



**ACTIAN CORPORATION
BUSINESS XCHANGE SERVICES AGREEMENT**

THIS BUSINESS XCHANGE SERVICES AGREEMENT (THE "AGREEMENT") GOVERNS ALL USE OF THE SERVICE PROVIDED BY ACTIAN CORPORATION ("ACTIAN" OR "WE" OR "US") THROUGH THE WEBSITE LOCATED AT WWW.WEBDI.COM OR SUCH OTHER WEBSITE DESIGNATED BY ACTIAN ("SERVICES") AND IS A LEGAL AGREEMENT BETWEEN THE END USER ACCESSING THE SERVICES ("YOU" OR "YOUR") AND US. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR AN ENTITY, YOU REPRESENT THAT YOU ARE THE EMPLOYEE OR AGENT OF SUCH COMPANY OR ENTITY AND YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT AND LEGALLY BIND YOUR COMPANY OR ENTITY.

YOU MAY ONLY ACCESS AND USE THE SERVICE IF (A) YOU ARE A TRADING PARTNER OF A THIRD PARTY THAT HAS A CURRENT SUBSCRIPTION IN PLACE WITH US TO USE THE SERVICES ("CUSTOMER") AND (B) THE CUSTOMER HAS NOTIFIED US IN WRITING THAT YOU ARE AN AUTHORIZED TRADING PARTNER OF THE CUSTOMER WITH WHOM IT DESIRES TO EXCHANGE PROCUREMENT AND SUPPLY CHAIN RELATED DOCUMENTS THROUGH THE SERVICES IN CONNECTION WITH THE GOODS OR SERVICES THAT YOU SUPPLY TO THE CUSTOMER.

BY ACCESSING THE SERVICES OR BY CLICKING THE "I ACCEPT" BUTTON PRESENTED TO YOU (OR TYPING "Y" OR "YES" IF YOU ARE INSTEAD ASKED FOR A "Y OR N" RESPONSE), YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN YOU MUST CLICK ON THE "DECLINE" OR "I DO NOT ACCEPT" BUTTON PRESENTED TO YOU (OR TYPE "N" OR "NO" IF YOU ARE INSTEAD ASKED FOR A "Y OR N" RESPONSE) AND YOU MAY NOT ACCESS THE SERVICES. THE "EFFECTIVE DATE" SHALL BE DEEMED TO BE THE EARLIER OF THE DATE YOU CLICK ON THE "ACCEPT" BUTTON OR FIRST ACCESS THE SERVICES.

IF YOU HAVE ENTERED INTO A SEPARATE SIGNED AGREEMENT WITH ACTIAN GOVERNING YOUR USE OF THE SERVICES, TO THE EXTENT OF A CONFLICT, THE SEPARATE SIGNED AGREEMENT WILL GOVERN.

1. Services. Subject to Your compliance with the terms and conditions of this Agreement, Actian grants You a nonexclusive, nontransferable, revocable, limited license during the Term to access and use the Services solely as necessary to upload, store, manage and query Your Content (as defined below) for the purpose of electronically exchanging procurement and supply chain related documents with the Customer.

2. Actian Tools. From time to time, Actian may make available to You certain software, tools, and other materials for download and use in connection with Your use of the Services ("Actian Tools"). Subject to Your compliance with the terms and conditions of this Agreement, including without limitation Your payment of all applicable Fees, Actian grants You a nonexclusive, nontransferable, revocable, limited license during the Term to download, install, copy, and use the Actian Tools solely in connection with and as necessary for Your use of the Services.

