

Terms & Conditions for supply of the S/Mime Certificates

General provisions

These Terms & Conditions govern the contractual relationship for supply of the SSL Certification and Code Signing Service entered into between Actalis S.p.A., with registered offices at Ponte San Pietro (BG), Via San Clemente no. 53, Tax ID and VAT 03358520967 (hereinafter also "Actalis"), and the Customer, as stated on the Order Form; Actalis and the Customer will be referred to jointly as the "Parties".

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1. Definitions

Without prejudice to the other definitions included in the CP, the terms listed below have the following meanings:

Actalis: the company Actalis S.p.A., tax code and Vat No. 03358520967, with registered office at Via dell'Aprica 18, 20158 Milan, a Certification Service Provider accredited by Agenzia per l'Italia Digitale.

SSL Client Certificate: Certificate used by the Owner to authenticate (i.e. to prove his/her identity) to a web server (or other kind of server) according to the TLS standard (RFC 5246).

S/MIME Certificate: Certificate used by the Owner to sign and/or encrypt e-mail messages according to the S/MIME standard (RFC 5751).

Certificate: the SSL Client and/or S/MIME certificate issued by Actalis.

Private Key: element of the asymmetric key pair of the Owner of the Certificate, available only to the Owner itself.

Public key: element of the asymmetric key pair of the Owner of the Certificate, made public through the same Certificate.

Customer: the natural person or legal entity, or another type of company or entity, as indicated on the Order Form, in their name and on their own account or in the name of another Owner by which it has been specifically authorised, asks Actalis for the issuance of the Certificate.

Conditions: these Conditions of Supply, also published on the Actalis' web site <https://www.actalis.it>.

Contract: the entirety of the documents referred to in Art. 3.

Actalis S.p.A.

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Certificate Policy (CP): the document, available on the Actalis' web site <https://www.actalis.it>, describing the procedures, requirements and rules applied by Actalis in providing the certification service.

E-mail address: the e-mail address indicated in the Form and used by Actalis to send communications the Customer related to the Certificate.

Confidential information: (i) information about Actalis and considered or classified as reserved and/or confidential information by it of which the Customer has been aware for any reason related to the application of the Contract and/or (ii) information about Actalis that, by its nature, content or the circumstance in which it is revealed, would normally be considered as such. In this regard, the confidential information of Actalis includes but is not limited to all the performance, features, configurations and technical information of the Service, estimates, audit and security reports, as well as the product development plans.

Privacy Policy Actalis: public document available at <https://actalis.com/documents/tc-files/en/en-privacy-policy-actalis.aspx> describing processing of the Customer's personal data,

Financial Offer: the document drafted and sent by Actalis to the Customer, describing the financial terms and conditions of the supply of the Services.

Form: the certificate request Form, filled-in by the Customer and submitted to Actalis in on-line fashion, constituting a contractual proposal.

Order Form: form provided by Actalis which, when signed by the Customer through its legal representative or a proxy or delegate or a different person with the necessary signing powers and sent by the latter to Actalis, constitutes acceptance of the Contract

Parties: Actalis and the Customer.

Relying Party: whoever relies on the Certificate, e.g. for verifying the origin of, and/or decrypt an email message (in case of an S/MIME certificate) or for checking the Owner's identity (in case of an SSL Client certificate).

Service: the Service of issuing the Certificate by Actalis to the Customer in accordance with the Contract.

Technical specifications: the information published on the www.actalis.it website, in the section dedicated to the SSL Client and S/MIME certificates, containing the technical characteristics of the same.

Owner (or Subscriber): the party identified in the Subject field of the Certificate.

2. Subject of the Contract

2.1 The subject of the Contract is the issuance to the Customer of the Certificate with the technical specifications, of the type and in the manner set out in the Form and in the Technical Specifications of the Certificate, under the economic conditions set forth in the Financial Offer.

2.2 If the Customer, with prior authorisation, uses and/or requests the Certificate in the name of and on behalf of the Owner it is its clear obligation to do what is necessary so that the said Owner also complies with the provisions of the Contract.

2.3 Any service additional to those under the Contract may be provided, subject to feasibility study, at the specific request of the Customer with terms, conditions and fees to be agreed.

