

Revision Date: October 2019

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE DOWNLOADING OR INSTALLING THE SOFTWARE.

This Customer License and Support Services Agreement ("Agreement") is a legal agreement between the end user downloading or installing the Software ("You") and Actian Corporation, with its principal place of business located at 2300 Geng Road, Suite 150, Palo Alto, CA 94303 ("Us," "Our," or "We"). 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. For purposes of this Agreement, "You" or "Your" includes You and any of Your companies or entities that You have bound under this Agreement. BY DOWNLOADING, INSTALLING OR USING THE SOFTWARE OR BY CLICKING THE "I ACCEPT" BUTTON BELOW (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 BELOW (OR TYPE "N" OR "NO" IF YOU ARE INSTEAD ASKED FOR A "Y OR N" RESPONSE) AND YOU MAY NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE. The "Effective Date" shall be deemed the date You click on the "Accept" button below.

1. DEFINITIONS

“Customer” means a third party end user who is bound by a Your Customer Agreement and to whom You provide the Software solely for internal use with the Your Named Application only.

“Device” means a single computing system, including but not limited to a virtual (or otherwise emulated) device.

“Documentation” means the user documentation supplied by Us with the Software.

“Products” means the machine-readable object code of the Software together with any Documentation and Updates thereto.

“Software” means all or any portion of the commercially and generally available proprietary object code software products of the Actian Zen Core and any Updates that may be made available to You by Actian, in its discretion, during the term of this Agreement. The term “Software” shall not include any source code.

“Updates” means any patches, updates or enhancements to the Server Software or Client Software provided to You at Our discretion.

“Your Named Application” means the commercially and generally available proprietary object code software application owned by You and that has independent material value and its functional purpose is substantially different from the Software and is registered with Actian.

“Your Customer Agreement” means Your agreement with Customer that conforms to the requirements of this Agreement, whereby You agree to provide the Software as part of Your Named Application.

2. LICENSE

2.1 Developer Program License Grant. Actian grants to You a nonexclusive, nontransferable, nonsublicensable and revocable right to use the Software solely to develop Your Named Application for use with Actian Zen.

2.2 Distribution License Grant. During the Term and conditioned upon Your compliance with limitations and

restrictions set forth in this Agreement, Actian hereby grants to You the non-exclusive, non-sub-licensable, non-transferable right solely with respect to Customers to market and distribute to Customers pursuant to Your Customer Agreement limited, non-exclusive, non-sub-licensable, non-transferable, internal use licenses to the Software, in all cases solely for use as part of, and fully integrated with, Your Named Application. The licenses granted in this Section specifically exclude the right for anyone to directly use or access the Software, and only permit the Software functionality to be accessed and used by Your Named Application. Any general-purpose use of the Software (even within Your Named Application) is excluded.

2.3 License Terms for Updates. Any Updates made available to You by Actian shall be considered part of the Software and conditioned on Your compliance with the terms and conditions of this Agreement. Additional license terms may accompany Updates. By installing, copying, or otherwise using any Update, You agree to be bound by the terms accompanying each such Update. If You do not agree to the additional license terms accompanying such Updates, do not install, copy, or otherwise use such Updates.

3. PRODUCT OWNERSHIP.

The Software and Documentation and all copies thereof are licensed, not sold. Actian retains ownership of such copies and all intellectual property rights (including but not limited to patents, copyrights trademarks, trade names, trade secrets, and domain names) in and relating to the Software and all customizations, enhancements, improvements, translations, derivative works or other modifications thereof or thereto and You hereby assign Your interest in any such intellectual property rights to Actian and agrees to execute any documents required to effect such assignment to Actian. You shall not attempt to circumvent any user limits or other license, timing or use restrictions that are built into the Products. Certain items of software code provided along with the Products are subject to “open source” licenses (“Third-Party Code”) provided with the Products. The Third-Party Code is not subject to the terms and conditions of this Agreement, except for Section 7 of this Agreement. Nothing in this Agreement limits Customer’s rights under, or grants Customer rights that supersede the terms and conditions of any applicable license for the Third-Party Code, including any rights to copy, modify or distribute Third Party Code under the applicable license. You are hereby notified that the Products may contain time-out devices, counter devices, and/or other devices intended to ensure the limits of a particular license will not be exceeded (“Limiting Devices”). If the Products do contain Limiting Devices, We shall ensure that You receive any keys or other materials necessary to use the Products to the limits of Your license. You will not remove or in any manner alter or obscure the copyright, trademark, and other proprietary rights notices of Actian and its licensors appearing on the Products. You will have no right to register or seek to register any of Actian's or its licensors’ trademarks, service marks, or trade names, or add any other notices or markings to the Software or Documentation.

