

Action Plan 365

Terms of Use

END USER LICENSE AGREEMENT

This End User License Agreement (“EULA”) is an agreement between the end user (the "Customer") and PROLAN Solutions GmbH (Germany) Private Limited (or its affiliates, hereinafter referred to as “PROLAN Solutions”) for the Action Plan 365 (the “Product/Service”). This EULA consists of the terms and conditions related to the Product/ Service and its updates from time to time including pricing and payment terms for use of the Product/Service, which the Customer must read carefully.

BY SUBSCRIBING TO AND/OR USING THE PRODUCT/SERVICE, THE CUSTOMER AGREES TO BE BOUND BY THIS EULA, INCLUDING ANY MODIFICATIONS MADE TO IT FROM TIME TO TIME. IF YOU NOT AGREE TO THE TERMS AND CONDITIONS ENUMERATED IN THIS EULA, YOU MAY NOT SUBSCRIBE TO OR USE THE PRODUCT/SERVICE.

GRANT OF LICENSE.

(a) General. PROLAN Solutions grants Customer a "License" to the Product/Service ordered by Customer, subject to Customer's obligation to pay PROLAN Solutions and/or a licensed reseller of PROLAN Solutions and any other rights and limitations described in the provisions herein below. This License is nonexclusive, non-perpetual, and is not transferable. The ability to use Product/Service may be affected by minimum system requirements or other factors. PROLAN Solutions reserves all rights not expressly granted in the provisions herein below.

(b) Microsoft Dynamics 365. Customer must maintain an active licensed version of Microsoft Dynamics 365 and comply with all associated terms, licenses, and/or agreements with Microsoft Dynamics 365 in order to receive, use, and/or maintain this License to the Product/Service from PROLAN Solutions. Customer agrees and acknowledges that failure to have a licensed copy of Microsoft Dynamics 365 may result in the inability to use the Service.

(c) Unsupported Versions of Microsoft Dynamics 365. Customer may only use a version of Microsoft Dynamics 365 with this Product/Service which is supported by both Microsoft and PROLAN Solutions. If Customer has a version that is no longer supported by both Microsoft and PROLAN Solutions, Customer agrees and acknowledges that it may result in the inability to use the Product/Service.

(d) Authorized Users. Only those individuals who Customer designates as “Authorized Users” may use and access the Product/Service provided that the payment of the appropriate licensing fees for such Authorised Users are current. Creation and deletion

of -User accounts are subject to and governed by the terms of use of the Microsoft Dynamics 365. Customer agrees to use reasonable efforts to make Authorized Users that it allows to use the Product/Service aware that the same is licensed from PROLAN Solutions and subject to the terms of this Agreement.

(e) Limitations on Use. The Product/Service is licensed, not sold. PROLAN Solutions reserves all other rights not expressly granted. While using the Product/Service, the Customer shall not do the following:

(i)

use the Product/Service in any way that harms Product/Service or its resellers, distributors and/or vendors, or any Customer of a Product/Service;

(ii)

work around any technical limitations in the Product/Service that only allows the Customer to use it in certain ways;

reverse engineer, decompile or disassemble the Product/Service;

remove, minimize, block, or modify any notices of PROLAN Solutions or its suppliers in the Product/Service;

use the Product/Service in any way that is against the law or to create or propagate malware;

share, publish, distribute, or lend the Product/Service, provide the Product/Service to third parties as a stand-alone hosted solution for others to use, or transfer the Product/Service or this EULA to any third party. Evaluation versions available for download from PROLAN Solutions websites may be freely distributed. rent, lease, lend, resell, or host to or for third parties any Product/Service;

use any portion of the Product/Service as a destination linked from any unsolicited bulk messages or unsolicited commercial messages ("spam");

use any unauthorized automated process or service to access and/or use the Product/Service (such as a BOT, a spider, periodic caching of information stored by Product/Service or "meta-searching"), however, periodic automated access to the Product/Service for report creation or scheduling is permitted;

use any unauthorized means to modify or reroute, or attempt to modify or reroute, the Product/Service or work around any of the technical limitations in the service; and build a product or service using similar ideas, features, functions or graphics of the Product/Service.

While using the Product/Service, the Customer shall do the following: comply with all the Applicable Laws; comply with any codes of conduct or other notices in writing provided by PROLAN Solutions to the Customer; and promptly notify PROLAN Solutions if it learns of a security breach or unauthorized access related to the Product/Service.

