

# User Agreement

Last updated: 12.09.2022

## Links to the latest revisions of the documents:

User Agreement: [https://proxy.sms-activate.org/storage/documents/user-agreement\\_en.pdf](https://proxy.sms-activate.org/storage/documents/user-agreement_en.pdf)

Confidentiality and Cookies Policy: [https://proxy.sms-activate.org/storage/documents/privacy-policy\\_en.pdf](https://proxy.sms-activate.org/storage/documents/privacy-policy_en.pdf)

Proxy Offer: [https://proxy.sms-activate.org/storage/documents/proxy-offer\\_en.pdf](https://proxy.sms-activate.org/storage/documents/proxy-offer_en.pdf)

## 1. Parties

- (1) **Company:** ACTOFORK FZCO, a private company incorporated under the laws of the United Arab Emirates, addressed at Office 2405, Binary Tower, Business Bay, Dubai, United Arab Emirates; and
- (2) **User:** An individual registered on the Website and is using the Website under the terms of the Agreement.

## 2. Terms and Definitions

- 2.1. “**Account**” means a section on the Website unique for each User that allows the use of the Software. Each Account has an individual ID.
- 2.2. “**Login Data**” means data provided by the User during Registration, allowing the User to access the Account. It includes (1) email address and (2) password.
- 2.3. “**Domain Name**” or “**Domain**” means the Internet address of the Website administered solely by the Company - <https://proxy.sms-activate.org>.
- 2.4. “**Offer**” means the Proxy Offer referred to in the preamble.
- 2.5. “**Software**” means a program specified in the Offer, accessed through the Website's online interfaces.
- 2.6. “**Registration**” means a process whereby the User fills out a special form on the Website to create an Account.
- 2.7. “**Website**” means an aggregate of the files and folders that comprise the Software accessed by Users via the Domain Name.
- 2.8. “**Agreement**” means the present User Agreement.

## 3. The Subject of the Agreement

The Company allows Users to use the Website under License as outlined in the Agreement.

## 4. License Terms and Conditions

The right to use the Website (License) is granted under the following terms and conditions:

### (a) Specific use.

The use of the Website is permitted for (1) studying the information published on the Website and (2) accessing the Software. The Offer regulates access to the Software; and

### (b) Use on a remuneration basis.

The License fee is specified by the Company in the Account and depends on the parameters specified in the Offer; and

### (c) Limited period of License.

The term of the License is selected by the User in the Account as set out in the Offer; and

### (d) Limited territory.

The License is granted throughout the world where the User may access the Website and where the use of the Website, in whole or in any part, is not prohibited by the laws of the User's country and the country where the Website is being used; and

(e) **Without the right to sub-license;** and

(f) **Non-Exclusive License.**

The Company retains the right to grant Licenses to third parties.

## 5. **Agreement Acceptance**

The Agreement shall be deemed to have been concluded between the Parties upon acceptance of the Agreement by the User. Acceptance shall be deemed made if the User has completed the Registration.

## 6. **Registration**

To register on the Website, the Users should do the following:

- (1) Visit <https://proxy.sms-activate.org/en#registration>; and
- (2) Enter their email address and password and confirm the password entered; and
- (3) Study this Agreement; and
- (4) If the User agrees with the terms of the Agreement, tick the box “*I have read and agree to the User Agreement, Confidentiality and Cookies Policy and Proxy Offer*”; and
- (5) Click the ‘Register’ button; and
- (6) Confirm the Registration by clicking on the link sent by the Company to the User’s email address.

*! Warning. The company may use “hCaptcha” software or an analog designed to prevent automated registrations. In this case, the User shall follow the specified instructions.*

## 7. **Account**

7.1. Upon successful Registration, the User activates an Account.

7.2. To access the Account, the User enters the Login Data.

7.3. The User can use the Software through an Account. The Offer regulates the use by the User of the Software.

7.4. The Account can be deleted through a User’s application via email. After 180 (one hundred and eighty) days from the User's last activity on the Website, the Company may unilaterally delete the User’s Account.

*! Warning. The Company strongly advises all Users to enable Two Factor Authentication (2FA) in the Account settings. Without 2FA, the User is exposed to an increased risk of theft of funds and unauthorized change of password and email encryption settings.*

## 8. **Application Programming Interface (API)**

Use of the Software via an Account is permitted using an Application Programming Interface (API) with compatible User software. For this purpose, generating an API key via the Account settings is necessary.

## 9. **User’s Guarantees**

When the Users confirm the Registration on the Website, they are deemed to have given the following warranties to the Company:

(a) **Legal capacity:**

The User has reached the age of 18 years and has the sufficient legal capacity to enter into the Agreement.

