

# ACTIVANT SOLUTIONS INC. LICENSE TRANSFER POLICY

## 1.0 POLICY STATEMENT

Activant customers are granted the right to use Activant software products pursuant to the Master Customer Agreement or other applicable license agreement (“Customer Agreement”) entered into by Activant (or its wholly owned subsidiaries, including businesses acquired by Activant) and the customer. The terms and conditions for the use of the software are set forth in the Customer Agreement. Customers are not permitted to transfer Activant software except as provided under the Customer Agreement and as permitted pursuant to this License Transfer Policy (“Policy”).

## 2.0 APPLICATION

This Policy applies to Activant and all of its divisions and wholly owned subsidiaries, foreign and domestic. This Policy applies only to the transfer of Activant software by a licensed Activant customer to another party and not to the transfer of licensed Activant software to a new location of the same customer. For clarification, a transfer occurs when either the Activant software is transferred to another business or the business which originally licensed the software is acquired (whether by stock purchase, sale of assets or other means of business transfer). This policy does not apply to license restrictions or charges in conjunction with the transfer of Activant software from one hardware or software platform to another. To the extent that an item of this Policy contradicts a provision of the applicable Customer Agreement between Activant and a transferor, the provision of that Customer Agreement will prevail.

## 3.0 SCOPE

Activant customers may transfer the right to use the licensed software under this Policy to another party provided that:

- The customer transfers all copies of the software and documentation in its possession to the transferee; and
- The transferee (new customer) properly executes Activant’s then-current applicable Customer Agreement and an order for such software; and
- Activant receives payment of then applicable license transfer fee (“Transfer Fee”), as described by this Policy.

Upon acquiring the right to use the transferred software, the transferee customer becomes eligible to purchase (at customer’s option and as applicable) the following:

- Activant hardware and software support service plans (which once purchased, will include the most current level release of the transferred software).
- Information Services subscriptions (i.e., catalog updates, participation in trading exchanges, etc.), to the extent applicable.
- Training and education services.

## 4.0 TRANSFER FEES

4.1 This Policy is intended to facilitate the transfer of existing Activant products and systems, provided that Activant obtains appropriate compensation for the value of the transferred software (which, for example, may be resident on a transferred Activant system). Neither this Policy nor the required Transfer Fees are intended to discourage an actual or potential customer from buying used equipment from a third party. At the same time, however, it would be incorrect for third party sellers to suggest to Activant users that by purchasing used systems they may avoid paying Activant for the use of the licensed software.

4.2 Except as otherwise provided in this Policy, a Transfer Fee will apply to permitted transfers of software licensed by Activant. The license transfer fee will be calculated under this policy as follows:

- Activant software – The Transfer Fee is thirty-five percent (35%) of the then current list price for transferred Activant software.
- Third Party Software – The Transfer Fee for separately licensed third party software is equal to the then current transfer fee required by the third party software provider, which is offered to Activant customers on a “pass through” basis, provided that the third party license permits the transfer or assignment of such third party software. If not so permitted, it will then be necessary for the transferee to obtain a new license for such third party software, either from Activant (if available from Activant) or directly from such third party supplier of the software.
- Operating System License and Per User Licenses – The Transfer Fee for Operating System licenses and Per User licenses is one hundred percent (100%) of the then current list price for such licenses.
- To the extent any transferred software is redundant to Activant software previously licensed by Activant to the transferee (new owner), the Transfer Fee will only apply to the non-redundant or incremental software or user licenses.

4.3 Notwithstanding the Transfer Fees mentioned above, Activant’s policy is to waive the Transfer Fees for Activant software under the following circumstances (all required):

- The transfer is made to a business entity which is at least 50% owned by the immediate family (son, daughter, brother, sister, husband, wife, mother or father) of the owner of the transferring business entity); and
- The Activant software is transferred together with associated hardware as part of a system; and
- The Activant software continues to be used at the same site after the sale of the business and in connection with the operations of the transferred business; and
- The transferee/new owner properly executes Activant’s then current Customer Agreement.

This waiver shall not apply to third party software (unless otherwise so permitted by the third party software licensor/provider), operating system software, or per user Transfer Fees.

4.4 With respect to a transfer of Activant software in conjunction with the repossession of an Activant system by a lease financing company which held the Activant software as security under a lease to the original Activant customer, the License Transfer Fee shall apply upon transfer of the Activant software (together with the Activant system) to a subsequent end user, with the understanding that any such transfer shall comply in all respects with this License Transfer Policy and the associated license agreements for such Activant software.

## 5.0 PROPRIETARY RIGHTS

From time to time Activant becomes aware of circumstances in which the terms of its license agreement are violated or a party infringes Activant’s proprietary rights in its software or other intellectual property. Activant reserves the right to prohibit the transfer of its software to any party that Activant reasonably believes:

- Has, in the past, infringed Activant’s proprietary rights; or
- Has, in the past, breached an agreement with Activant or any of its subsidiaries;

- May use the software in a manner that is harmful to the interests of Activant.

## 6.0 POLICY CHANGES

Subject to compliance with the applicable Customer Agreement, Activant may update, modify or terminate this Policy, including without limitation, the calculation of the Transfer Fees, at any time in its sole discretion.