ORDERING, SUBSCRIPTION FEE, LATE PAYMENT, TAXES AND RENEWAL

a) Ordering. The Customer shall place an order (an "Order") for each subscription ("Subscription") for the Product/Service via any means made available by PROLAN Solutions and/or a licensed third-party reseller for such Order which shall state the length of time (e.g., 6 month or 12 months) of the Subscription (the "Term") and the total number of Authorized User who shall run, use or access the Product/Service..

b) Subscription Fee means the amount the Customer is required to pay for the Subscription to the Product/Service, which may be billed monthly or annually. The Customer is required to pay the Subscription Fee in advance and PROLAN Solutions and/or a licensed third-party reseller shall charge the Customer at one time for a Subscription. Prices for each Order is fixed at the time the Subscription is first placed and apply throughout the Term. Subscription Fees shall be payable through an online payment gateway maintained by PROLAN Solutions through credit or debit cards or other modes of payment made available by PROLAN Solutions. Subscription Fees may be subject to change without notice and any such revised Subscription Fees shall apply only at the time of placing a new Order or an Order for renewal of an existing Subscription. Orders once made and Subscription once received are final and unalterable and Subscription Fees, once paid, shall be non-refundable.

c) Renewal. Unless this Agreement is otherwise terminated by either party or an express request from the Customer in respect of increase or decrease in the Renewal Term or number of Authorized Users prior to the expiration of any Term, the Customer's Subscription shall be automatically renewed on the day of expiration of the Term for the same Term and number of Authorized users as previously applicable subject to auto-debit of the applicable Subscription Fees from the payment mode selected by the Customer.

d) Taxes and Other Incidental Charges. The Subscription Fee and rate plans shall include applicable taxes and other government levies but do not include phone and Internet access charges, wireless service and other data transmissions charges, unless stated otherwise. The Customer is responsible for all such incidental charges and any taxes thereon that the Customer is legally obligated to pay.

LIMITED DATA COLLECTION BY PROLAN Solutions.

The Customer acknowledges and agrees that PROLAN Solutions may collect and use personal information (including name, e-mail and/or phone number) of the Customer or the Authorized User(s) gathered in any manner including during the registration process for issuance of license(s) for the Product/ Services. PROLAN Solutions may also use this information to provide notices to the Customer/ Authorized User(s) which may be of use and/or interest. The Customer shall have the right to get its personal data and that of its Authorized User(s) transcribed and/or removed entirely from PROLAN Solutions system. Apart from the aforesaid collection of personal information, PROLAN Solutions does not collect any other Customer information or data including but not limited to

information or data about the usage of the Product/ Service; and/or any communication with third party applications and/or any troubleshooting data.

COMPLIANCE & AUDIT

During the Term of any Subscription and for three years thereafter, Customer must keep all usual and proper records relating to the Subscription and Customer's use of the Product/Service under this agreement. PROLAN Solutions may request that customer conduct an internal audit of all services in use throughout Customer's organization, comparing the number of user licenses in use to the number of user licenses issued to and/or paid for by customer. By requesting an audit, PROLAN Solutions does not waive its rights to enforce this Agreement or to protect PROLAN Solutions's intellectual property by any other means permitted by law. If verification or self-audit reveals any unlicensed use, Customer must promptly order sufficient licenses to cover its past and present use. If material unlicensed use is found, Customer must reimburse PROLAN Solutions for the costs PROLAN Solutions has incurred in verification and also purchase the necessary additional licenses at prevailing prices within 30 days.

COPYRIGHT

All title, including but not limited to copyright, in and to the Product/Service and any copies thereof are owned by PROLAN Solutions or its suppliers. All title and Intellectual Property Rights in and to the content which may be accessed through use of the Product/Service is the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws. This EULA grants no rights to the Customer to use such content. All rights not expressly granted are reserved by PROLAN Solutions.

SUPPORT SERVICES

PROLAN Solutions may provide the Customer with support services related to the Product/Service. Any supplemental software code provided to the Customer as part of the support services shall be considered part of the Product/Service and subject to the terms and conditions of this EULA.

UPDATES

The software may periodically check for updates and download and install them for the Customer. The Customer may obtain updates only from PROLAN Solutions or authorized sources. The Customer agrees to receive these automatic updates without any additional notice. Updates may not include or support all existing software features, services, or peripheral devices.

WARRANTY

PROLAN Solutions expressly disclaims any warranty for the Product/Service. The Product/Service is provided 'As Is' without any express or implied warranty of any kind, including but not limited to any warranties of merchantability, non-infringement, or fitness of a particular purpose.

PROLAN Solutions does not warrant or assume responsibility for the accuracy or completeness of any information, text, graphics, links or other items contained within the Product/Service. PROLAN Solutions makes no warranties respecting any harm that may be caused by the transmission of a computer virus, or other such computer program. PROLAN Solutions further expressly disclaims any warranty or representation to authorized Customers or to any third party.