(b) **Credibility:**

Users warrant that the information they provided during Registration and any other information they provide during the use of the Website is correct.

(c) **Legality:**

The User warrants the simultaneous observance of the following conditions: (1) Personal law of the User does not prohibit the use of the Website; (2) Law of the country from the User accessing the Website does not prohibit the use of the Website.

(d) **Personal use:**

The User will use the Website in person and will not pass on the Login Data and/or the API key to any third party.

(e) **Confidentiality of Login Data:**

The Users must take all reasonable measures to ensure that the Login Data is securely stored. Should the Login Data be leaked, the Users warrant to notify the Company via email about it immediately.

(f) **Compliance with the terms and conditions of the License:**

The Users warrant that they will not use the Website in a way that violates the terms of the License granted, as provided in the Agreement.

(g) **Compliance with the terms of the Agreement:**

The Users warrant that they have read, understood, and undertake to comply with the terms of this Agreement throughout their use of the Website.

**10. The "AS IS" Condition:**

EXCEPT EXPRESSLY PROVIDED IN THE AGREEMENT, THE WEBSITE IS PROVIDED BY THE COMPANY ON AN "AS IS" BASIS, AND THE USERS USE THE WEBSITE AT THEIR OWN RISK. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, THE COMPANY MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, OR WARRANTIES ARISING FROM THE USE OF THE WEBSITE OR PROXY. AT THE SAME TIME, THE COMPANY WILL USE ITS BEST EFFORTS TO ENSURE THE WEBSITE AND PROXY WILL OPERATE UNINTERRUPTEDLY. HOWEVER, THE COMPANY CAN GUARANTEE THAT THE USER IS SATISFIED WITH THE WEBSITE; THAT THE WEBSITE WILL MEET THE USER'S REQUIREMENTS; THAT THE WEBSITE WILL BE UNINTERRUPTED AND FREE FROM ERRORS, MALFUNCTION, CORRUPTION OR LOSS OF DATA, CORRUPTION, HACKING ATTEMPTS, OR VIRUSES, OR THAT THE WEBSITE WILL WORK WITH OR BE COMPATIBLE WITH ANY OTHER SOFTWARE, AS, AMONG OTHERS, THE WEBSITE OR PROXY COULD BE COMPROMISED BY THIRD PARTIES THROUGH HACKING OR OTHERWISE ILLEGALLY ACCESSING THE WEBSITE OR PROXY. HOWEVER, THE COMPANY WILL TAKE REASONABLE STEPS TO MINIMIZE SUCH RISKS.

**11. The Company's Liability:**

- 11.1. In no event shall the Company be liable for any direct, indirect, or consequential loss or damage (including but not limited to loss of income or profit and use of data).
- 11.2. The Company shall have no obligation or liability whatsoever concerning the quality of the User's access to the Internet and the quality of the Internet connection or the availability/absence of Internet access hardware and software for the User and the quality of such hardware and software.
- 11.3. The Company is not responsible for failures or other problems in telephone networks or services, computer systems, servers or providers, computer or telephone equipment, software, or failures in email or scripts (programs).
- 11.4. The User acknowledges that using the Website sends information to the Company through unprotected public electronic communications network channels. The Company is not responsible for securing the information transmitted through such public electronic communications network channels.
- 11.5. The Company shall not be liable for any delays, failures, incorrect or untimely delivery, deletion, or loss of any user data or other information transmitted by the User to the Company, including the use

of the available functionality of the Website. By doing so, the Users warrant that they have backup copies of all information sent to the Company.

- 11.6. The Company shall not be liable to the User for any damages, business interruptions, loss of User or other data, expenses (actual, indirect, consequential), incidental damages, lost profits, or lost revenues caused by and/or in connection with the use of the Website.
- 11.7. The Company shall not be liable to the User for any losses caused by possible errors or typos on the Website. However, the Company commits to taking reasonable measures to prevent and correct such errors and typos.
- 11.8. The Company's total liability in respect of the use of the Website by Users, including the amount of penalties (fines, penalties) and/or damages recoverable, in respect of any claim or action in respect of this Agreement or its performance, shall be limited to the amount of remuneration actually received by the Company from such User.