4. RESTRICTIONS

You shall not, and shall not allow any third party to, use the Software except as expressly authorized under this Agreement. Without limiting the foregoing or any other restrictions on You herein, You shall not, shall not allow any third party to, and shall ensure there are provisions in Your Customer Agreement requiring Customer not to: (a) modify or create derivative works of the Software; (b) distribute, sell, sublicense, lease, rent, loan, assign or otherwise transfer the Software or any rights therein, to any third party or use the Software for the benefit of any third party, except, with respect to You only, for Your rights specifically stated in 2; (c) reverse engineer, reverse compile, de-compile or disassemble the object code of the Software or any element of the Software, or otherwise attempt to derive the source code for any of the Software, except and only to the extent applicable law prohibits or restricts reverse engineering restrictions without providing the right to waive the prohibition or restriction; (d) remove, alter or obscure any proprietary notices on the Software, (e) use the Software to provide any facility management or service bureau service or otherwise use the Software to process the data of any third party; or (f) attempt to circumvent any user limits or other license, timing or use restrictions that are built into the Software. In addition, You shall ensure that Your Customer Agreement: (a) restricts each Customer from using the Software except for internal use and with the Your Named Application; (b) disclaims warranties on behalf of Actian and its suppliers to the same extent as the disclaimers in this Agreement; and (c) disclaims liability of Actian and its suppliers for all indirect, incidental, special and consequential damages, including lost profits, loss of data and other such damages, and limits liability of Actian and its suppliers consistent with the limits in this Agreement. You will use reasonable efforts to monitor and enforce, at Your expense, Your Customer Agreements. You shall not have any right to establish or appoint any sub-resellers or sub-dealers of the Software. You hereby agree that You will not (a)

incur any liability on behalf of Actian, (b) purport to make any agreement, contract or commitment with a third party binding upon Actian, (c) make any representation or warranty on behalf of Actian, or (d) otherwise represent or hold itself out as an agent, representative, attorney-in-fact, successor or assign or in any other capacity or appearance which would or may tend to cause any person or entity to believe You to be acting in any such capacity. You shall not purchase or otherwise procure the Software from any party other than Actian.

5. SUPPORT SERVICES.

No support services are available for the Software. Consulting services or training may be obtained by You on an as-available basis and at mutually agreed rates in accordance with a separate agreement. For the avoidance of doubt, Actian has no obligation to provide any Updates or upgrades under this Agreement.

6. NO WARRANTY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PRODUCTS ARE PROVIDED "AS IS," AND WE, AND OUR SUPPLIERS DISCLAIM ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY (I) OF MERCHANTABILITY OR SUITABILITY, (II) OF FITNESS FOR A PARTICULAR PURPOSE, OR (III) OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS. WE DO NOT WARRANT THAT ANY SOFTWARE WILL BE PROVIDED ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR THAT ANY SOFTWARE WILL FULFILL YOUR REQUIREMENTS. TO THE EXTENT THAT ACTIAN CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM REQUIRED UNDER SUCH LAW.

7. LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, in no event will We or Our Suppliers be liable to You or any third party for any indirect, special, incidental, consequential or punitive damages arising out of or related to this Agreement, including without limitation, any lost profits or revenues, loss or inaccuracy of any data, or cost of substitute goods, regardless of the theory of liability (including negligence) and even if We have been advised of the possibility of such damages. We and Our suppliers' aggregate liability to You or any third party for any cause whatsoever shall not exceed the total fees paid by You to Us under this Agreement during the 12 months preceding the date that the claim arose. In no event shall You raise any claim under this Agreement more than 2 years after (i) the discovery of the circumstances giving rise to such claim; or (ii) the effective date of the termination of this Agreement. The limitations in this Section shall apply even if any remedy fails of its essential purpose. Nothing in this Agreement shall exclude or limit either party's liability for death or personal injury caused by that party's negligent act or omission or by willful default.

