

**ACTIAN CORPORATION  
DATA CLOUD SERVICES AGREEMENT**

THIS DATA CLOUD SERVICES AGREEMENT (THE "AGREEMENT") GOVERNS ALL SERVICES ("SERVICES") PROVIDED BY ACTIAN CORPORATION ("ACTIAN" OR "WE" OR "US") THROUGH THE WEBSITE LOCATED AT [HTTP://CLOUD.PERVASIVE.COM](http://cloud.pervasive.com) AND/OR SUCH OTHER WEBSITE DESIGNATED BY ACTIAN ("SITE") PURSUANT TO WRITTEN ORDERS PLACED BY YOU WITH ACTIAN OR A THIRD PARTY AUTHORIZED BY ACTIAN TO RECEIVE ORDERS ON ORDER FORMS PROVIDED BY ACTIAN OR ITS AUTHORIZED THIRD PARTY THAT REFERENCE THIS AGREEMENT AND INCLUDE YOUR ORDER-SPECIFIC INFORMATION INCLUDING, BUT NOT LIMITED TO: YOUR BILLING INFORMATION, A LIST OF THE SERVICES ORDERED AND ANY APPLICABLE PRICING METRICS (SUCH AS THE NUMBER OF USERS, TIME PERIOD, AMOUNT OF DATA, ETC.) AND PRICE ("ORDER FORM(S)"). YOU MUST HAVE WRITTEN ACCEPTANCE OF YOUR ORDER FORM FROM ACTIAN OR ITS AUTHORIZED THIRD PARTY IN ORDER TO USE THE SERVICES, AND EVEN THEN ONLY THE ORDER-SPECIFIC INFORMATION ON THE ORDER FORM SHALL APPLY; ANY TERMS AND CONDITIONS IN THE ORDER FORM ARE EXPRESSLY EXCLUDED AND REJECTED. IN THE EVENT OF A CONFLICT OR INCONSISTENCY BETWEEN AN ORDER FORM AND THIS AGREEMENT, THE TERMS OF THIS AGREEMENT SHALL CONTROL. YOU MAY NOT ACCESS OR USE THE SERVICES UNLESS ACTIAN OR ITS AUTHORIZED THIRD PARTY HAS ACCEPTED AN APPLICABLE ORDER FORM, OR YOU HAVE REGISTERED WITH ACTIAN OR ITS AUTHORIZED THIRD PARTY TO USE A TRIAL OR BETA VERSION.

YOU ARE REQUIRED TO INDICATE YOUR AGREEMENT TO THESE TERMS AND CONDITIONS IN ORDER TO ACCESS AND USE THE SERVICES. BY CLICKING ON THE "ACCEPT" BUTTON, AND ACCESSING AND USING THE SERVICES, YOU ARE CONSENTING TO BE BOUND BY THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. 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. Trial or Beta Versions.** If You are registering to use the Services for a trial period or are registering to use a beta version of the Services, You may only use the Services for internal evaluation purposes during the applicable trial or beta Term. Provisions in this Agreement regarding support and Available Access Time do not apply to trials or beta versions of the Services.
- 2. Services.** Subject to Your compliance with the terms and conditions of this Agreement, including without limitation Your payment of the applicable fees for the use of the Services ("Fees"), 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). Unless otherwise expressly authorized in writing by Actian, You may only use the Services for Your internal business purposes and may not upload, store, manage or query Content, or sell, resell, distribute, loan, encumber, transfer, sublicense, rent, lease, or otherwise allow third parties to access the Services.
- 3. 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.
- 4. Restrictions.** You agree not to: (i) use the Services or Actian Tools except as expressly authorized in this Agreement and Your Order Form; (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 (other than for trial purposes), or for any other benchmarking or competitive purposes; 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. You shall notify Actian if You become aware of any unauthorized access to, or use of, the Services.

