have entered into a separate confidential non-disclosure agreement ("NDA") and the terms of the NDA are inconsistent with the terms contained herein, the terms of the NDA shall take precedence.

14.4 Handling and Return: All Confidential Information remains the property of the disclosing party and may only be used as authorized under this Agreement. Upon termination or expiration, each party will return or destroy the other party's Confidential Information upon request and confirm destruction in writing, unless retention is required by law or relates to routine business records. The provisions of this section shall survive the expiration or termination of this Agreement for a period of three (3) years.

15.   DATA PROTECTION

15.1 Data Security and Compliance: ActiveState will maintain reasonable administrative, physical, and technical safeguards to protect the security, confidentiality, and integrity of User Data. ActiveState's [Exhibit on Data Security and Privacy Terms](#) also apply to this Agreement, unless otherwise stated in writing by the parties. Any Personal Data collected by ActiveState will be handled in accordance with our [Privacy Policy](#).

15.2 Customer Data Responsibility: Customer agrees to comply with ActiveState's [AUP](#).

15.3 Third-Party Personal Data: If User Data includes Personal Data, Customer is responsible for all legal obligations related to such data, including obtaining consents and providing notices as required under laws such as GDPR, PIPEDA, or CCPA.

16. FORCE MAJEURE EVENT

16.1 Neither party will be liable for any delay or failure to perform its obligations (except for Customer's payment obligations) caused by events beyond its reasonable control, including but not limited to war, terrorism, sabotage, acts of God, electrical or internet outages not caused by the party, government restrictions (including denial or cancellation of licenses), pandemics, epidemics, or other similar events ("Force Majeure Event"). The affected party will be excused from performance only for the duration of the Force Majeure Event and must use commercially reasonable efforts to resume performance as soon as possible. A party who becomes aware of a Force Majeure Event, which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under the Agreement, will forthwith notify the other party; and will inform the other party of the period for which it is estimated that such failure or delay will continue.

16.2 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate its effects.

17. NOTICES

All notices, approvals, requests, or other communications under this Agreement must be in writing and sent to the addresses below, referencing this Agreement. Notices are deemed received: (i) upon delivery if sent personally or by email; (ii) one (1) business day after shipment via overnight courier with confirmation of receipt; or (iii) three (3) business days after mailing via certified mail with return receipt. Either party may update its contact information by providing written notice to the other.

ActiveState Software Inc.
Attention: Legal Department
1000 - 1177 West Hastings
Vancouver, BC, Canada, V6E 2K3
legal@activestate.com

Customer or User:
Contact Name, Address, and Email as listed in the Order Form or in a User account registration.

18. MARKETING

Customer agrees to serve as a reference for prospective ActiveState customers and grants ActiveState the right to use Customer's name and logo in promotional materials. Customer may revoke this consent at any time by emailing marketing@activestate.com.

19. GENERAL

19.1 Assignment: Customer may not assign or transfer this Agreement or any rights under it

without ActiveState's prior written consent, which will not be unreasonably withheld if all fees are paid and the assignee agrees to the terms. ActiveState may assign this Agreement to affiliates, successors, or in connection with a merger or sale. This Agreement binds and benefits permitted successors and assigns.

19.2 **Subcontractors:** ActiveState may subcontract any of its obligations under this Agreement but shall remain responsible to the Customer for their performance of the subcontracted obligations.

19.3 **Control of Private Projects**: Projects created by Users on the ActiveState Platform are "Public" by default and not confidential. To have "Private" projects, Users must upgrade to Business or Enterprise tier. ActiveState's confidentiality obligations apply only to Private projects.

19.4 **Export Controls**: Both parties will comply with applicable export laws, including U.S. and Canadian regulations. Neither party will export or transfer software or technology to restricted countries or entities without proper authorization.

19.5 **Governing Law and Jurisdiction**: 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. Any disputes between the parties arising out of or in connection with this Agreement which cannot be settled amicably shall be first notified in writing to the authorized representatives of each party. If such authorized representatives do not reach an amicable settlement within fifteen (15) days of receiving written notice of such a dispute, then the matter shall be referred to a mediator mutually agreeable to the parties. If the mediation does not reach an amicable settlement within thirty (30) days of referral, the parties may proceed to the courts as set out herein.

19.6 **Non-Solicitation:** During this Agreement and for one year after termination, neither party will directly or indirectly solicit or hire the other party's employees or contractors, except through general job postings not specifically targeting the other party's personnel.

19.7 **Severability**: If any part of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, the rest of the Agreement will remain in full effect. The court may revise the invalid provision to fully reflect to original intent of the parties as permitted by law. Party's failure, at any time, to enforce any provision of this Agreement shall in no way waive its right to enforce such provision at another time.

19.8 **Relationship Between the Parties**: ActiveState is acting as an independent contractor under this Agreement. Nothing in this Agreement makes ActiveState an employee, agent, or representative of the Customer. Neither party has the authority to make commitments on behalf of the other unless agreed to in writing. This Agreement does not create a partnership, joint venture, or any other form of legal entity between the parties.

19.9 **Construction:** Headings are for convenience only. If there is a conflict between documents, the priority will be: (i) Order Form; (ii) signed amendments; (iii) these ToS; (iv) Exhibits; (v) attachments; (vi) other related documents. In case of conflict, the Order Form prevails.

19.10 **United Nations Convention of Contracts and UCITA:** 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. The parties agree that the Uniform Computer Transactions Act or any version thereof, adopted by any state, in any form ("UCITA"), shall not apply to this Agreement, and to the extent that UCITA may be applicable, the parties agree to opt out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein.

19.11 **U.S. Government End- Users:** The Product 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 acquire the Product with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished rights are reserved under the copyright laws of Canada and the United States.

19.12 **Entire Agreement:** This Agreement its amendments, exhibits, and the Order Form are the full agreement between the parties and replace all prior agreements or representations.

19.13 **Surviving Terms:** Terms that by their nature should survive termination remain effective after termination. Termination does not affect accrued rights or obligations as of the Effective Date.

19.14 **Changes to these terms:** 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 Product or Service after the Agreement has been updated constitutes Your acceptance of the revised Agreement.