

## **Act! Premium Hosted Program Terms and Conditions**

This purchase agreement, the Act! End User License Agreement, and the attached Service Level Agreement (collectively, "Agreement") govern your participation in the Act! Premium Hosted service.

### **1. Term**

1.1. The Agreement shall be effective as of the date you complete and submit the online purchase document ("Effective Date").

1.2. The initial term shall be for twelve (12) months, unless otherwise agreed to by You and Swiftpage (the "Subscription Term").

1.3. Upon expiration of the Subscription Term or any Renewal Term, unless You notify Swiftpage Act! LLC ("Swiftpage") in writing not less than thirty (30) days prior to the expiration of the Subscription Term or Renewal Term of your intention to either cancel the Act! Premium Hosted service ("the Service") or to enter into a new agreement for the Service, this Agreement shall thereafter automatically continue for another term at the then –current subscription rate, unless other price terms are agreed to by Swiftpage (such renewal term is referred to herein as a "Renewal Term").

### **2. Addition / Cancellation of Seats**

2.1. You may not cancel or subtract seats during the term. If you would like to reduce your seat count, you can do so by providing Swiftpage with at least 30 days written notice prior to the beginning of a subsequent Renewal Term.

2.2. You may add seats during the Subscription Term or any Renewal Term. Swiftpage will prorate the pricing for such add-on seats based on the end date for your current term. Pricing for additional seats will be based on the then-current pricing for the total user count, including the new seats. Pricing for the original seats will be updated to reflect price breaks in current tiered pricing (if applicable).

### **3. Payment and Early Termination**

3.1. The Service includes a Subscription Fee for the Subscription Term ("Subscription Fee") in the amount set forth in the purchase document. You hereby agree to pay Swiftpage the Subscription Fee and any other applicable fees as set forth in the purchase document or as otherwise agreed between You and Swiftpage. You must keep all information in your billing account accurate and current, including your billing address and any expiration date for your payment method. You will pay to Swiftpage all Subscription Fees in advance of Services being received. You guarantee to pay all Fees as required herein, plus any applicable late fees or penalties, in the event that any check or electronic charge, debit

or transfer is not honored by Your bank or financial institution for any reason. You are obligated to pay all Fees irrespective of whether you received an invoice. Unless otherwise indicated, all Fees are due in the currency specified in the online registration process. For additional information, please refer to the [Swiftpage Billing Policy](#).

3.2. If the required Subscription Fee payment for any given Subscription Term is more than 15 days overdue, Swiftpage will notify you that your access to the Service will be immediately suspended. If you still have not paid the Subscription Fee 30 days after the due date, your account will be terminated. After termination, Swiftpage will store your data for thirty days and will return to you upon request.

3.3. If (a) You terminate this Agreement for any reason (other than breach by Swiftpage) prior to expiration of the Subscription Term or any Renewal Term, or (b) Swiftpage terminates this Agreement prior to the expiration of the Subscription Term or any Renewal Term because of your breach of this Agreement, you agree to pay Swiftpage an early termination fee equivalent to two months' payment. If you cancel your service before the conclusion of the current billing term, you are responsible for paying through the end of the current billing month.

4. Service Levels – Swiftpage agrees to provide Service Levels as set forth in the attached Service Level Agreement.

5. Third-Party Providers – If you obtain anything from a third party (including third-party offered services) through the Service, you understand that your relationship with respect to those services is with the third party directly and not with Swiftpage. In the even you assert a claim that relates to or implicates your relationship with a third party, you shall only assert such claim against the third party, and you will not assert any such claim against Swiftpage, even if Swiftpage assisted in billing for the third party offering. You are solely responsible for your dealings with any third party. You represent and warrant that you will comply with all applicable laws and regulations (including privacy laws and regulations that relate to your collection of information from third parties).

## **Act! Premium Hosted Service Level Agreement**

This Service Level Agreement (this “SLA”) supplements the Terms and Conditions in the Purchase Order, and together such documents form a binding agreement (the “Agreement”) between Swiftpage and customer.

### **Service Access**

Upon receipt of a valid and complete order, customer will receive notification and instructions of service access within one (1) business day. In the case of unusual circumstances preventing this service level, Swiftpage will inform the customer at time of order if possible.

### **Service Commitment**

The Act! Premium Hosted system is designed to be available 24x7x365 with the only exception being planned maintenance outages which are scheduled to have a minimal amount of impact to the customer base.

### **Uptime and Maintenance**

#### **1. Service Availability – Non-Scheduled Downtime**

Swiftpage will use commercially reasonable efforts to make the Service available with an uptime of at least 99.95%. If Swiftpage fails to meet this service level, the customer will be eligible for a credit against the customer’s Monthly Subscription Fee in the amount set forth in the table below. The customer may claim this credit in writing or by email within seven (7) days after the end of the Month during which the service level failure occur. The customer’s right to claim a credit expires at the end of the seven-day period.

Monthly Uptime credit:

98.0% - 99.4%, 10%

96.0% - 98%, 20%

93% - 96%, 25%

This Service Level commitment does not apply to periods of Scheduled Maintenance, addressed below.

#### **2. Force Majeure**

Swiftpage shall not be responsible for any failure to perform due to an act of God (such as earthquakes, fires, riots), action or inaction of a regulatory authority, or actions of others such as strikes, lockouts, or

other industrial disturbances, not within the control or arising from the fault of the part claiming Force Majeure.

3. Service Availability – Scheduled Maintenance

Scheduled Maintenance will not exceed a maximum of 12 hours at any one time and notifications will be provided according to the schedule below.

4. Maintenance Notifications to Customer

Scheduled maintenance: 2 days in advance.

Emergency scheduled maintenance (bug fixes, etc.) requiring more than 5 minutes of downtime: 12 hours in advance.

Emergency scheduled maintenance (bug fixes, etc.) requiring less than 5 minutes of downtime: none.

Periodic impromptu maintenance (e.g. rebooting a server to improve performance) is an exception from notification if the downtime is less than 5 minutes and the frequency is less than once on any given day.

5. Notification of Disruption

In the event of unanticipated downtime, Swiftpage will promptly notify customer of length of the downtime and cause.

**Support Hours and Holidays**

1. Business Hours

8:30am – 8:30pm Eastern Time, Monday – Friday

2. Holidays (support not available on these days)

New Years Eve (December 31<sup>st</sup>)

New Years Day (January 1<sup>st</sup>)

Memorial Day

Independence Day (July 4<sup>th</sup>)

Labor Day

Thanksgiving

Day after Thanksgiving

Christmas Eve (December 24<sup>th</sup>)

Christmas Day (December 25<sup>th</sup>)