3. Restrictions. You agree not to: (i) use the Services or Actian Tools except as expressly authorized in this Agreement; (ii) use any device, software, or routine that (a) interferes with any application, function, or use of the Services or Actian Tools, or (b) is intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or communication; (iii) resell, sublicense, time-share, or otherwise use or share the Services with or for the benefit of any third party, including but not limited to using the Services in a service bureau, SaaS, ASP, marketing, training outsourcing services, consulting services or other commercial service related to the Services or other similar hosted environment, except as otherwise expressly permitted in this Agreement or authorized by Actian in writing; (iv) frame or mirror the Site; (v) decompile, disassemble or reverse-engineer the Actian Tools or the underlying software that is part of the Services or otherwise attempt to derive the source code for the foregoing; (vi) use the Services or Actian Tools either directly or indirectly to support any activity that is illegal; (vi) access the Services for purposes of monitoring its availability, performance or functionality, or for any

other benchmarking or competitive purposes, or use the Services to develop a product or service which is competitive with any of the Services marketed by Actian,; or (vii) authorize any third parties to do any of the above.

4. No Spam. You will not distribute, publish, send, or facilitate unsolicited mass e-mailings, promotions, advertising, or solicitations (e.g. “spam”), including commercial advertising and informational announcements. Actian and the CSV (as defined below) may: investigate violations of this Agreement or misuse of the Services; or remove, disable access to, or modify any Content or resource that violates this Agreement or any other agreement with You for use of the Services or the CSV services. Actian and the CSV may report any activity that Actian or the CSV suspect violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Such reporting may include disclosing appropriate customer information. Actian and the CSV also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Agreement.

5. Ownership. Actian and/or its licensors own all worldwide right, title and interest in and to the Services and the Actian Tools, including all worldwide intellectual property rights therein. You may not delete or in any manner alter the copyright, trademark, and other proprietary rights notices appearing in or on the Services as provided. You may from time to time provide suggestions, comments, or other feedback to Actian with respect to the improvement, correction, or modification of the Services or Actian Tools (collectively, “Feedback”). You agree that Actian shall be free to use, disclose, reproduce, license, distribute, and otherwise commercially exploit the Feedback provided to it with respect to the Services or Actian Tools as it sees fit, entirely without obligation or restriction of any kind. You may not modify, alter, tamper with, repair or otherwise create derivative works, compilations or collective works of the Services, Actian Tools or software provided or accessible in connection therewith.

6. User Accounts. Actian will provide You with a reasonable number of user accounts for the Services, which may be used solely by Your trained employees as necessary to access and use the Services as permitted under the Agreement. You are responsible for all activity occurring under such user accounts and will notify Actian immediately of any unauthorized use of any password or account or any other known or suspected breach of security. You are responsible for obtaining, maintaining, and supporting all internet access, computer hardware, and other equipment and services needed for access to the Services. You are responsible for properly configuring and using the Services and taking Your own steps to maintain appropriate security, protection and backup of Your Content, including using encryption technology to protect Your Content from unauthorized access and routinely archiving Your Content.

7. Your Content. As used herein, “Content” means any material, information or data, whether owned by You or a third party, that is provided by You and with which You use the Services to upload, store, manage or query. As between Actian and You, all Content provided or submitted by You to Actian through the Services, remains Your sole property. You shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all of Your Content and (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and notify Actian promptly of any such unauthorized use. You hereby grant to Us, and We hereby accept, the non-exclusive, nonsublicenseable license to use, copy, store, modify and display Your Content solely to the extent necessary to provide the Services to You. You represent and warrant that: (i) You or Your licensors own all right, title and interest in and to Your Content or have all the rights in the Content to use it and grant the rights contemplated in this Agreement; (ii) no Content will contain any malicious or hidden mechanisms or code for the purpose of damaging or corrupting the Services or CSV network; (iii) You will not use, or encourage, promote, facilitate or instruct others to use, the Services for any illegal, harmful or offensive use, or transmit, store, display, distribute or otherwise make available content that is illegal, harmful, or offensive. You must abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Your use of the Services, including those related to export regulations, data privacy, international communications and the transmission of technical or personal data. You will not provide Actian with access to any of Your Content that includes any PII under this Agreement. You will ensure that any PII transmitted through the Services by You will be encrypted with enterprise standard encryption technology. You will not provide any keys to Actian allowing Actian to decrypt the PII. As used herein, “PII” means any information or data that identifies an individual or from which an individual may be identified, including, without limitation, an individual’s name, address, telephone number, driver’s license, identification card or passport numbers, personal identification codes or numbers,

