



Aktion Associates, Inc.  
1687 Woodlands Drive  
Maumee, OH 43537  
800.4AKTION  
aktion.com

**1. TERM:** The Agreement shall remain in force for a period which is coterminous with the ERP subscription or maintenance renewal, unless otherwise stated in the proposal. For existing customers adding an Aktion Platform & Application Support Agreement mid-term, the Initial Term of this Agreement shall begin upon execution of this agreement and last through the following ERP subscription or maintenance renewal date. The Agreement shall automatically renew for a subsequent 12-month term in perpetuity or until terminated by either party.

**2. SCOPE OF SERVICES:** Aktion agrees to provide Customer with support services for the supported products listed in the Covered Software section of **APPENDIX A**. Aktion will exert best effort in providing support services.

**3. PAYMENT TERMS:** Recurring fee shall be due and payable by check or ACH and paid annually in advance, unless otherwise stated in **APPENDIX A**. For existing customers adding an Aktion Platform & Application Support Agreement, payment is due with order. Thereafter, Aktion shall invoice Customer 45 days before each subsequent renewal date. ACH Payment will be debited on the last business day of the month preceding the year of service. Customer must also complete and submit the attached Recurring Payment Authorization form for this Agreement to be accepted by Aktion.

Fees for non-covered services provided to Customer by Aktion will be invoiced at the then current time and material rates. Time and material rates are subject to change without notice. Payment by Customer for other services will be by any form of payment accepted by Aktion, due Net 30 days from Invoice Date.

**4. SOFTWARE LICENSES:** Customer is responsible for all software licensing necessary to run the software applications being supported. No license for use of the software by AKTION is granted under this agreement.

**Customer is responsible for software license agreement compliance with 3<sup>rd</sup> party software publishers, including any 3<sup>rd</sup> party access agreements, or similar, that may be required for Aktion to provide application support under this agreement.**

**5. EXCLUSIVE REMEDY:** Aktion's entire liability and Customer's exclusive remedy in all situations involving performance or nonperformance of the System or Service shall be as follows: (1) For any claim concerning performance or nonperformance by Aktion pursuant to or in any other way related to the subject matter of this Agreement, or for damages for any cause whatsoever and regardless of the form of action, whether in contract or in tort including negligence, Customer's remedy shall be actual damages up to the amount of the value of twelve (12) months contract.

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL DAMAGES, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event will Aktion be liable for any claim against Customer by any other party.

**6. LIMITATION OF ACTIONS:** No action or claim, regardless of form or nature, arising out of this Agreement or any transaction contemplated by this Agreement, may be brought by either party more than one year after the cause of action arises or, in the case of nonpayment, more than one year after the due date of the last payment.

**7. AMENDMENTS TO THIS AGREEMENT:** Customer agrees that AKTION may amend the Aktion Platform & Application Support Agreement sections of **APPENDIX A** annually. Customer shall receive 45-day advance notice of change. Any amendment to **APPENDIX A** requires customer approval.

Should customer decline to approve an amendment to **APPENDIX A**, this Agreement shall immediately terminate subject to Section 8 Termination herein.



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Customer agrees that AKTION may amend **Appendix B** from time-to-time, as services are added or changed due to changes in software, security threats, new hardware, systems, or configuration or similar reasons.

Other Agreement changes, or any supplemental Agreement, may only be amended, revised, added to, supplemented or otherwise changed by an instrument signed by an officer of Aktion and by an officer or designated authority of Customer.

**8. TERMINATION:** Customer may terminate this Agreement at any time by notifying Aktion in writing of the intent to terminate with at least 30 days' notice. If Aktion fails to perform or observe any material term or condition of this Agreement and such failure shall continue unremedied for thirty (30) days after Aktion's receipt of notice thereof from Customer, Customer may terminate this agreement. In the event of such termination by Customer, Customer agrees to pay in full all monies due for services delivered through the effective date of cancellation. Acceptable forms of termination notification include printing/mailling hard copy to Aktion Associates headquarters, or Customer may send an electronic email to [support@aktion.com](mailto:support@aktion.com).

Aktion may terminate this Agreement accepted hereunder and Customer shall be in default of this Agreement if Customer fails to pay any charge when due or fails to perform or observe any other term or condition of this Agreement and such failure continues unremedied for thirty (30) days after Customer's receipt of notice thereof from Aktion. In the event of such termination by Aktion, Customer agrees to pay in full all monies due for services delivered through the effective date of cancellation.

If either party terminates this Agreement, and all obligations stipulated in this Agreement are fulfilled by Customer, then Aktion will assist Customer in the orderly termination of services, including timely transfer of support to another designated provider. Customer agrees to pay Aktion the actual costs of rendering such assistance.

**9. ADDITIONAL TERMS & CONDITIONS:** This Agreement is governed by and subject to the terms and conditions of the Aktion Customer Agreement and Schedule C Professional Services.