## **12. User Liability**

12.1. The User is prohibited from doing the following:

- (1) To use the Website in violation of the terms and conditions of the Agreement;
- (2) To distribute, sell, translate, modify, reverse engineer or reverse compile or decompile, disassemble or create derivative works from the Website;
- (3) To make attempts to gain unauthorized access to other computer systems or networks to which the Website is connected;
- (4) To interfere with or take actions which will interfere with or disrupt the Website, the servers on which the Website is hosted;
- (5) To use any framing technology using materials from the Website;
- (6) To use any meta tags, "pay-per-click" advertising model, any "hidden text", deep links referring to the Website;
- (7) To bypass any encryption or other security measures used on the Website;
- (8) To use data mining, scraping, or similar technologies to collect or extract data from the Website;
- (9) To sell, lease, lend, transfer, distribute, use as a service or otherwise transfer to third parties access to the Website which is made available to the User under the terms of this Agreement;
- (10) To make any changes to the source code of the Website and its components;
- (11) To perform any other activities which can adversely affect the correct operation of the Website, as well as the reputation and good name of the Company, its managers, employees, customers, and other Users;
- (12) To perform other actions with the Website that violate norms of applicable law and international copyright protection standards and software use.

12.2. The User shall ensure the validity of all the warranties provided, as stipulated in the Agreement, for the duration of the Agreement. The User shall not use the Website violating one or more warranties. Should one or more warranties be terminated, the User shall immediately cease using the Website, notify the Company and follow the instructions. The User shall bear all risks associated with the breach of the given provision.

## **13. Intellectual Property**

Exclusive rights for the Website, and any of its content, are owned by the Company or third parties; all rights reserved. The User is not authorized to do anything with the Website and its content other than as set out in this Agreement.

## **14. Term of the Agreement**

The Agreement becomes effective on the date of its acceptance by the User and throughout the life of the Account.

**15. Agreement Amendment**

- 15.1. The Company hereby reserves the right, at its sole discretion, to amend the provisions of this Agreement at any time by posting the amended Agreement on the Website.
- 15.2. The Users undertake to monitor changes in the Agreement and to do the following: (i) remember/record the date of the last update stipulated in the Agreement (e.g., save a copy of the Agreement) upon initial Registration of the Account and at any time after an amendment, (ii) regularly visit the relevant page of the Website and study the Agreement in the case where the date of the last update on the first page has been changed.
- 15.3. If the Users do not agree with any changes to this Agreement, they must cease using the Website immediately.

**16. Agreement Termination**

- 16.1. The Agreement shall be deemed terminated upon deletion of the User's Account.

**17. Assignment of the Agreement**

- 17.1. The Users are restricted and may not transfer and assign their rights or obligations under this Agreement without the Company's prior written consent.
- 17.2. The Company is not limited to and may transfer and assign its rights and/or obligations under this Agreement at any time without the User's consent, including as part of a merger, acquisition, or restructuring of the Company.
- 17.3. For the benefit of the parties, this Agreement shall be binding upon their successors.

**18. Applicable Law**

- 18.1. All disputes between the parties under this Agreement shall be settled by correspondence and negotiation using the mandatory pre-trial (claim) procedure. Suppose the parties cannot reach an agreement through negotiations within sixty (60) calendar days of receipt by the other party of a written claim. In that case, each party can submit the dispute to the court at the location of the Company.
- 18.2. This Agreement shall be governed by and construed under the laws of the Emirate of Dubai and the federal laws of the United Arab Emirates (UAE) applicable in the Emirate of Dubai. Any dispute or claim arising out of or in connection with the Website is governed by and construed under UAE laws.
- 18.3. THE USER AND THE COMPANY AGREE THAT EACH PARTY MAY ONLY BRING CLAIMS AGAINST THE OTHER PARTY INDIVIDUALLY. NONE OF THE PARTIES CAN RAISE CLASS ACTION CLAIMS. The Court should not accept class action claims under this Agreement. The court may grant declaratory relief or injunctive relief only in favor of a person and only to the extent necessary to give the relief justified by that person's claim.

**19. Payment Policy**

**19.1. General provisions:**

- (1) The Company is financially liable for the balance of the User's Account at any time. The Company's financial responsibility commences with the first crediting of funds to the balance of the User's Account. It lasts until the funds have been spent in total. The User has a right to request the Company to credit any amount of money that is available on the Account's balance at the moment of inquiry. The only official deposit and withdrawal methods are those provided in the Account upon clicking on the "+Fill Balance" button.
- (2) The User assumes all risks related to the use of payment methods: this concerns the fact that the payment providers are not partners of the Company, and the Company is not responsible

for the correct operation of the payment methods. The Company shall not be liable for any cancellation or delay in transferring funds depending on the payment method. Suppose Users have any complaints relating to any of the payment methods. In that case, they should contact the support center of that payment provider and notify the Company of such complaints. The company is not responsible for the operation of any third-party payment service providers that the customer may use to deposit/withdraw funds.

