

Your use of Active's software as a service products, for example, Meet Mobile™ ("SaaS"), desktop software, including software that gets installed on your desktop or server ("Desktop Software"), and services (collectively, the "Products"), is subject to the terms set forth below (this "Agreement"). "Active" means Active Network, LLC, together with its affiliated entities. In order to use the Products, you must first agree to this Agreement. You represent and warrant that you have the necessary and full right, power, authority, and capability to accept this Agreement, to bind your organization, and to perform your obligations hereunder. You can accept this Agreement by: (i) clicking to accept or agree to this Agreement, where this option is made available to you by Active online or in the user interface for any Product; (ii) where a link to this Agreement appears in an order form or other document provided to you by Active; (iii) by signing this Agreement, if there is a designated area to sign; or (iv) by actually using the Products. In the case of (iv), you understand and agree that Active will treat your use of the Products as acceptance of this Agreement from that point onwards. You may not use the Products and may not accept this Agreement if (a) you are not of legal age to form a binding contract with Active, or (b) you are a person barred from receiving the Products under the laws of the United States or other countries including the country in which you are resident or from which you use the Products. You may not use the Products if you do not accept this Agreement. "Effective Date" means the date that you accept this Agreement. By accepting this Agreement, you agree as follows:

1. FEES.

- a. The time period that you are permitted to use the Products, the features, services, options, and the fees associated with your use may be described more fully on web pages describing the Products, and/or in an applicable schedule, pricing form, order form, or similar document (each, a "Schedule"). Each Schedule will be governed by this Agreement and incorporated herein by this reference. You will pay the fees as more fully described in the applicable Schedule.
- b. If the name of your Product is Team Manager Lite, then the Desktop Software is provided to you free and is to be used only as a demo or for entering your one club's roster, setting up a meet and declaring your entries, and then exporting those entries electronically to your Meet Host on diskette or directly to the web. Please refer to Team Manager Help to find out more about Team Manager Lite.

2. LICENSES.

- a. Scope of Licenses. Subject to the terms and conditions set forth herein and in the applicable Schedule, Active grants to you a limited, non-exclusive, non-transferable license to use the Products solely in accordance with this Agreement, the Schedule, and the related written user documentation, if any. You hereby grant to Active a limited license to use information provided by you relating to your organization and events, which may include content regarding the events, your organization's name, trademarks, service marks, and logo, solely in connection with the promotion of your organization or events and the Products that we provide.
- b. The following are the licenses associated with the Desktop Software:
  - i. Team Manager:
    1. Team, School, or Club License: This license is to a team, school, or club, not individuals or organizations. This license type may only be used for administrative and performance tasks associated with that team, school, or club and on any computer that is used by and for that team, school, or club. The Desktop Software licensed to your team, school, or club may not be shared with any other team, school, or club.
    2. League/Organization License: This license can be used on one or more computers only for the league or organization to which it was licensed to manage the administrative and performance tasks associated with the member teams of that organization. For example, if Team Manager is licensed to "City Summer Swim League," the Desktop Software may be installed on one computer and used by one person to track administrative and performance aspects for all the member teams of that league. However, the Desktop Software may not be provided to any of the member teams for any reason.

Active licenses (not sells) Desktop Software to the team or organization that is printed on the top left of all reports and displayed on the Desktop Software login/introduction screen. These licenses allow you to use the Desktop Software on multiple computers as long as it is being used for the one team or organization for which it is licensed and only by one user.

ii. Meet Manager:

1. Team, School, or Club License: This license is to your team, school, or club, not individuals or organizations. Meet Manager may only be used to run any meet that is hosted by and competed in by your team, school, or club at your home facility. For example, if Meet Manager is licensed to Central High School, the Desktop Software may be used to run all the home dual meets at Central High School as well as any invitational meets that are sponsored by and participated in by the Central High School Team at its home facility. Please note that a club and school team must have its own license even if it performs at the same site and has the same head coach. Additionally, and as an example, if the Desktop Software is licensed to a YMCA or USS club, it cannot be used to

run a college or high school meet even if some members of the club are competing in the college or high school meet.