**5. 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.

**6. 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.

**7. Fees and Billing.** In order to access and use the Services, You are required to pay to Actian (or a third party authorized by Actian to receive payment) the applicable Fees for the Services that You ordered. Depending on the Services and payment options made available by Actian or its authorized third party and selected by You, Fees may include one-time charges, monthly, quarterly, or annually recurring charges, and usage-based charges. One-time charges will be billed at the time that the applicable Services are ordered. Monthly, quarterly, and annually recurring charges will be billed automatically at the beginning of each month, quarter, or annual period, respectively, as calculated from the date of the initial Order Form. Usage-based charges will be automatically billed on the first date of each month based on the Services used in the prior month. All Fees will be charged against the credit card on record in Your account unless other payment arrangements are contained within the Order Form. Invoices will be sent directly to the billing contact as identified on the Order Form. Delinquent invoices are subject to late payment fees equivalent to 1.5% of the overdue balance per month (or the maximum permitted by law, whichever is lower), plus any expenses associated with collections. Payments must be made in US dollars. Fees are exclusive of all taxes, levies, and duties imposed by taxing authorities, and You are responsible for all such taxes, excluding taxes based solely on Actian’s income. Any billing disputes must be reported to Actian or its authorized third party in writing within thirty (30) days of the date of the invoice. All Fees are nonrefundable. Actian reserves the right to charge a reconnection fee if Your Services are suspended or if You terminate this Agreement and re-order Services within three months from the termination date. If any amount is more than thirty (30) days overdue, Actian may suspend Services until all overdue amounts are paid in full.

**8. User Accounts.** Actian will provide You with the number of user accounts for the Services specified in the Order Form (or if no number is specified in the Order Form, then a reasonable number of user accounts for the Services will be provided), 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.

**9. 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.

**10. 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 procured on the Order Form or included in the Services, 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. If a higher level of support is purchased on the Order Form, such terms will supersede the basic support described above in this subsection.

(iv) ensure that the Services are available and performing substantially in accordance with the online help documentation (<http://cloud.pervasive.com/>) with an Available Access Time of 99.9% over each monthly period during the Term. “Available Access Time” means twenty-four (24) hours per day, seven (7) days per week, except for: (1) planned down time and (2) down time caused by circumstances beyond Actian’s reasonable control,

including without limitation, acts of God, acts of government, flood, fire, earthquake, civil unrest, acts of terror, strike or labor problems, problems with software, hardware, telecommunications lines, network connections, or other equipment not within Actian's possession or reasonable control, or denial of service attacks. In the event Customer cannot access the Services for four (4) or more hours of the 99.9% Available Access Time in any one (1) calendar month, Actian will issue a credit to You in an amount equal to one (1) day of Services for each increment of four (4) hours of such unavailable time in that month ("Service Credit"). To qualify for a Service Credit, You must request such Service Credit from Actian via a FAX or e-mail within three (3) days after the end of the applicable month using a form supplied by Actian. The maximum number of Service Credits that may be credited for any reason to You will be seven (7) Service Credits in any one Services month. Your sole remedy, and Actian's sole liability, for Actian's failure to provide the Services in accordance with this Agreement shall be the provision of Service Credits to You as described herein.

**11. Term and Termination.** This Agreement will commence on the date that You click the "Accept" button (unless a different effective date is specified in the Order Form in which case the effective date in the Order Form will apply as the start date for the Agreement) and will remain in effect for the period for which You have paid for the Services ("Term"), unless earlier terminated by You or Actian as provided below in this Section. If You are accessing trial or beta versions of the Service under Section 1 above, the Term will automatically terminate at the end of the applicable trial or beta period specified by Actian, or if no trial or beta period is specified by Actian, then thirty (30) days from the date that You click the "Accept" button. You may terminate this Agreement at any time with at least thirty (30) days prior written notice. However, in the case of such termination by You, all Fees paid by You under this Agreement are nonrefundable, including, but not limited to, any portion of fees paid in advance by You for the Services. Also, such termination by You shall not relieve You of Your obligation to pay any Fees accrued or payable to Actian relating to the Services prior to the effective date of termination, and You shall immediately pay to Actian all such Fees upon the effective date of termination. 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.

**12. 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 Service. 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 4, 5, 6, 7, 9, 11-16, and 18 will survive termination of this Agreement.

**13. 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.

**14. 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.

**15. 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 SERVICES, 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.

**16. Usage Data.** In addition to certain information about You, including Your account information, authorized user information, and services 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.

**17. 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 of 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.

**18. 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 and any Order Forms constitute the complete and exclusive understanding and agreement between the parties regarding their subject matter and supersede 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.

**19. Additional Terms for CSVs.**

**a.** “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 “Our suppliers” includes CSVs.

**b.** “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.

## CSV-Specific Attachment to the Customer License and Services Agreement

### Amazon Web Services

The CSV with whom Actian has entered a contract on which the Services provided to You are based is Amazon (Amazon Web Services).

