



## DEALER AGREEMENT

This agreement (the “Agreement”), effective as of \_\_\_\_\_, 20\_\_\_\_ (the “Effective Date”), is made by and between Actall Canada Inc., a British Columbia corporation, with offices at 1270 Rosewood Crescent, North Vancouver, British Columbia, Canada V7P 1H4 (“Actall” or “Manufacturer”) and, \_\_\_\_\_ a \_\_\_\_\_ located at \_\_\_\_\_

(“Dealer”). This Agreement provides for the terms and conditions under which Dealer may act as an authorized, reselling-dealer and installer of one or more of the Actall PALS 9000 Personal Alarm Locating System (“PALS”) and the Actall ATLAS Real Time Locating System (“ATLAS”) and the related Products and Software (defined below) associated with such systems. Each of Manufacturer and Dealer may be referred to herein as a “Party” and collectively as the “Parties.”

**Therefore**, in consideration of \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. **Defined Terms.** Capitalized terms have the meanings set out in this Section, or in the Section in which they first appear in this Agreement.
  - a. **“Action”** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity or otherwise.
  - b. **“Affiliate”** of a Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such Person.
  - c. **“British Columbia”** means the province of British Columbia in Canada.
  - d. **“Canada”** means the nation of Canada and includes its territories, possessions and military bases.
  - e. **“Claim”** means any Action made or brought against any Indemnitee.
  - f. **“End User”** means the final purchaser that has acquired a Product, Services or Software from Dealer for its own and its Affiliates’ internal use and not for resale, remarketing, or distribution.
  - g. **“Indemnitees”** means the Manufacturer and its Affiliates, and its and their stockholders, officers, directors, partners, agents, and employees and their successors and assigns.
  - h. **“Person”** means any individual, partnership, corporation, trust, limited liability entity, unincorporated organization, association, governmental authority, or any other entity.
  - i. **“Personnel”** means agents, employees, or subcontractors engaged or appointed by Manufacturer or Dealer.
  - j. **“Product”** means any and all physical parts, assemblies, components or other elements of either the PALS or ATLAS systems which are manufactured or assembled by Actall Corporation of Denver, Colorado (“Actall U.S.”) or Actall to allow the PALS or the ATLAS systems to function as intended by the Actall. The term Product does not include Third-Party Equipment.
  - k. **“Software”** means computer language assembled by Actall to operate as an application within the Microsoft® Windows computer operating system and provide a means by which users may communicate with the Products and Third-Party Equipment included in either of the PALS or ATLAS systems. Software does not include computer language assembled by any third party, including, without limitation, the Microsoft<sup>1</sup> Windows computer operating system and the Microsoft Azure SQL Database<sup>2</sup>.
  - l. **“Services”** means any personal services provided by any one or more of the Manufacturer’s

<sup>1</sup> Microsoft is the registered trademark of Microsoft Corporation.

<sup>2</sup> Microsoft Azure SQL Database is the registered trademark of Microsoft Corporation.

**Actall Canada Inc.**

Personnel to Dealer on Dealer's behalf to any End User.