2. Championship Meet License: This license only allows the Desktop Software to be used to run one specific championship meet each year. A typical use of this license option would be to run the state championship meet that is rotated among different high schools each year. If the Desktop Software is licensed to a league's championship meet, that Desktop Software may not be used to run the dual meets or divisionals for that league. Having a Championship Meet license requires you to submit via email the date that the meet will be held to sales@hy-tek.com each year. When this information is received, a web download will be emailed to you for that year. If a CD is needed, a product replacement should be purchased through our online store. When a license is being upgraded, a CD will be sent at no charge for that order.
3. Site License: This license is for a facility to use the Desktop Software for all meets that are run at the one facility (e.g., Age Group, Masters, High School, College, etc.). However, the Site License is not to be distributed to entering teams to facilitate their data entry. The Site License option requires an annual subscription fee.
4. Organizational License: This license is for an organization to use the Desktop Software for up to a maximum of four (4) championship meets only. An Organizational License may not be used for club or school hosted meets. An example of an Organizational License might be for a province or state running their 3 or 4 provincial or state championship meets. The Organizational License option requires an annual subscription fee.
5. Independent Timing Contractor (ITC) Program (available for track and field only): For an additional annual license fee, ITC's have the option to license Meet Manager (not included in the annual license fee) to run any type or number of non-simultaneous meets whether or not the host club/school has Meet Manager. The Desktop Software will be licensed directly to the ITC with the ITC company name as the licensee name printed on the top left of all reports. The ITC must be a full-time company with a website and include the Active logo, website link, and "ACTIVE/HY-TEK Certified Timing Contractor" on the front page of that website. The ITC will be listed on the Active website as a certified Active ITC.

Active licenses (not sells) this Desktop Software to the team or organization that is printed on the top left of all reports and displayed on the Desktop Software login/introduction screen. These licenses allow you to use the Desktop Software on multiple computers at the same site for the same meet. You may also use the software on multiple computers to facilitate data entry for a given meet.

Specific Restrictions: The Desktop Software may not be distributed to run separate meets at separate sites for subsets of one organization. For example, if there are four district meets advancing to a state championship, this requires five licenses unless one of the districts is also running the championship meet in which case four licenses would be required.

- iii. Business Manager (for swimming only): This Desktop Software is licensed to a sports team or club, not to individuals or organizations. Business Manager may be used for administrative and performance tasks associated with that team only and only on any computer that is used by and for that team.

Active licenses (not sells) this Desktop Software to the team or organization that is printed on the top left of all reports and displayed on the Desktop Software login/introduction screen. This means Active allows you to use the Desktop Software on multiple computers at the same site for the same sports team. This Desktop Software can only be used by the sports team to whom it is licensed.

Specific Restrictions: This Desktop Software may not be distributed to teams or schools within a league or sports organization. If this Desktop Software is licensed to a high school or college, it may not be used by the age group team unless the age group team name is included in the License Name. If this Desktop Software is licensed to an age group team, it may not be used by the high school or college team unless the high school or college team name is included in the License Name. The License Name is printed on the top left of all reports and displayed on the SPORTSBM Main Menu login screen.

If this Desktop Software is licensed to a league or sports organization, that Desktop Software may only be used by one person on one computer to maintain all of the league transactions.

- c. The following additional terms are applicable to your use of SaaS Products only (for example, Meet Mobile): (i) Active will provide you access to the SaaS which you may use to deliver content and data to end users. You acknowledge and agree that end users may be required to purchase access to content and data delivered by you through the SaaS in accordance with the applicable Schedule. You may have the right to receive revenue sharing from such purchases in accordance to the extent set forth in the applicable Schedule. (ii) By submitting, delivering and/or uploading content and

data through the SaaS, you agree you have the right to edit, copy, publish, distribute and otherwise use the content and data made available by you. You further agree that you will have dedicated resources and capability to use the SaaS for its intended purposes and that you will use commercially reasonable efforts to publish applicable content and data to end users as quickly as reasonably practicable. Content and data includes but is not limited to the following: meet structure, psych sheets, heat and lane assignments, event and swimmer results and team scoring.