8. TERM AND TERMINATION. This Agreement is effective from the date You registered the name of Your Named Application with Actian. You may terminate this Agreement at any time by destroying the Documentation and Software together with all copies and adaptations thereof. This Agreement will terminate immediately without notice from Actian if You fail to comply with any terms of this Agreement. Actian may terminate this Agreement at any time for convenience upon sixty (60) days' notice to You. Upon termination of this Agreement by Actian, You will return the media on which You received the Software, if any, You will destroy all other copies of the Software and Documentation, and upon request, You will certify such destruction to Actian. In addition, upon termination or expiration of this Agreement, Your Customers who are properly licensed to Your Named Application prior to termination and not in breach of Your Customer Agreement with each of them may continue to use the Products under the terms of Your Customer Agreement applicable to them. Your Customer Agreement shall inure to the benefit of Actian, and You will execute documents requested by Actian to enable Actian to enforce Actian's rights. You agree that continued use or enforcement of Your Customer Agreements will not obligate Actian to any Customer. You agree to defend Actian against, and to save and hold Actian harmless from imposition or attempted imposition of any obligation. Sections 1, 3, 4, 6, 7, 8 and 9 of this Agreement will survive any termination or expiration of the Agreement.

9. GENERAL CONDITIONS

9.1 Confidential Information. Each party receiving Confidential Information ("Recipient") shall retain in confidence and require its employees, agents, and contractors to retain in confidence all Confidential Information of the other party ("Discloser"). "Confidential Information" means (i) for Us: the terms and conditions of this Agreement, all financial terms and conditions contained in Our quotation, and the Products as well as results of any Product benchmark or similar tests (whether performed by Us, You, or any third party); and (ii) for either party: any information, in written or other tangible form, which has been conspicuously marked by Discloser as "confidential" or "proprietary" or if not so marked, if it should reasonably be regarded as confidential due to the nature of the information being disclosed. Recipient shall protect Discloser's Confidential Information in the same manner Recipient protects its own Confidential Information of similar importance, but in no event with less than reasonable care. Confidential Information shall remain the sole property of the Discloser and shall not be disclosed to any third party (except, solely to employees, attorneys, consultants, and subsidiaries, who need to know and are bound by a written agreement with Recipient to maintain the confidentiality of such Confidential Information in a manner consistent with this Agreement) or used except as permitted under this Agreement. Confidential Information shall not include any information that: (i) is or becomes publicly known without the Recipient's breach of any obligations owed to the Discloser; (ii) is rightfully disclosed to the Recipient from a source other than the Discloser without a breach of an obligation of confidentiality; or (iii) is independently developed by the Recipient without any access to the Discloser's Confidential Information. Notwithstanding the foregoing, We may disclose that You are Our customer. In addition, either party may disclose information in compliance with applicable law or a court order, provided the Discloser is given reasonably prompt notice thereof and the Recipient provides cooperation and assistance in any attempt to prevent or limit such disclosure. The obligations set forth herein with respect to Confidential Information shall continue in full force and effect for a period of three (3) years after the date of termination of this Agreement.

9.2 Relationship of the Parties. This Agreement is not intended to and shall not create a relationship such as a partnership, franchise, joint venture, fiduciary, agency or employment relationship. Neither party may act in a manner that expresses or implies a relationship other than that of independent contractor, nor bind the other party.

9.3 Governing Law and Venue. 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. All disputes arising out of or relating to this Agreement shall be brought exclusively in 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 and venue of such courts. Notwithstanding the foregoing, a party may enforce any judgment rendered by such court in any court of competent jurisdiction, and Action may seek injunctive or other equitable relief in any jurisdiction in order to protect its intellectual property rights.