- m. **"Territory"** means Canada.
  - n. **"Third-Party Equipment"** means equipment manufactured by a party unrelated to Actall which is integrated by Actall or the Dealer in either the PALS or the ATLAS systems, including, without limitation, desktop computers, television monitors, communication system routers, radio transmitters and similar items or devices.
  - o. **"U.S."** means the United States of America, including its territories, possessions and military bases.
2. **Nonexclusive Appointment.** Manufacturer appoints Dealer as a non-exclusive dealer for the marketing, sale, installation, service and maintenance of the Manufacturer's PALS and ATLAS systems, and the related Products and Software employed by such systems, in the Territory.
  3. **Appointment Acceptance.** Dealer accepts the appointment as a non-exclusive dealer in the Territory and will make all sales as a dealer in accordance with the terms of this Agreement. Along with this acceptance, Dealer agrees that it will not submit bids to any End User containing competitive or substitute products for End User project specifications that specifically call for Actall products to be used. Dealer is free to use any product for specifications that are only performance-based (*e.g.*, desktop microcomputers), or do not reference Actall products.
  4. **Right to Sell Competitive Goods.** Subject to the limitations in section 3 above, this Agreement does not preclude the Dealer from entering into an agreement with any other Person related to the sale or distribution of other goods or products, including those that are similar to or competitive with the Products, Services or Software.
  5. **Term.** This Agreement will continue for a term of twenty-four months (the "Term") from the Effective date unless earlier terminated as permitted in this Agreement.
  6. **Acceptance of Purchase Orders.** All Product, Software and Service orders received by Manufacturer from the Dealer (each a "Purchase Order") are subject to acceptance by Manufacturer. Manufacturer will use its best efforts to fill the accepted Purchase Order promptly and practically, subject, however, to delays caused by government orders or requirements, transportation conditions, labor or material shortages, strikes, riots, fires, or any other cause beyond Manufacturer's control. In all cases, Manufacturer will use its commercial best efforts to advise the Dealer in advance of any inability to make full and timely delivery of any Products and Software, which the Dealer has previously ordered.
  7. **Purchase Orders Become Part of this Agreement.** Following the acceptance of any Purchase Order by Manufacturer, each such Purchase Order shall become a part of this Agreement and shall be incorporated herein and made a part of this Agreement by this reference thereto. The express terms and conditions contained in this Agreement and the Purchase Order terms exclusively govern and control each Party's respective rights and obligations regarding the purchase and sale of the Products, Services and Software, and the Parties' agreement is expressly limited to such terms and conditions. Notwithstanding the foregoing, if any terms and conditions contained in a Purchase Order conflict with any terms and conditions contained in this Agreement, the order of precedence is: (a) this Agreement; and (b) the remaining non-conflicting terms of the relevant Purchase Order. Without limitation of anything contained in this Section 7, any additional, contrary, or different terms contained in any Purchase Order or other communications, and any other attempt to modify, supersede, supplement, or otherwise alter this Agreement, are deemed rejected by Manufacturer and will not modify this Agreement or be binding on the Parties unless such terms have been fully approved in a signed writing by authorized Representatives of both Parties.
  8. **Pricing.** The Dealer shall pay the Manufacturer for the Products, Services and Software licenses, which the Dealer orders as per the Manufacturer's price list in effect at the time of the receipt of the purchase order (the "Price List"). Manufacturer may change the Price List from time to time and at any time without prior notice to the Dealer. All Price List changes will be effective 60 days after announced in the normal course of Manufacturer's operations which may include, among others, publishing the announcement on the Manufacturer's website at [www.actall.com](http://www.actall.com) or by electronic mail notice to the Dealer. Product must be delivered and accepted by the Dealer within 90 days of the date of the Purchase Order in order to maintain the quoted pricing on the Purchase Order. Any Purchase Order not subject to an Acceptance by the Dealer within 90 days from the date of Purchase Order acceptance by the Manufacturer shall be deemed cancelled and subject to resubmission by the Dealer unless the failure to deliver is caused by Manufacturer. Manufacturer will quote prices on specialized products upon request. All prices are exclusive of all goods

and services tax, harmonized sales tax and provincial sales taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by the Dealer under this Agreement.

9. **Terms of Payment.** Delayed payment terms will be determined on a Purchase-Order-by-Purchase-Order basis between Manufacturer and Dealer. If Manufacturer has agreed to extend credit to Dealer, and unless otherwise agreed to in a writing by the Manufacturer, all payments will be payable on a net basis 30 days after the delivery and Acceptance of the Product(s), Services and/or Software. Dealer shall pay for all Purchase Orders on the approved credit terms. All orders not subject to approved credit terms shall be prepaid prior to the time that Manufacturer consigns the Products or Software to any Shipper. Dealer shall pay interest on all late payments, calculated daily and compounded monthly, at the lesser of the rate of twelve percent (12%) per annum or the highest rate permissible under applicable law.
10. **Deemed Acceptance.** Unless Dealer notifies Manufacturer in writing of any rejection of any Product, Services or Software on or before the 10<sup>th</sup> business day following the day on which the Shipper delivers the Product or Software to the Dealer or the date of the provision of any Services by Manufacturer (the "Delivery Date"), the Dealer will be deemed to have accepted the Product and the Software as of the Delivery Date (an "Acceptance").
11. **Delivery:** All prices are free on board at 1270 Rosewood Crescent, North Vancouver, British Columbia, Canada V7P 1H4 and are quoted in Canadian dollars at the Manufacturer's principal address. All freight charges are borne by Dealer and are not included in quotations. The risk of loss or damage to the Products will transfer to the Dealer at the time that Manufacturer delivers the Product to the control of a third-party shipper (a "Shipper"). Shipping and insurance estimates will be provided by the Manufacturer based on third-party Shipper and insurer pricing, upon request.
12. **Returns.** No Product or Software may be returned unless the Product or Software is subject to a Warranty claim as provided for herein or Manufacturer approves the return. Restocking charges will be negotiated when a return materials authorization (an "RMA") number is issued by Manufacturer. No credit will be issued for damaged goods. No returns will be permitted after the 20<sup>th</sup> day following Acceptance. All freight charges, outgoing and incoming under any RMA, will be billed to the Dealer with the exception of returns due to warranty claims which shipping costs will be borne by Manufacturer. An RMA number is required for all returns or exchanges. Equipment sent to Manufacturer without an RMA number will not be accepted. The risk of loss or damage to the Products being returned under an RMA will remain with the Dealer until the Products are accepted at the Manufacturer's facilities stated in the RMA. The Dealer shall procure and maintain adequate insurance against loss of the Products with a reputable Shipper and shall provide the Manufacturer with details of the Shipper, shipment tracking number, estimated time of arrival, proof of insurance, and any other details reasonably requested by the Manufacturer promptly upon request.
13. **Minimum Sales Targets.** Reserved.
14. **Training, Documents and Demonstration:** Manufacturer shall provide price lists, technical data, installation data and initial Dealer setup marketing materials. Manufacturer agrees to provide training of sales and technical personnel at the Manufacturer's development office in North Vancouver, British Columbia or by remote means. Dealer shall pay for the cost of any such sales and technical training according to Manufacturer's current price list. Other training or on-site assistance for projects and the costs involved will be negotiated between Manufacturer and Dealer on a case-by-case basis.
15. **Right to Use Name and Marks.** Dealer may use Manufacturer's and Actall's name, trade name, service marks, and trademarks (collectively, the "Marks") solely in connection with the marketing, sale, installation, service and maintenance of Manufacturer's products during the term of this Agreement, but only to refer to and/or link the Products or Services to the PALS or ATLAS systems. Upon termination of this Agreement Dealer shall discontinue the use of Manufacturer's Marks and thereafter shall not use the Manufacturer's Marks directly or indirectly in connection with its business, nor use any other name, title or expression so nearly resembling the Marks as would likely lead to confusion or uncertainty or to deceive the public. This is a limited license of the Marks only and Dealer does not acquire any ownership interest in the Marks by the grant of this limited license. All rights in and to the Marks not otherwise granted to the Dealer by this Agreement are expressly reserved.
16. **Termination.** This Agreement may be terminated by Manufacturer for violation of the terms (including failure to remit timely payment for materials or services) of this Agreement at any time with 30 days' written notice to Dealer. Either Party may terminate this agreement without cause by giving the other party 90-