3. Structure of the Contract

3.1 The Contract that is finalised as indicated in Art. 4 is constituted by the documents indicated below:

- 1) These Conditions of Supply
- 2) The Financial offer
- 3) The Order Form
- 4) The Form
- 5) The Technical Specifications
- 6) The Certificate Policy (CP)

3.2 It is hereby understood that for the documents signed after the execution of the Contract, they shall form an integral part thereof effective from and due to said signing.

3.3 The Customer declares and acknowledges that the CP shall remain the exclusive property of Actalis, which as such is the sole and exclusive owner of any corresponding intellectual right. The Customer declares that it has viewed and accepts and endorses the contents of the CP in full.

4. Finalising and duration of the contract

4.1 The Contract is concluded when Actalis receives the Order Form signed by the Customer. Il Contratto è concluso in lingua italiana, eventuali altre versioni in lingua straniera sono messe a disposizione del Cliente esclusivamente a titolo di cortesia.

4.2 The Contract is valid until the expiration date of the Certificate as indicated in the "validity" field of the same. In case of renewal of the Certificate, the validity of the Contract is extended until the date of expiration of the renewed Certificate.

4.3 In every case the Contract is deemed terminated as a result of the revocation of the Certificate for whatever reason.

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4.4 in any case of non-issuance of the Certificate, Actalis shall immediately notify the Customer of the same without being obliged to provide any reason for such.

The Customer acknowledges and agrees not to make any claim for reimbursement and/or recompense and/or damages compensation, or claims of any kind in the absence of acceptance of the proposal and in any case for failing to issue the Certificate.

4.5 The Customer, by sending the Form, acknowledges and agrees that it enters into a Contract whose only valid and effective version is that in Italian, while other versions provided by Actalis in any other foreign language are made available purely out of courtesy.

5. Fees

5.1 The fee payable for the Certificate is indicated on the Financial Offer. the methods and payment timescales shall be stated in the Financial Offer.

5.2 The Customer acknowledges and agrees that the Certificate may be suspended or revoked with immediate effect if the payment of the fee is for any reason invalid or is revoked or cancelled by the Customer or is not executed, confirmed or credited for the benefit of Actalis.

5.3 In any case, the Customer cannot raise objections of any kind unless it has previously executed correctly the payment of any fee that may be due, providing upon request the necessary supporting documentation.

6. Activation and delivery of the Service

6.1 The issuance of the Certificate to the Customer is subject to the correct compilation of the form, the acceptance of these Conditions and positive verification of the activities described in the CP. In case of negative verification of the activities described in the CP Art. 4.4 will apply.

6.2 Procedures, terms and conditions for the issuance, suspension and revocation of the Certificate are indicated in the CP, to which reference should be made.

6.3 The issuance of the Certificate on the basis of the Contract does not make Actalis agent, fiduciary or representative of the Customer nor of the Owner of the Certificate.

7. Requirements

7.1 The Customer acknowledges and agrees that to use the Certificate it must be equipped, at its own expense, with the hardware and software necessary for the purpose, assuming full responsibility for their functionality, compatibility and correct configuration. The Customer hereby releases Actalis from any liability for any configuration, functionality or compatibility problems of the hardware or software with respect to the Certificate.

7.2 The installation of the Certificate on the devices of the Customer', if requested from Actalis under a separate written agreement, shall be subject to prior verification by Actalis that the target platform is configured with standard Operating Systems on the market as well as the communication by the Customer of the logon credentials necessary to install the Certificate.

8. Services and support levels

8.1 The levels and procedures for Service delivery are indicated in the CP, to which reference should be made.

9. Confidentiality and property rights

9.1 The Customer hereby agrees not to disclose or make available in any way to third parties confidential information known or managed in relation to the execution and/or application of the Contract in the absence of specific written consent by Actalis.

9.2 The Customer is obliged to use the Service with respect to the intellectual and/or industrial property rights of Actalis as indicated in the Contract. The software like any other copyright or other intellectual property right is the exclusive property of Actalis and/or their licensors, so the Customer does not acquire any right or title thereto and can use the same only during the period of validity of the Contract.

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9.3 In the case of licences provided by third-party suppliers through Actalis the Customer acknowledges having read their conditions and agrees to use the software in accordance with the procedures as indicated on the respective sites solely for its personal use. The Customer undertakes to accept and abide by the terms of the above-mentioned licences and declares to be aware of the fact that the Licences are between the Customer and the owner of the rights of copyright on them to the exclusion of any liability by Actalis.