electronic mail names or addresses, financial account information, credit card numbers, account numbers and all “personal information,” “nonpublic personal information,” personal health-related information, and other similar information, however described, as defined under applicable data privacy and security laws. You agree that You will, without limitation, be solely responsible for complying with certain terms and conditions required by the CSV, which are set forth or incorporated by reference as provided herein.

8. Actian Responsibilities. Actian shall use commercially reasonable efforts to:

(i) not disclose or use any Content for any purpose outside the scope of this Agreement. Notwithstanding the foregoing, Actian may disclose Content if Actian determines that such action is reasonably necessary: (a) to comply with the law, regulatory requirements, or legal or regulatory process; (b) to enforce this Agreement; (c) to comply with Actian’s agreement with the CSV or as otherwise required by the CSV, or (d) to respond to claims that You are using the Services to perform or support activities that violate the law or the rights of third parties. Unless prohibited by law or legal process, Actian will use its commercially reasonable efforts to not disclose Content without giving You notice of the request for such disclosure and a reasonable period of time to respond to such request.

(ii) maintain the security and integrity of the Services.

(iii) provide basic support for the Services to up to two of Your authorized contact persons consisting of telephone help desk or online support services during Actian’s business hours.

9. Term and Termination. This Agreement will commence on the Effective Date and, unless earlier terminated by You or Actian as provided in this Agreement, will remain in effect until the earlier of the following (“Term”): (i) the Customer’s subscription to the Services terminates or expires, (ii) You cease to be a trading partner of the Customer, or (iii) We receive notice from the Customer that the Customer is canceling its authorization to allow You to use the Services to electronically exchange procurement and supply chain related documents with the Customer. You may terminate this Agreement at any time with at least thirty (30) days prior written notice. Without limiting any other remedies available to it, Actian may immediately suspend access to the Services and/or terminate this Agreement if: (a) You breach any material provision of this Agreement that, (if it is capable of being cured) is not cured within fifteen (15) days from written notice to You; (b) Actian determines that Your actions are likely to cause legal liability for Actian or its suppliers and other customers; (c) Your use of the Services disrupts or poses a security risk to the Services or any other customer or may harm the CSV network or Actian’s network; (d) You are using the Services for fraudulent or illegal activities; (e) Actian’s continued provision of any of the Services is prohibited by applicable law; or (f) CSV terminates its agreement to provide Actian the CSV services.

10. Effects of Termination. Upon any expiration or termination of this Agreement, the rights and licenses granted hereunder will automatically terminate, and You may not continue to use the Services. Actian will have no liability for any costs, losses, damages, or liabilities arising out of or related to Actian’s termination of this Agreement. Upon expiration or termination of this Agreement, Actian will provide a backup file of Content if requested within 30 days of termination or expiration, and Actian will have no other further obligation to maintain or provide access to Your Content. The provisions of Sections 3, 4, 5, 7, 10-15, and 17 will survive termination of this Agreement.

11. Indemnity. You will defend, indemnify and hold Actian and its licensors harmless from and against any loss, damage, liability or cost (including reasonable attorneys’ fees) resulting from any third party claim based on: (i) Your use of Content that infringes the rights of, or has caused harm to, a third party; (ii) a violation by You of Your representations and warranties; or (iii) a breach by You or Your authorized users of this Agreement; provided that Actian promptly notifies You in writing of any and all such claims. In the event of any loss, damage, liability or cost for which You are obligated to indemnify Actian hereunder, You shall have sole control of the defense and all related settlement negotiations, and Actian shall reasonably cooperate with You in the defense and/or settlement thereof at Your expense; provided that Actian may participate in such defense using its own counsel, at its own expense.