days' written notice. In the event of termination, this Agreement shall remain applicable to any orders for products which the Dealer has previously placed, and which have not been delivered to Dealer by Manufacturer.

17. **Confidentiality and Non-Disclosure Agreement.** Contemporaneously with the execution and delivery of this Agreement, Dealer has executed the form of Manufacturer Confidentiality and Non-Disclosure Agreement which is attached hereto as Exhibit A and made a part of this Agreement for all purposes by this reference thereto. The Manufacturer Confidentiality Agreement shall survive the termination of this Agreement in accordance with its terms.
18. **Force Majeure.** Except for obligations of payments to a Party, neither Party shall be held liable or responsible for failure or delay in fulfilling or performing any obligation of this Agreement in the event such failure or delay is due to acts of God, pandemics or other medical emergencies declared by the any U.S. or Canadian federal or any state government agency, fire, flood, war, explosion, terrorism, civil commotion, acts or omissions of any governmental authority, inability to obtain material, labor, equipment or transportation, or any other condition beyond the reasonable control of the affected Party, provided such Party has taken commercially reasonable steps to avert or mitigate such causes or conditions. Each Party agrees to give the other Party prompt written notice of the occurrence and the nature of any such condition, and the extent to which the affected Party will be unable to fully perform its obligation hereunder. Each Party further agrees to use all reasonable efforts to correct the condition as quickly as possible and to complete its obligations hereunder as promptly as reasonably practicable following the cessation of the cause or circumstances of such failure or delay. This provision may not be relied on by either Party to avoid performance under this Agreement to the extent said performance is possible.
19. **No Agency or Other Relationship.** This Agreement does not constitute Dealer as the agent, partner, co-joint venturer, franchisee or legal representative of Manufacturer, or the Manufacturer as the agent, partner, co-joint venturer, franchisee or legal representative of the Dealer. Neither Party is granted any express or implied right or authority by the other Party to assume or create any obligation or responsibility on behalf of or in the name of the other Party, or to bind the other Party in any manner or thing whatsoever. It is not the intention of the Parties to create, nor shall this Agreement be construed as creating, a partnership, joint venture, agency relationship, employee-employer relationship or association, or render the Parties liable as partners, co-venturers, agents, principals, employers or employees. Neither this Agreement nor the performance of any Services hereunder shall be deemed to result in either Party acting as a fiduciary for the other Party. Except as specifically set forth in Section 25, *Indemnification*, each Party's sole responsibility hereunder shall be to the other Party, and not individually to the other Party's shareholders, owners, directors or officers.
20. **No Recruitment.** Neither Party shall, without the express consent of the other Party, directly or indirectly, for itself or for any other person, firm, corporation, partnership, association or other entity, employ or attempt to employ or enter into any contractual arrangement with any of the other Party's Personnel, unless such Personnel has not been employed or engaged by such other Party for a period in excess of twelve (12) months. The Parties acknowledge and agree that, during the Term and for a period of twenty-four (24) months after termination of this Agreement, neither Party shall: (a) directly or indirectly induce or attempt to persuade any Personnel, shareholder, director, investor, client, customer or other participant in the other Parties' business to terminate such employment or other relationship with that Party; or (b) directly or indirectly induce or attempt to persuade any past, current or future customer, client, supplier, licensee or other business relation of the other Party to cease doing business with that Party or to direct any or all of its business to the other Party or any other person, firm, corporation, partnership, association or other entity, or in any way interfere with the relationship between any such customer, client, supplier, licensee or other business relation of the other Party.
21. **Limits of Liability.** The following shall apply to and shall govern any claim, action, demand, judgment or proceeding based on, arising out of, related to or in any manner connected with this Agreement or the subject matter hereof, regardless of the form of action: IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR: (1) CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL OR INDIRECT DAMAGES; OR (2) DAMAGES OF ANY KIND FOR LOSS OF PROFITS, REVENUE, DATA OR DATA USE; OR (3) DAMAGES OF ANY KIND FOR BUSINESS INTERRUPTION, LOST OR DAMAGED DATA OR LOSS OF BUSINESS INFORMATION, GOODWILL, REPUTATION OR PRIVACY, HOWEVER ARISING, WHETHER IN AN ACTION IN CONTRACT, TORT, UNDER STATUTE OR OTHERWISE, AND WHETHER OR NOT THE OTHER PARTY OR ANY OTHER PERSON COULD REASONABLY HAVE FORESEEN THE POSSIBILITY OR LIKELIHOOD OF SUCH