9.4 Assignment. Neither this Agreement nor any right, obligation, or Product licensed hereunder may be assigned by You without Our prior written consent. Any purported assignment, including in case of a merger, acquisition or change of control or purchase of more than fifty percent or more of Your assets in violation of the foregoing is void. Subject to the foregoing, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties, and their permitted successors and assigns.

9.5 Severability. If any provision of this Agreement is declared unlawful, void, or unenforceable, then that provision shall be limited to the extent enforceable, or otherwise severed, and will not affect the validity and enforceability of the remaining provisions.

9.6 Audits. During the term of this Agreement and continuing until two years after termination or expiration, You shall keep and retain complete and accurate records regarding Your use of the Products. We, or Our designated agent, may, upon five (5) working days' prior written notice to You, inspect any of Your facilities where Products are used and audit records for the purpose of confirming Your use of the Products and Your compliance with this Agreement. We may perform only one formal audit per twelve (12) month period unless a previous audit reveals a discrepancy. This section survives termination of this Agreement for three (3) years.

9.7 Product Export. Any person or entity exporting or re-exporting Products or services directly or indirectly and via any means, including electronic transfer, is wholly responsible for doing so in accordance with the U.S. Export Administration Regulations and the laws of host countries and You agree to comply strictly with all such laws and regulations. We assume no responsibility or liability for Your failure to obtain any necessary export approvals. Specifically, no Product or services may be exported to embargoed or otherwise restricted countries or end-users. This provision shall survive the expiration or earlier termination of this Agreement.

9.8 Force Majeure. 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.

9.9 Notices. Any notices required or permitted to be given hereunder shall be delivered by personal delivery, express courier, or recorded delivery, postage prepaid, return receipt requested, to a party's address set forth in an Order, or if to You to Your headquarters or to Us to: Actian Corporation Attn: Legal Department, 2300 Geng Road, Suite 150, Palo Alto, CA 94303. A notice shall be deemed effective when actually delivered. Either party may change its address for purposes of this Agreement by written notice given in accordance herewith.

9.10 Marketing. You agree to allow Us to reference and identify You, and use Your logo in Our advertising, sales promotion, press releases, public filings, website usage, and other publicity matters relating to the Products furnished and/or the related Support Services performed pursuant to this Agreement, so long as such use is without any modification of Your name, mark, or logo.

9.11 U.S. Government End Users. The software is "commercial items" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the software with only those rights set forth under this Agreement. Any technical data provided that is not covered by the above provisions shall be deemed "technical data-commercial items" pursuant to 48 C.F.R. 252.227.7015(a). Any use, modification, reproduction, release, performance, display or disclosure of such technical data shall be governed by the terms of 48 C.F.R. 252.227.7015(b).

9.12 High Risk Activities. The Products are not fault-tolerant and not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Product could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). We and Our suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

9.13 Third Party Rights. Notwithstanding any other provision in this Agreement, nothing in this Agreement shall create or confer any rights or other benefits in favor of any person not a party hereto.

9.14 Injunctive Relief. You acknowledge that the Products contain Our and Our licensees' valuable trade secrets and proprietary information and that any actual or threatened disclosure or unauthorized use or distribution of the Products or Our or Our licensees' Confidential Information will constitute immediate and irreparable harm to Us for which monetary damages would be an inadequate remedy and entitle Us to immediate injunctive relief without the need to post a bond or show actual monetary damages.

9.15 Operating System. It is Your responsibility to fully comply with applicable license agreements for any operating systems or other software You may use with the Software.

9.16 English is the controlling language of this Agreement.

9.17 Integration and Amendment. This Agreement constitutes the entire agreement between the parties and supersedes all prior or contemporaneous conditions, agreements, communications or representations, whether oral or written, relating to the subject matter hereof. Neither party has relied on any statement or representation by an employee or agent of the other party in entering into this Agreement. Any additional or different terms in Your documents shall not apply and are hereby deemed to be material alterations and notice of objection to, and rejection

of them is hereby given. Except as permitted herein, this Agreement may not be modified or any term or condition waived except in writing signed by a duly authorized representative of each party. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof. Headings are for convenience only and shall not affect the interpretation of any provision hereunder.