9.4 Notwithstanding the above, Actalis and the Customer expressly agree that:

- a) The cryptographic key pairs are available to the Customer also when using the Certificate in the name and on behalf of the third-party Owner.
- b) The CP, the Certificates and the lists of suspended or revoked Certificates (CRL - Certificate Revocation List) published by Actalis are and remain the property of Actalis.
- c) With regard to the intellectual property of other data and information, reference should be made to the applicable legislation.

10. Obligations, prohibition and responsibilities of the Customer

10.1 The Customer's obligations are those indicated in the Contract. The Customer undertakes to use the Certificate in accordance with what is stated in the Conditions and the CP, in accordance with the law, the regulations in force, ethics and public order. By way of example, but not limited to these items only, the Customer undertakes to:

- a) ensure that the data communicated to Actalis for the purposes of the issuance of the Certificate is correct, up to date and truthful. The Customer acknowledges and accepts that, should it have supplied false, outdated or incomplete data, Actalis reserves the right to suspend the Service, revoking the Certificate and/or to terminate the Contract, reserving the right to seek compensation for greater damages. It is understood that the Customer will not be able to make any claim against Actalis requiring reimbursement and/or redress and/or compensation for damages or claims of any kind for the time it has not had the benefit of the Service.
- b) keep with the maximum confidentiality the private key corresponding to the Certificate, being responsible therefore for guarding the same.
- c) use the Certificate only in the manner and for the purposes laid down by the CP, depending on the type of Certificate granted to it.
- d) not use its own private key to issue Certificates of any kind.
- e) manage the Certificate provided with the utmost diligence and in particular:
 - (i) to review the CP before requesting the Certificate;
 - (ii) to inform the persons authorised to use the Certificates on issues relating to their use, as indicated in the CP;
 - (iii) to install and use the Certificate only after checking that it contains correct information;
 - (iv) in the case of verified compromise of its private key, to immediately request revocation of the Certificate and immediately cease the use of the same private key;
 - (v) in the case of compromise of the Certification Authority, to immediately cease the use of the Certificate;
 - (vi) after registration and until the expiration or revocation of the Certificate, to notify promptly Actalis of any variation to the information provided during registration;
 - (vii) to cease any use of the Certificate after the expiry date thereof;
 - (viii) to remove permanently the Certificate(s) from its PC(s) at its expiration or in case of revocation;
 - (ix) to remove permanently the Certificate(s) from its PC(s) that is/are no longer in its possession.
- f) abstain from any violation of the systems or of network security that could result in civil liability and/or criminal prosecution.
- g) not to use the Certificate in such a way as to harm itself and/or third parties and/or Actalis.
- h) not to deposit, send, publish, transmit and/or share applications or computer documents at odds with or in violation of intellectual property rights, of trade secrets, trademarks, patents or other property rights of third parties or that harm, violate (or that attempt such) the secrecy of correspondence and the right to confidentiality.
- i) indemnify and otherwise hold harmless Actalis from any liability regarding the contents and all information exchanged and/or published using the Certificate supplied.
- j) use the Certificate only for purposes authorised by law with a prohibition on, including but not limited to, exchanging, publishing and/or sharing material:
 - (i) that violates or infringes intellectual property rights, trade secrets, trade-marks, patents and other legal or customary rights;
 - (ii) whose contents offend against moral standards and public order so as to disturb public and/or private peace, cause offence or direct or indirect damage to anyone;
 - (iii) whose content includes child abuse, pornography or is obscene or other-wise contrary to public morality;
 - (iv) capable of infringing or attempting to infringe confidentiality or intended to damage the integrity of the resources of others or to cause direct or indirect damage to anyone (pirate software, cracks, key generators, serials, viruses, worms, Trojan horses or other harmful components).
- k) indemnify and hold harmless Actalis from any liability in case of complaints, lawsuits, administrative or judicial action, loss or damage (including legal costs and fees) arising from the illegal use of the Services by the Customer;
- l) execute without delay the instructions that it will receive from Actalis in the case of compromise of its private key or misuse of the relevant Certificate, within the maximum time specified in the CP.