DAMAGES. IN NO EVENT SHALL MANUFACTURER'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO A BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE TOTAL OF THE AMOUNTS PAID TO MANUFACTURER FOR THE PRODUCTS AND SOFTWARE SOLD AND SERVICES RENDERED HEREUNDER WHICH AMOUNT BOTH MANUFACTURER AND THE DEALER EXPRESSLY AGREE IS REASONABLE, EQUITABLE AND NOT DISPROPORTIONATE TO THE POTENTIAL DAMAGE THAT WOULD BE INCURRED BY THE AGGRIEVED PARTY. This Section 21 shall survive any termination of this Agreement.

22. **Warranty:** Manufacturer warrants the Products and the Software to conform to the Manufacturer's specifications and to be free of defects in materials and workmanship under normal use for a period of 24 months from the date of commissioning (the "Warranty"). Within the Warranty term as set forth herein, Actall will repair or replace, at its option, all or any part of the warranted Product or Software that is found to be defective in materials and workmanship under normal use. Actall will not be responsible for dismantling and/or reinstalling charges related to any replaced Products or Software. To exercise the Warranty, Dealer must receive an RMA number from Manufacturer. Details of shipment will be arranged at that time. This Warranty does not apply in cases of improper installation, misuse, failure to follow installation and operation instructions, alteration, abuse, accident or tampering, and repair by anyone other than Actall. To the maximum extent permitted by applicable law, this Warranty is exclusive and expressly in lieu of all other warranties, obligations or liabilities, whether written, oral, express, or implied, including any warranty of merchantability or fitness for a particular purpose. This Warranty will not be modified or extended, and Manufacturer does not authorize any person to act on its behalf to modify, vary or extend this Warranty. This warranty will apply to Manufacturer Products and Software only. All Third-Party Equipment and accessories or attachments used in conjunction with Actall equipment, including batteries, are covered solely by the warranty provided by the third-party manufacturer, if any. This Warranty does not warrant the replacement of batteries that are used to power the Products.
23. **Warranties Expressly Limited. THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING OUT OF A COURSE OF DEALING OR OF PERFORMANCE, CUSTOM OR USAGE OF TRADE, EXCEPT OF TITLE AND AGAINST PATENT INFRINGEMENT.** This Section 23 shall survive any termination of this Agreement. Dealer may pass through to its customers all warranties granted by Manufacturer under this Agreement by delivering the attached form of *Notice of Warranty and Disclaimer* attached hereto as Exhibit B, and Manufacturer agrees to assist Dealer in processing any warranty claims relating to Products or Software.
24. **Dealer Acknowledgments and Representations.** Dealer acknowledges, represents and agrees that: (i) a properly installed and maintained real time locating system, such as PALS or ATLAS, may only reduce the risk of events such as burglary, robbery, personal injury and fire; (ii) a security system, such as PALS or ATLAS, does not insure or guarantee that there will be no death, personal damage and/or damage to property as a result of the use of such system; (iii) Manufacturer has not and does not claim that the Product may not be comprised and/or circumvented by third parties, or that the Product or Software will prevent any death, personal and/or bodily injury and/or damage to property resulting from burglary, robbery, fire or otherwise, or that the Product or Software will in all cases provide adequate warning or protection from any risk or danger; (iv) Dealer has been warned to follow all Manufacturer installation, operation and maintenance instructions; (v) Dealer has been advised, and Dealer will advise all End Users, to conduct routine Product and Software tests to confirm that all Products and Software are operating as specified; (vi) Dealer has been advised that changes in environmental conditions, electric or electronic disruptions or tampering, may cause the Product to not perform as expected; (vi) Dealer has been warned that unsupervised devices are subject to undetected failure due to malfunction, battery failure, tampering or changes in environment; (vii) Dealer is responsible for exercising due care and caution in installing, operating and maintaining any Product and Software; and (vi) Dealer has no intention to, and will not, sell any Product or Software to any retail consumer.
25. **Indemnification** Subject to the terms and conditions of this Agreement, Dealer shall indemnify, defend, and hold harmless the Indemnitees against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees, and the costs of enforcing any right to indemnification under this

Agreement and the cost of pursuing any insurance providers, incurred by any Indemnitee awarded against such Indemnitee in a final non-appealable judgment (collectively, "Losses"), arising out of or relating to any Claim of a third party: (i) alleging or relating to any negligent or more culpable act or omission of Dealer or its Personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement; (ii) alleging or relating to any bodily injury, death of any Person or damage to real or tangible personal property caused by the willful or negligent acts or omissions of Dealer or its Personnel; (iii) relating to a purchase of a Product, Services or Software by any person or entity purchasing directly or indirectly through Dealer or its Personnel and not directly relating to a claim of warranty breach by any Indemnitee; (iv) relating to any failure by Dealer or its Personnel to materially comply with any applicable Laws; or (v) alleging that the Dealer breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement.