3. **RESTRICTIONS.** You shall: (i) use the Products exclusively for authorized and legal purposes, consistent with all applicable laws, regulations, and the rights of others, including privacy and anti-spamming laws; (ii) not reverse engineer, disassemble, or decompile any Product or prepare derivative works thereof; (iii) not copy, modify, transfer, display, or use any portion of the Products except as expressly authorized in this Agreement or in the applicable documentation; (iv) not contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary or intellectual property rights, title, or interest of Active in and to the Products; (v) not obliterate, alter, or remove any proprietary or intellectual property notices from the Products in physical or electronic forms; (vi) not use the Products to transmit, publish, or distribute any material or information: (a) for which you do not have all necessary rights and licenses, including any material or information that infringes, violates, or misappropriates the intellectual property rights of any third party; (b) that contains a computer virus or other code, files, or programs designed to disrupt or interfere with the functioning of the Products; or (c) that is or that may reasonably be perceived as being harmful, threatening, offensive, obscene, or otherwise objectionable; and (vii) not attempt to gain access to any systems or networks that connect thereto except for the express purpose of using the Products for their intended use.
4. **OWNERSHIP.** Active retains all right, title and interest in and to the Products including, but not limited to, all copyrights, trademarks, trade secrets, trade names, proprietary rights, patents, titles, computer codes, improvements, enhancements, modifications and derivative works thereof. All rights not expressly granted to you herein are reserved by Active.
5. **INFORMATION COLLECTION.** Active's privacy policy as amended from time to time is available at <http://www.activenetwork.com/information/privacy-policy> ("Privacy Policy") and is applicable to this Agreement. Active's Privacy Policy defines how, why and to which extent Active collects and uses personal and non-personal information in relation to Active's products and services. By installing, accessing or using the Products, you expressly agree with the terms and conditions of Active's Privacy Policy and to any terms and conditions included therein by reference.
6. **DISCLAIMER OF WARRANTY/LIMITATION OF LIABILITY. ACTIVE EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE USE OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE PRODUCTS WILL MEET YOUR REQUIREMENTS. THE PRODUCTS ARE PROVIDED TO YOU ON AN "AS-IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ACTIVE SHALL NOT BE LIABLE FOR INDIRECT DAMAGES OR LOSSES (IN CONTRACT, TORT, OR OTHERWISE), INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST SAVINGS, COST OF REPLACEMENT SERVICES, LOST DATA, LOSS OF USE OF INFORMATION OR SERVICES, OR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES. ACTIVE'S TOTAL AGGREGATE LIABILITY FOR ALL MATTERS ARISING FROM OR RELATED TO THIS AGREEMENT IS LIMITED TO THE AMOUNT OF FEES ACTUALLY PAID BY YOU AS CONSIDERATION FOR THE PRODUCTS GIVING RISE TO SUCH CLAIMS DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE FIRST CAUSE OF ACTION AROSE.**
7. **INDEMNITY.** You agree to indemnify, defend and hold Active, its partners, affiliates, contractors, officers, directors, employees and agents harmless from and against any and all damages, losses and expenses arising directly or indirectly from: (i) your violation of any applicable law, rule, or regulation; and/or (ii) your breach of this Agreement.
8. **MISCELLANEOUS.**
  - a. Active may assign any of its rights or obligations under this Agreement. You may not resell, assign, or transfer any of your rights or obligations hereunder, and any attempt to resell, assign, or transfer such rights or obligations without Active's prior written approval will be null and void.
  - b. Any notices required to be given under this Agreement shall be in writing sent to the address set forth below for Client or, in the case of Active, to the address set forth above to the attention of Chief Legal Officer. Notices will be deemed received the next day if sent via overnight mail or courier with confirmation of receipt, or three (3) days after deposited in the mail sent certified or registered.
  - c. This Agreement shall be governed by the laws of the State of Delaware, without giving effect to the conflict of laws provisions thereof. Neither the United Nations Convention of Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act shall apply to this Agreement. The parties irrevocably agree that any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Delaware.
  - d. This Agreement contains the entire understanding of the parties regarding the subject matter hereof and can only be modified or amended by a subsequent written agreement executed by both parties.
  - e. Sections 1, 4, 5, 6 and 7 of this Agreement and any fees owed by you shall survive any termination or expiration of this Agreement.

- f. If any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction for any reason whatsoever, (i) the validity, legality, and enforceability of the remaining provisions of this Agreement (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) shall not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the unenforceable provision shall be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement shall be deemed amended accordingly.
- g. No waiver of any provision of this Agreement or any attachment shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
- h. Neither party will be deemed to be in default hereunder, or will be liable to the other, for delay or failure to perform any of its obligations under this Agreement to the extent that such delay or failure results from any event or circumstance beyond that party's reasonable control, including without limitation, delays or failures of any Internet service provider, third-party payment processor or other third party.
- i. Client has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an Active employee or agent in connection with this Agreement.
- j. The Products are provided with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraphs (b)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable. The Manufacturer is Active Network, LLC or one of its affiliates or subsidiaries.