12. Disclaimer. The Services and Actian Tools are provided “AS IS” and the entire risk as to satisfactory performance, accuracy, and effort is with You. Actian does not warrant that the operation of the Services or Actian Tools will be error free or uninterrupted. ACTIAN HEREBY DISCLAIMS ANY AND ALL WARRANTIES,

EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.

13. Limitation of Liability. IN NO EVENT SHALL ACTIAN'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL ACTIAN AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY INFORMATION OBTAINED FROM OR THROUGH THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT (OR SUCH PARTY'S LICENSORS) HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

14. Usage Data. In addition to certain information about You, including Your account information, authorized user information, and support information, that is needed to provide You with the Services, Actian may maintain other information about You, including the duration and frequency of Your use of the Services and other usage data (collectively "Usage Data"). Actian uses the Usage Data for internal business purposes only, including improving, testing and providing the Services and additional services. Actian may disclose Usage Data in aggregate form (e.g., data aggregated from Your and other customers' use of the Services, but does not identify You or any other customer) for promotion, statistical analysis, market analysis, financial analysis, and other such purposes.

15. Amendments. Actian may modify the terms of this Agreement or Services at any time. You will be given notice of any amendments to this Agreement or the Services. Actian may provide notice to You by means of (i) posting information or a link to it on the Actian website applicable to the Services, (ii) a general notice on Your account login screen, or (iii) by email to Your e-mail address on record under Your account. Such notice shall be deemed to have been given upon the expiration of three days after posting, immediately upon display on Your account login screen, or one day after emailing.

16. General. This Agreement is intended for the sole and exclusive benefit of the parties and is not intended to benefit any third party. Only the parties to this Agreement may enforce it. Any action related to this Agreement shall be governed by California law and controlling U.S. federal law, and the choice of law rules of any jurisdiction shall not apply. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The venue for any claims arising under this Agreement shall be the federal courts located in the Northern District of California or the state courts located in Santa Clara County, California, and the parties agree to submit to the exclusive jurisdiction of such courts. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) will be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between You and Actian as a result of this Agreement or use of the Services. You may not assign, transfer, or otherwise delegate any of Your rights, duties, or obligations under this Agreement in whole or in part to any individual, firm or corporation without the prior written consent of Actian. Any attempt to assign, transfer or otherwise delegate any of Your rights, duties, or obligations under this Agreement without the prior written consent of Actian shall be void. Except with respect to the obligation to pay fees when due hereunder, neither party shall be deemed in default of this Agreement because of a delay or failure in performance of its obligation resulting from any cause beyond its reasonable control (a "Force Majeure"), provided it gives reasonably prompt notice of the Force Majeure condition to the other party and uses reasonable efforts to mitigate the delay or failure. This Agreement constitutes the complete and exclusive understanding and agreement between the parties regarding their subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to their subject matter. Any additional or different terms in Your documents (including any terms contained on ordering documents and purchase orders) shall not apply and are hereby deemed to be material alterations and notice of objection to, and rejection of them is hereby given. No waiver of any provision of this Agreement will be effective unless it is in

writing and signed by duly authorized representative of the party against whom the waiver is to be asserted. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

17. Additional Terms for CSVs.

17.1 “CSV” means a third-party cloud service vendor which has entered a contract with Us to provide cloud services to Us on which the Services are based. The particular CSV on which the Services provided to You are based, and the additional terms and conditions of this Agreement related to that CSV, are specified in an attachment to the Agreement and incorporated into the Agreement by reference. For purposes of Section 15 (“Limitation on Liability”) of the Agreement, the term “Actian’s licensors” includes CSVs.

17.2 “Service Level Agreement” means the service level agreement that We offer with respect to the Services for the specific CSV on which the Services are based, and which is provided in this Agreement or on Our website.