The Customer acknowledges and agrees that Actalis reserves the right to revoke the Certificate without notice if the same is used for unlawful purposes (e.g. phishing, man-in-the-middle, distribution of malware, etc.) or in violation of paragraph d) above.

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The Customer acknowledges and agrees that Actalis is not required to check, mediate and/or monitor the content managed by the use of the Certificate and that no liability is attributable to Actalis in respect of such. The Customer therefore is obliged to indemnify and hold harmless Actalis from any claim or action brought by third parties for any violations committed by the Customer through the Service.

10.2 In case of violation of even one of the above obligations/commitments, Actalis has the right to intervene in the form and manner deemed appropriate to eliminate, where possible, the violation and its effects, and to suspend immediately and without notice the Service, reserving the right to terminate the Contract pursuant to Art. 15 below. The Customer acknowledges and accepts that it has no claim on Actalis by way of reimbursement and/or compensation and/or damages or claims of any kind for measures that it has deemed necessary to adopt. In any case, the Customer hereby assumes all responsibility for the violations described above and agrees to indemnify and hold harmless Actalis from any prejudicial consequence it may suffer.

11. Responsibilities of Actalis

11.1 Notwithstanding the incontrovertible limits set by law and in cases of wilful misconduct or gross negligence, Actalis will not be responsible for non-performance of obligations assumed under the Contract if such non-performance is due to reasons not attributable to it, such as - including but not limited to - acts of God, absolutely unpredictable technical malfunctions outside of any control, interventions by Authorities, force majeure, natural disasters, strikes (including those at entities used by Actalis in the execution of activities related to the Contract) and other causes attributable to third parties. Actalis, in particular, will not be liable for any service breakdown resulting from non-compliance by the Customer with the operational specifications contained in the CP and the provisions of this Contract or any malfunction of systems not directly attributable to the activities carried out by Actalis.

12. Withdrawal

12.1 The Customer, even if qualified as "Consumer" as per Legislative Decree No. 206/2005 ("Consumer's Code) acknowledges and agrees that the supply of the Certificate falls within the provisions of Art. 55 of Legislative Decree No. 206/2005. Therefore, the Customer can request deactivation at a date before its expiry but shall not be entitled to reimbursement, in whole or in part, of the fee paid.

12.2 Actalis reserves the right to withdraw from the Contract at any time, and without obligation to state reasons, by giving written notice to the Customer, with a minimum notice of 15 (fifteen) days, except if:

- (i) certain events occur from force majeure
- (ii) the Customer is in the register of defaulters, has been declared insolvent or has been admitted or subject to insolvency proceedings.

In such cases Actalis reserves the right to withdraw from the Contract immediately without notice.

It is understood between the Parties that from the effective date of withdrawal, at any time and without further notice, each Service will be deactivated.

In any case, any liability by Actalis for exercising the right of withdrawal and/or for the loss of use of the Service by the Customer or the consequent right of such to claim any other reimbursement and/or redress and/or compensation for damages and/or claims of any sort whatsoever is expressly excluded.

13. Express termination clause

13.1 Without prejudice to the provisions in other clauses of the Contract, the same shall be considered terminated with immediate effect, in accordance with and for the purposes of Art. 1456 of the Civil Code, if the Customer:

- a) violates the obligations laid down in Art. 9 and 10 of the Conditions as well as the provisions laid down in the documents to which they refer
- b) carries out any illegal activity using the Services
- c) transfers all or part of the Contract to third parties without the prior written consent of Actalis.

13.2 Moreover, in case of failure to perform the obligations required by the Contract, Actalis reserves the right to send the Customer, at any time, in accordance with and for the purposes of Art. 1454 of the Civil Code, notice to comply within 15 (fifteen) days from receipt of the registered letter with advice of receipt or PEC (certified email) communication.

13.3 From the date of termination of the Contract occurring in the cases prescribed by the same, the Service will be deactivated without notice and the Certificates issued in favour of the Customer will be revoked.

13.4 In such cases, the Customer acknowledges and accepts that Actalis will not be required to make any reimbursement and/or redress and/or compensation for damages. Actalis will also be entitled to charge to the Customer any additional charges and/or expenses that it has had to undergo for or on account of the termination and/or breach which gave rise to it, in each case without prejudice to the right of the same to compensation for any further damages undergone.