- 26. Governing Law/Dispute Resolution.** This Agreement shall be construed and governed in accordance with the laws of British Columbia, Canada and the federal laws of Canada applicable therein, without giving effect to conflict of law provisions of any jurisdiction. In the event that a Party to this Agreement perceives the existence of a dispute with the other Party concerning any right or duty provided for herein, the President, Chief Executive Officer or designee with authority to resolve the dispute completely, of each of the Parties will, as soon as practicable, confer in an attempt to resolve the dispute. Any and all claims, disputes or controversies arising under, out of, or in connection with this Agreement, which have not been resolved in good faith negotiations between the Parties shall be resolved in a court of competent jurisdiction in the City of North Vancouver, British Columbia; provided, however, the Parties shall have the right to invoke self-help remedies (such as set-off). Venue for any judicial remedy shall reside exclusively in the provincial or federal courts having jurisdiction in or for North Vancouver, British Columbia. **EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.**
27. **Successors and Assigns.** The provisions of this Agreement shall be binding on and shall inure to the benefit of any permitted successors and assigns of the Parties.
28. **Entire Agreement.** This Agreement and all exhibits thereto constitutes the final, complete, and exclusive statement of the Agreement of the Parties with respect to the subject matter hereof and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.
29. **No Third-Party Beneficiaries.** Subject to Section 25, *Indemnification*, this Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
30. **Headings.** The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.
31. **Interpretation.** For purposes of this Agreement: (i) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole; (iv) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (v) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.
32. **Amendment and Waiver.** The Parties may not amend or waive this Agreement, except pursuant to a writing executed by the Party or Parties against whom any amendment or waiver is sought to be enforced.

**Actall Canada Inc.**

No failure or delay in: (i) exercising any right or remedy; or (ii) requiring the satisfaction of any condition, under this Agreement, and no course of dealing between the Parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose that it is given and is not to be construed as a waiver on any future occasion or against any Person. No single or partial exercise or any right or remedy under this Agreement precludes the simultaneous or subsequent exercise of any other right or remedy. To the extent any course of dealing, act, omission, failure, or delay in exercising any right or remedy under this Agreement constitutes the election of an inconsistent right or remedy, that election does not: (i) constitute a waiver of any right or remedy under this Agreement; (ii) limit or prevent the subsequent enforcement of any provision of this Agreement.

33. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (other than routine communications having no legal effect) must be in writing and will be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile, with confirmation of transmission or receipt, if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. All notices must be in writing and addressed to the relevant Party at its address set out in the preamble (or to such other address such Party specifies in accordance with this Section 33).
34. **Severability.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed, and enforced in such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein.
35. **Survival of Certain Provisions.** The termination of this Agreement shall not affect any of the provisions of this Agreement that by their nature are intended to continue after termination. All other provisions of this Agreement shall not survive the expiration or earlier termination of this Agreement.
36. **Counterparts and Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.
37. **Affirmation of the Parties.** The Parties affirm that they have entered into this Agreement freely, voluntarily, and without reliance on any promises, representations, or other statements not contained in this Agreement and that they have read and understood this Agreement.
38. **English Language.** It is the express wish of the parties that this Agreement and all related documents, including notices and other communications, be drawn up in the English language only. *Il est la volonté expresse des parties que cette convention et tous les documents s’y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.*”

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**Actall Canada Inc.**

By:

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Robert K. Hampe, President

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By:

**Actall Canada Inc.**

\_\_\_\_\_

Name: \_\_\_\_\_

Its duly authorized representative



**Exhibit A to the Actall Canada Inc. Dealer Agreement  
Form of Confidentiality and Non-Disclosure Agreement**

This Confidentiality and Non-Disclosure Agreement (the "Agreement"), is made as of \_\_\_\_\_, 20\_\_\_\_ between Actall Canada Inc., located at 1270 Rosewood Crescent, North Vancouver, British Columbia, Canada V7P 1H4 and its affiliates (hereinafter collectively referred to as "Manufacturer") and \_\_\_\_\_, a \_\_\_\_\_ located \_\_\_\_\_ at \_\_\_\_\_ (the "Dealer").