- (3) Except for the cases of errors and fraud, the Company's financial responsibility for the User's funds commences at the moment when the balance of the Account has been increased by the top-up amount, less commissions. Suppose fraudulent activity is detected during or after a money transaction. In that case, the Company reserves the right to cancel the transaction and freeze the Account.
- (4) Except for errors and fraud, the Company's financial responsibility for the User's funds ceases at the moment the balance of the Account is reduced by the amount of the debt, less all commissions.

#### 19.2. **Account Top-Up:**

- (1) In order to top up the balance of an Account, the User has to request within the Account by clicking on the button "+Fill Balance".
- (2) The User shall complete the payment initiation with an amount in any currency provided to fulfill the request.
- (3) Request processing time depends on the workload of the payment provider. The company cannot regulate processing time.

#### 19.3. **Tax Obligations:**

- (1) The Company is not a tax agent and does not provide financial information on Users to third parties. The Company will not disclose this information without an official request from public authorities.

#### 19.4. **One-Click Payments**

- (1) The User agrees to pay for the Software or other services ordered through the Website and any additional costs (if applicable), including but not limited to all taxes and fees and assumes full responsibility for timely payment. The payment service provider provides payment only for the amount specified on the Websites and is not responsible for payment of the above additional charges by the Websites User.
- (2) Once the User has clicked the "Pay" button or similar button, the transaction is irrevocably deemed to have been processed and executed. By pressing the "Pay" or similar button, the Users agree that they are not allowed to cancel the payment or request its cancellation. By refilling the Account, the Users confirm and declare that they do not violate the law of any country. In addition, by accepting this Agreement, Users, as cardholders, affirms that they have the right to use the Website, and the Software, which is made available through the Website, as well as other services hosted on the Website.
- (3) The User alone, as a cardholder, is responsible for purchasing access to the Software whose purchase and payment it has requested via the Website and for any additional costs/charges that may be applied to that payment. The payment service provider acts only as the provider of the price in the amount specified on the Website and is not responsible for the pricing. In the event of circumstances in which the User does not agree to the specified terms, such User shall not make the payment.

### 20. **Refund Policy**

The User has a right to refund all available funds in the Account balance according to the rules of this section.

- 20.1. To receive a refund of unspent funds in the Account balance, the User is obliged to write an application for a refund (the "Refund Application") which should include the following: (1) first name, (2) surname, (3) patronymic, (4) ID details, (5) name of the User's account, (6) details about the account deposit, specifying the amount, means of payment and dates of deposit, (7) reason for refund, (8) signature, (9) date.
- 20.2. The User shall send the Refund Application to the Company's email address specified in the Agreement.
- 20.3. The Company will review the Refund Application within twenty (20) days, and if approved, the funds will be returned to the User via the same means of payment that the User used to make the deposit.
- 20.4. The Company shall have the right to request confirmation that the means of payment used by the User for deposit belongs to the User who has sent the Refund Application. The User shall provide such confirmation no later than two (2) days after the Company's request. The Company reserves the right to refuse a refund without confirmation of the means of payment.

## **21. Referral Program**

- 21.1. Users can participate in the Company's referral program through the Account.
- 21.2. To participate in the referral program, Users use a unique link (a referral link) provided in the relevant section of the Account. Any other person registered on the Website through the User's referral link and replenished the Account's balance is considered
- 21.3. a User's referral.
- 21.4. The Users are entitled to a portion of the payment executed by their referral Users. This portion is specified in the Account.
- 21.5. The Users may dispose of their referral balance by topping up the account balance (to use it to access the Software) or by other means, as indicated in the corresponding section of the Account.

## **22. General Provisions**

- 22.1. The invalidity or unenforceability of any Agreement provision shall not affect the validity or enforceability of the other provisions.
- 22.2. Except as provided in the Agreement, a failure to exercise a right or enforce an obligation shall not affect a party's ability to exercise such right or enforce such obligation at any subsequent time, nor shall a waiver of a breach constitute a waiver of any subsequent breach.
- 22.3. Suppose there is any conflict between this Agreement and any other written agreement between the User and the Company. In that case, such other agreements shall prevail only where the text of such other agreements expressly states so.
- 22.4. The Parties acknowledge that all electronic correspondence between the Parties in the course of the Agreement shall have legal force, be recognized by the Parties as part of the Agreement, and may be used as written evidence in settling disputes. All documents sent by electronic mail and telephones (including messengers) shall be deemed signed using a simple electronic digital signature, having a valid digital signature of the forwarding Party, and shall be equal to a written document. The Parties have agreed on the possibility of using facsimile reproduction of the signature by mechanical or other copying means (facsimile signature) to execute the Agreement. The Parties acknowledge that the facsimile signature has the same legal effect as a handwritten signature.

## **23. Contacts**

The User can contact the Company at following email address: [proxy@sms-activate.org](mailto:proxy@sms-activate.org)