1. **Amazon Web Services:** The Services are based on Amazon Web Services infrastructure, and subject to Amazon's then-current Privacy Policy currently at <http://aws.amazon.com/privacy>. You will adhere to all laws, rules, and regulations applicable to Your use of the Licensed Service and the CSV services, and Your Content and activities must comply with and You accept the then-current Amazon Acceptable Use Policy currently at <http://aws.amazon.com/aup> and other then-current policies at <http://aws.amazon.com>. In the event that CSV modifies the terms of its agreements with Us (or We change the particular CSV on which the Services are based), You acknowledge and agree that We may modify the terms of this Agreement to conform to the changed CSV terms, and such changes shall be effective at the time the changes in Our agreement with the CSV (or the new CSV's terms) become effective. We will provide notice to Your registered email address, and by continuing to use the Services after the notice, You agree to be bound by the modified terms. Your use of and access to the Services may be suspended immediately (a) if We determine that Your Content or use of the Services poses a security risk to or adversely impacts the Services infrastructure or any third party, or subjects Us, Our Suppliers or any third party to liability, or (b) if the CSV modifies the terms of Our agreement with the CSV by including new or amended terms that We refuse to accept, or (c) if the CSV modifies its offerings or technology in such a way as to negatively affect the Services, or (d) if Our access to the Amazon Web Services infrastructure is suspended or terminated for any reason, or (e) if You have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of Your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding. If Your use of or access to the Services is suspended: (a) You remain responsible for all fees and charges You have incurred through the date of suspension; (b) You remain responsible for any applicable fees and charges for any Services to which You continue to have access, as well as applicable data storage fees and charges, and fees and charges for in-process tasks completed after the date of suspension; and (c) You will not be entitled to any service credits under the Service Level Agreements for any period of suspension.
2. **Termination:** If the Agreement is terminated or expires, to the extent permitted by the CSV, for a period of 30 days after the effective date of termination or expiration: (a) We will not take any action to intentionally erase Your Content stored through the Services; (b) You may retrieve Your Content stored through the Services; and (c) provided the Agreement was not terminated for Your breach, We will provide You with the same post-termination data retrieval assistance that CSV generally makes available to its customers during such thirty (30) day period. Any additional post-termination assistance from Us is subject to the mutual agreement of the parties, including Your acceptance of any reasonable fees and terms We specify for such assistance. Except as provided in this Section, We will have no obligation to continue to store or permit You to retrieve Your Content following any termination or expiration of this Agreement.
3. **Security:** As part of its agreement with Us, CSV has agreed to establish and maintain administrative, technical and physical safeguards for the CSV network which may change if We change to a different CSV (the "Security Objectives"). The Services are based on the CSV network and the safeguards for the CSV network will be determined by CSV. We may change to a different CSV or CSV may modify its security standards from time to time and the Security Objectives will be altered to be consistent with such security standards. We have established and will use reasonable commercial efforts to maintain reasonable administrative, technical and physical safeguards for the Actian network that are designed to (a) protect the security and integrity of the Actian network, (b) guard against anticipated threats or hazards to the security and integrity of the Actian network, and (c) protect against the accidental or unauthorized access, use, alteration or disclosure of Your Content.
4. **Patent Claims:** During and after the term of the Agreement, You will not assert, nor will You authorize, assist, or encourage any third party to assert, against Us, CSV or any of either's affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any Services or CSV services You have used.

5. Indemnity: You will defend, indemnify, and hold harmless CSV, Us, and either's affiliates and licensors, and each of their respective employees, officers, directors, and representatives from and against any claims, damages, losses, liabilities, judgments, penalties, fines, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim concerning: (a) Your use of the Services or CSV services (including use by Your employees and personnel); (b) breach of the Agreement or violation of applicable law; (c) Your Content or the combination of Your Content with other applications, content or processes; (d) a claim against the CSV concerning a dispute between You and Us, or (e) any claim involving alleged infringement, misappropriation or violation of third-party rights by Your Content or by the use, creation, promotion, distribution, development, design, production, advertising or marketing of Your Content. If We, CSV or either's affiliates are obligated to respond to a third party subpoena or other compulsory legal order or process, You will also reimburse such party for reasonable attorneys' fees, as well as such party's employees' and contractors' time and materials spent responding to the third party subpoena or other compulsory legal order or process at such party's then-current hourly rates. We will promptly notify You of any claim hereunder, but failure to promptly notify You will only affect Your obligations to the extent that Our failure prejudices Your ability to defend the claim. You may: (a) use counsel of Your own choosing (subject to Our and CSV's written consent) to defend against any claim; and (b) settle the claim as You deem appropriate, provided that You obtain Our and CSV's prior written consent before entering into any settlement. CSV or We may also assume control of the defense and settlement of the claim at any time.