**Whereas:**

- A. Manufacturer has developed a unique process for monitoring the location and status of assets and/or personnel (the "Proprietary Process") which incorporates a combination of: (i) proprietary hardware and software (said software incorporating user-friendly programs and displays); (ii) various wireless and wired technologies; and (iii) unique methods of accessing and interfacing with the aforementioned hardware and software, and outside processes and/or systems; and
- B. In conjunction with a Dealer Agreement (attached hereto and incorporated herein by reference), Manufacturer may disclose certain aspects of the Proprietary Process to the Dealer, utilizing the Proprietary Process or "Proprietary Materials" (as defined below); and
- C. The Dealer is a potential competitor of Manufacturer and could severely damage Manufacturer's economic viability if the Dealer misappropriated the Proprietary Process or the Proprietary Material. Due to such unfair competition concerns, and the unique and confidential nature of the Proprietary Process and Proprietary Material, the Dealer agrees to the confidentiality and related obligations set forth below as a condition precedent to receiving information concerning the Proprietary Process or Proprietary Material.

**Now Therefore**, in consideration of \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. **Definition of Proprietary Material.** The term "Proprietary Material" will mean the Proprietary Process, and all associated materials, marks, information and consultations, whether oral, written or electronically communicated, which Manufacturer provides to the Dealer on or after the Effective Date hereof, including, but not limited to any source codes, object codes, algorithms, and hardware designs, which constitute part of the Proprietary Process or are predicated upon specifications, characterizations or designs suggested by Manufacturer, or the methodologies, schematics, processes, interfaces, protocols and concepts constituting the Proprietary Process, including, but not limited to, any patents, trademarks, copyrights and all other intellectual property rights associated therewith. The Proprietary Material shall not include any information which is freely available, or is made freely available, in the public domain, including, but not limited to: Manufacturer's website(s), distributed manuals and marketing materials, product data sheets, and hardware or software installed in the normal course of business.
2. **Ownership Rights.** The Dealer acknowledges and agrees that Manufacturer has the exclusive copyright, proprietary, ownership, patent and use rights to all the Proprietary Material throughout the world, whether such rights currently exist or are recognized in the future, as well as to the following: (i) all technical data, written material and oral disclosures including, but not limited to, research, plans, methodologies, communications uplinks, software, developments, inventions, formulas, technology, designs, drawings, engineering, hardware configuration, schematics, flow charts and other information which concern or constitute part of the Proprietary Material; (ii) all concepts, know-how or techniques concerning and applications of the Proprietary Material; (iii) all future modifications to, improvements and extensions of the Proprietary Material; (iv) all derivative works based on the Proprietary Process and/or information derived from the Proprietary Material; and (v) the rights to exploit the Proprietary Materials and the business strategies identified therein commercially.
3. **Acknowledgments.** The Dealer acknowledges that: (i) the Proprietary Material is highly confidential and constitutes trade secrets of Manufacturer, within the meaning of trade secrets laws of Canada and British Columbia (collectively the "Trade Secrets Law"); (ii) Manufacturer exclusively owns the Proprietary Material; (iii) Manufacturer has invested substantial amounts of

time, money and effort to develop and will continue to invest substantial amounts of money, time and effort to maintain the Proprietary Material and has implemented procedures to maintain the confidentiality of the Proprietary Material; (iv) the Dealer itself and/or other competitors of Manufacturer would obtain unfair economic and competitive advantages if the Proprietary Material was divulged or used in competition with Manufacturer; (vi) Manufacturer would suffer irreparable and continuing injury if the Proprietary Material was disclosed or used in competition with it; and (vii) the useful life of the Proprietary Material as trade secrets within the meaning of the Trade Secrets Law is unlimited. The Dealer acknowledges that the marking of all or a portion of the Proprietary Material with Manufacturer's copyright notice in no way diminishes the trade secret status of the Proprietary Material so marked, and instead merely identifies Manufacturer's ownership of the copyright to such Proprietary Material.