LIMITATION OF LIABILITY

In no event shall PROLAN Solutions be liable for any damages (including, without limitation, lost profits, business interruption, or lost information) rising out of Customers' use of or inability to use the Product/Service, even if PROLAN Solutions has been advised of the possibility of such damages. In no event will PROLAN Solutions be liable for loss of data or for indirect, special, incidental, consequential (including lost profit), or other damages based in contract, tort or otherwise. PROLAN Solutions shall have no liability with respect to the content of the Product/Service or any part thereof, including but not limited to errors or omissions contained therein, libel, infringements of rights of publicity, privacy, trademark rights, business interruption, personal injury, loss of privacy, moral rights or the disclosure of confidential information. Notwithstanding anything contained in this Agreement and to the extent permitted by applicable law, the liability of PROLAN Solutions towards Customer arising under this Agreement is limited to direct damages and under no circumstances be more than the amount Customer paid PROLAN Solutions paid for the Product/ Service.

TERMINATION

a) Termination by PROLAN Solutions. PROLAN Solutions may cancel or suspend Customer's use of the Product/Service or a portion thereof at any time if Customer violates the terms of this Agreement, or if PROLAN Solutions believes that Customer's use of the Product/Service represents a direct or indirect threat to its network function or integrity or anyone else's use of the Product/Service, or if PROLAN Solutions is otherwise required by law to do so. Upon notification by PROLAN Solutions of any such cancellation or suspension, Customer's right to use the Product/Service will stop immediately. Cancellation or suspension of the Product/Service for Customer's violation of the terms of this Agreement shall not entitle the Customer for any refund of any Subscription fees paid for the applicable Term.

b) Termination by Customer. Customer may terminate a Subscription or reduce the number of User Licenses at any time during its Term provided that Customer shall not be entitled to any refund on account of such termination or reduction.

c) Effect of Termination. Upon termination or cancellation of the Product/Service by either party for any reason, the Customer is required to forthwith uninstall, remove and/or delete destroy all copies of the Product/Service in the Customer's possession and all of its component parts.

d) Waiver of Rights and Obligations. To the extent necessary to implement the termination of this Agreement, each party waives any right and obligation under any applicable law or regulation to request or obtain intervention of the courts to terminate this Agreement.

e) No Liability for Deletion of Data. Customer acknowledges that, other than as expressly described in these terms, should any data that is owned by Customer be provided to PROLAN Solutions, PROLAN Solutions will have no obligation to continue to hold, export or return Customer's data. Customer acknowledges that PROLAN Solutions will have no liability whatsoever for deletion of data pursuant to these terms.

FORCE MAJEURE

Neither party will be liable for any failure in performance due to causes beyond either party's reasonable control such as fire, explosion, earthquake, flood, severe storms, embargo, acts of civil or military authority, war, terrorism including cyber terrorism, pandemic, epidemic and act of god. This clause will not, however, apply to Customer's payment obligations under this EULA.

DISPUTE RESOLUTION

Any dispute arising out of or in connection with this ToU shall be referred to Arbitration as per the fast track procedure laid down under section 29B of the Arbitration and Conciliation Act, 1996 (as amended in 2015). The Parties mutually agree and appoint Mr. Gouri Shankar Jha, designated as Vice President, Hexaware Technologies Limited, holding Indian passport R4674155, to act as the sole arbitrator, whose decision shall be final and binding on the Parties. The seat of the arbitration shall be the city of Berlin in Germany. The language to be used in the arbitral proceedings shall be English.

JURISDICTION

In the event of any dispute arising out of or in connection with this EULA, the courts of Berlin, Germany shall have exclusive jurisdiction.

CONFIDENTIALITY

Product/Service and the Customer shall treat the terms and conditions of this EULA as confidential and shall not disclose them to any third party except in the furtherance of the parties' business relationship with each other.

ENTIRE AGREEMENT

This EULA, and any other terms that PROLAN Solutions may provide for supplements, updates, or thirdparty applications, is the entire agreement for the software.

APPLICABLE LAW

If the Customer agrees to use the Product/Service, the Customer shall abide by the Applicable Laws of the country wherein the Product/Service is being used.

NOTICES

Notices, authorizations, and requests by the customer in connection with this EULA must be sent by an E-Mail at mail@prolan.io AND the same may be sent by express courier, to

PROLAN Solutions GmbH, Kurfürstendamm 194, 10707 Berlin, Germany

Notices will be treated as delivered on the date shown on the return receipt.

ASSIGNMENT

Customer may not assign this EULA. PROLAN Solutions may assign this EULA to its affiliates.

SEVERABILITY

If a court holds any provision of this EULA to be illegal, invalid or unenforceable, the rest of the document will remain in effect and this EULA will be amended to give effect to the eliminated provision to the maximum extent possible.

WAIVER

A waiver of any breach of this EULA is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.