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14. Changes to the Contract

14.1 The Customer acknowledges and agrees that the Service covered by the Contract is characterised by constantly evolving technology, for which reason Actalis reserves the right to modify, at any time and for the better, the technical and financial character of the same and of the tools related to it as well as the Conditions even after their acceptance, without such raising obligations of any kind towards the Customer. Software licensing costs when paid to the relevant licensees, via Actalis, will be adjusted automatically in the event of variation of prices by the licensee itself.

14.2 If, in circumstances not dependent on Actalis (including but not limited to changes in legislation or provisions and/or regulations of the Authorities in question involving increased charges to Actalis etc.) the assumptions used for the formulation of the Conditions and/or the documents to which the same make reference are changed, the same Actalis reserves the right to unilaterally modify these documents including but not limited to the fees, collection commissions, the billing frequency or the terms and methods of payment, notifying the Customer of such by email or posting on the site <http://www.actalis.it/> with notice of 30 (thirty) days. If the Customer does not wish to accept these changes, including those regarding the fee, it can exercise in that period the right to withdraw from the Contract without notice and without penalty. In the absence of exercise of the right of withdrawal by the Customer, the changes will be considered understood and accepted by the same.

15. Final provisions

15.1 The Contract annuls and supersedes all other previous agreement that may have occurred between the Parties on the same subject, and is the latest and entire expression of the agreements reached between them on such subject. No modification, note or paragraph added to the Contract shall be valid and effective between the Parties unless specifically and expressly approved in writing by both. In the case of special agreements with the Customer they must be in writing and will form addenda to the Contract.

15.2 In no case shall any breach and/or behaviour of the Customer contrary to the Contract be considered as exceptions to the Contract or tacit acceptance of the same, even if uncontested by Actalis. Any failure by Actalis to exercise or assert any right or provision of the Contract shall not constitute a waiver of such rights or provisions.

15.3 Unless expressly stated otherwise in the Contract, all communications sent to the Customer in relation to this contractual relationship shall be carried out by Actalis without distinction whether by hand, by email, certified or not, by means of registered mail with advice of receipt, regular mail or by fax to the addresses and/or contact details provided by the Customer in the order Form and, in consequence, the same will be considered received and read. Any change of address or contact details for the Customer including the email address indicated in the order Form not disclosed to Actalis with the procedure laid down in the Contract will not be applied by the same.

15.4 Except for the cases specifically provided for in the Contract, all communications that the Customer wants to send to Actalis in relation to the Contract, including requests for assistance, should be sent to the contact details listed on the site www.actalis.it.

15.5 Any ineffectiveness and/or invalidity, total or partial, of any provisions of this Contract will not result in the invalidity of the others, which shall be considered fully valid and effective.

15.6 The Customer agrees not to assign the Contract to third parties without the prior written consent of Actalis.

16. Extended validity

16.1 This clause, the other clauses of the Conditions set out below as well as the provisions in the documents to which the said clauses refer will continue to be valid and effective between the Parties even after cessation or termination due to any cause or attributable to any Party:

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17.1 This Contract is governed exclusively by Italian law. These Conditions have been drawn up and prepared in compliance and in accordance with the provisions contained in Legislative Decree 206/2005 (Consumer Code), in Law 40/2007 (Urgent measures for the protection of consumers, the promotion of competition, the development of economic activities and the creation of new businesses) and in Legislative Decree 70/2003 (Implementation of Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market). They are considered automatically modified and/or adapted to the relevant requirements of subsequent laws and/or regulations.

17.2 For any dispute concerning the interpretation, execution and termination of this Contract the Courts of Milan shall have exclusive competence unless the Customer has acted and concluded this Contract as a Consumer for purposes unrelated to the business or professional activity carried out. In that case the Courts of the place where the Customer has its residence or domicile shall have exclusive competence if located on the territory of the Italian state.

18. Processing of personal data

Processing of the Customer's personal data, for the purposes of signing the Contract and the subsequent provision of the Service, will occur in compliance with Legislative Decree 196/2003, Regulation (EU) 2016/679 and the privacy policy available at <https://www.actalis.com/documents/tc-files/it/it-privacy-policy-actalis.aspx>.