4. **Confidentiality.** The Dealer agrees that, whether or not it enters into a venture with Manufacturer to utilize or exploit the Proprietary Process, the Dealer shall: (i) hold the Proprietary Material in trust solely for Manufacturer's benefit and use; (ii) not directly or indirectly sell, alienate, transfer, assign, disclose or divulge Proprietary Material to any person or entity without obtaining Manufacturer's prior, written permission; (iii) allow only those individuals who are in its employment as officers or executive level employees and who have a "need to know" and covered under a separate non-disclosure agreement with the Dealer, to maintain or have access to Proprietary Material; and (iv) not directly or indirectly use Proprietary Material or any related information for the benefit of any individual or entity, including itself, nor in any way utilize or exploit the Proprietary Process, or other Proprietary Material commercially, other than as Manufacturer specifically authorizes in a written instrument it executes, nor reverse engineer, disassemble or otherwise develop or use software, hardware, or processes similar to the Proprietary Process or Proprietary Material, or designed from or predicated on Proprietary Material.
5. **Injunctive and Other Relief.** The Dealer acknowledges that if it breaches or threatens to breach any of its obligations under this Agreement, it will cause damage of an irreparable and continuing nature to Manufacturer, for which money damages alone will not provide adequate relief. Therefore, in addition to money damages, Manufacturer is entitled to seek specific performance and to obtain injunctive relief (including but not limited to a temporary restraining order) to prohibit the Dealer's continuing breach or threatened breach under this Agreement. The Dealer irrevocably consents to the grant of any such equitable relief. Manufacturer will have the right to obtain such relief without having to prove any damages or post any bond. Such remedy shall not be deemed to be the exclusive remedy for any such breach of this Agreement but shall be in addition to all other remedies available at law or in equity. No failure or delay by the Manufacturer in exercising any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power, or privilege under this Agreement.
6. **Survival of Covenants.** Regarding Proprietary Material that constitutes trade secrets of the Manufacturer, the Dealer's confidentiality obligations under this Agreement shall survive for an unlimited period of time, or until the applicable Proprietary Material becomes part of the public domain through no fault of the Dealer. Regarding Proprietary Material that does not constitute trade secrets of the Manufacturer, the Dealer's confidentiality obligations under this Agreement shall survive for the term of the Dealer Agreement and shall thereafter survive, regardless of the reason for the termination, for a period of five (5) years.
7. **Title Protection.** The Dealer covenants that it shall not attack, compromise, file suit against or in any manner attempt to vitiate or commit or fail to take any action that could vitiate any of Manufacturer's rights, titles or interests in the Proprietary Material.
8. **Indemnification.** The Dealer will defend, indemnify and hold harmless Manufacturer and its subsidiaries, officers, directors, shareholders, partners, agents, successors, assigns and affiliates (collectively the "Indemnitees"), on demand, from any liabilities and expenses, including but not limited to attorneys' and accountants' fees, investigation costs, travel costs, transcript costs, disbursements, settlement amounts, judgments, lost profits, lost business opportunities, fines or penalties, which any Indemnities incur in connection with, in settlement of or resulting from any claims, actions, suits or proceedings (whether civil, criminal, administrative or investigative, including all associated appeals) which involve or threaten any Indemnities, as parties or

otherwise, that are in any way based upon or associated with the Dealer's failure to satisfy its obligations set forth in this Agreement.

9. **Return of Data.** If the Dealer and Manufacturer do not enter into a written agreement to utilize or exploit the Proprietary Process or Proprietary Material, or upon the written request of Manufacturer, the Dealer immediately will return to Manufacturer all the Proprietary Material and all notes, data, reference material, software, memoranda, programs, documents and records which pertain to or incorporate, and all other information which in any way relates to, the Proprietary Material. The Dealer will not retain any copies or abstracts of the foregoing items in any media.
10. **No Warranty.** Although Manufacturer will endeavor to include relevant material in the Proprietary Material, the Dealer understands that Manufacturer has not made and in fact specifically disclaims and the Dealer specifically waives all representations and warranties of any kind or nature, including but not limited to: (i) the completeness of the Proprietary Material; (ii) the amount of revenues that will be generated from the use of the Proprietary Process; and (iii) the overall potential performance of any venture.
11. **Non-exclusive.** Manufacturer retains the right to solicit entities other than the Dealer to consider the Proprietary Process, whether or not such other entities are in competition with the Dealer.
12. **Complete Understanding.** This Agreement constitutes the complete understanding between the parties related to the subject matter hereof. No alteration or modification of any of this Agreement's provisions shall be valid unless made in writing and signed by both parties.
13. **Applicable Law.** The laws of the Province of British Columbia, Canada and the federal laws of Canada applicable therein (other than those pertaining to conflicts of law) will govern all aspects of this Agreement, irrespective of the fact that one or more of the parties now is or may become a resident of a different jurisdiction. The parties will submit all disputes which arise under this Agreement to provincial or federal courts located in the City of North Vancouver, British Columbia, for resolution. The parties acknowledge the aforesaid courts will have exclusive jurisdiction over this Agreement and specifically waive any claims which they may have that involve jurisdiction or venue, including but not limited to forum non conveniens. Service of process for any claims that arise under this Agreement will be valid if sent to the applicable party's last known mailing address. If service of process is made as aforesaid, the party served agrees that such service will constitute valid service, and specifically waives any objections the party served may have under any state or federal law or rule concerning service of process. Service of process in accordance with this Section shall be in addition to and not to the exclusion of any other service of process method legally available. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS AND SCHEDULES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.
14. **Amendments.** The parties may not amend this Agreement, except in a writing executed by the party against whom the amendment is sought to be enforced.
15. **Severability.** If any provision of this Agreement or its application to any party or circumstance is held invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application of that provision to the other parties or to other circumstances is not affected and is to be enforced to the fullest extent permitted by applicable law. If any court determines that any provision of this Agreement is unenforceable because of the duration or geographic scope of that provision, the court has the power to reduce the duration or geographic scope of that provision, as the case may be, so that in its reduced form the provision is enforceable.
16. **Merger.** This Agreement constitutes the final agreement between the parties with respect to the subject matter of this Agreement. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement may

**Actall Canada Inc.**

not be explained, supplemented, or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied upon any statement, representation, warranty, or agreement of the other party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement other than those expressly stated in this Agreement.

- 17. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, taken together, shall constitute one and the same instrument.
- 18. **English Language.** It is the express wish of the parties that this Agreement and all related documents, including notices and other communications, be drawn up in the English language only. *Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.*

**IN WITNESS WHEREOF**, the parties have affixed their signature effective as of the date first written above.

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**By:**

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Name

Its duly authorized representative

**ACTALL Canada Inc.:**

**By:**

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Robert K. Hampe, Chief Executive Officer



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## DEALER AGREEMENT

### **Exhibit B to the Actall Canada Inc. Dealer Agreement NOTICE OF WARRANTY & DISCLAIMER**

#### **NOTICE TO USERS OF THE ACTALL CORPORATION PALS OR ATLAS LOCATION SERVICES SYSTEMS**

#### **WARRANTY & DISCLAIMER**

Actall Canada Inc. ("Actall") provides a twelve month warranty for hardware and software products that we manufacture ("Products") and warrants that each Product will be in free of defects in materials and workmanship (under normal wear and tear) for the twenty-four months of the Product's lifecycle, commencing on the Product commissioning date, whether purchased directly from Actall or an authorized Actall Dealer. Within the warranty period Actall will repair or replace, at its option, all or any part of the warranted Product. Actall is not and will not be responsible for dismantling and/or reinstalling charges for any Product. To exercise the warranty, the party or person employing the Product (the "User" or "Customer") must receive a Return Material Authorization ("RMA") number from Actall. Details of shipment will be arranged at that time. All shipping charges will be borne by the returning party. The risk of loss or damage to the Products being returned under an RMA will remain with the User until the Products are accepted at Actall's facilities stated in the RMA. The User shall procure and maintain adequate insurance against loss of the Products with a reputable shipping service and shall provide Actall with details of the carrier, shipment tracking number, estimated time of arrival, proof of insurance, and any other details reasonably requested by Actall promptly upon request.

This warranty applies to Products sold on or after January 1, 2020. This warranty does not apply in cases of improper installation, misuse, failure to follow installation and operation instructions, alteration, abuse, accident or tampering, and repair of any Product by anyone other than Actall.

This warranty is exclusive and expressly in lieu of all other warranties, obligations or liabilities, whether written, oral, express, or implied, including any warranty of merchantability or fitness for a particular purpose. Actall will not be liable to anyone for any consequential or incidental damages for breach of this warranty or any other warranties.

This warranty will apply to Actall Products only. All other products, accessories or attachments used in conjunction with Actall equipment, including batteries, will be covered solely by their manufacturer's warranty, if any. Actall will not be liable for any direct, incidental or consequential damage or loss whatsoever, caused by the malfunction of Product due to products, accessories, or attachments of other manufacturers, including batteries, used in conjunction with Actall products.

This warranty does not warrant the replacement of batteries that are used to power Actall Products.

The User recognizes that a properly installed and maintained security system may only reduce the risk of events such as burglary, robbery, personal injury and fire. It does not insure or guarantee that there will be no death, personal damage and/or damage to property as a result. Actall does not claim that the Product may not be compromised and/or circumvented, or that the Product will prevent any death, personal and/or bodily injury and/or damage to property resulting from burglary, robbery, fire or otherwise, or that the Product will in all cases provide adequate warning or protection.

Actall shall have no liability for any death, injury or damage, however incurred, based on a claim that Actall Products failed to function under any theory of liability. If, however, Actall is, for any reason, held liable, directly or indirectly, for any loss or damage arising under this limited warranty or otherwise, regardless of cause or origin, Actall's maximum liability will not in any case exceed the purchase price of the Product component, which will be fixed as liquidated damages and not as a penalty, and will be the complete and exclusive remedy against Actall, which amount both Actall and the User expressly agree is reasonable, equitable and not disproportionate to the potential damage that would be incurred by the aggrieved party.

**English Language.** It is the express wish of the parties that this Agreement and all related documents, including notices and other communications, be drawn up in the English language only. Il est la volonté

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**Actall Canada Inc.**

expresse des parties que cette convention et tous les documents s’y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.”

**!! WARNING:**

The User should follow all Product installation, operation and maintenance instructions. The User is strongly advised to conduct Product and systems tests at least once each week. Changes in environmental conditions, electric or electronic disruptions and tampering, may cause the Product to not perform as expected.

**!! WARNING:**

Actall warrants its Products to the User. The User is responsible for exercising all due care and prudence and taking necessary precautions for the safety and protection of lives and property wherever Actall Products are installed. Actall strongly advises the User to program Products to be supervised whenever used in applications affecting life safety. Users are warned that unsupervised Products are subject to undetected failure due to malfunction, battery failure, tampering or changes in environment.

**RETURN POLICY**

Customers desiring to return products to Actall for credit are required to obtain prior Actall approval. Products accepted for return will be subject to a 25% restocking fee and Actall acceptance of undamaged goods. No credit will be issued for damaged goods. No returns permitted after 30 days. All freight charges relative to returned Product, outgoing and incoming, will be billed to the Customer.



24/7 support | [support@actall.com](mailto:support@actall.com)