

Appical B.V. Delivery Conditions

Version 2.1

1 September 2021





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1. Applicability

1.1 These Terms and Conditions of Appical (the **Terms**) apply to all services provided by, proposals of and agreements with Appical for the sale and delivery of the Appical onboarding app.

1.2 For the purposes of these Terms, “**agreement**” means any and all understandings, agreements and contracts between Appical and Customer regarding the sale and delivery of the Appical onboarding app.

1.3 In the event a provision in these Terms is contrary to a provision in an Order, the provision in these Terms prevails, unless the Parties explicitly include in the provision in the Order that this provision prevails over the conflicting provision in the Terms.

2. Definitions

Admin-user License means a User License to use the Web Editor and thereby change settings and Customer Details in the Platform.

Appical means Appical B.V., with its registered office in Amsterdam (the Netherlands), registered with the chamber of commerce under number 34344448, VAT identification number 851129158B01.

Appical content means all details, content, logos, information and materials which are available via the Services, with the exception of Customer Details.

Customer means the party who purchases the Services from Appical under an Order.



Customer Details means all details and information, including, without limit, relating to logos of Customer, input of Customer in connection with the image, specifications of Customer's house style, employee details or other content which Customer or Users furnish to the Services.

End User app means the part of the Platform which must be downloaded by Customer and installed on a Supported Device to enable a User to use the Services via this Supported Device.

HR Forms means digital personnel information gathering form to be used by HR in relationship with the onboarding of the new employee. With the use of HR Forms multiple questions can be asked to the new employee.

Individual User license means a license which gives Customer the right to allow one individual user to use the Platform.

Order means an order or an Order agreed by Appical and Customer concerning the purchase by Customer of the Services.

Personal details means a User's first name, surname and e-mail address will be requested. A photo or questions through HR Forms is optional.

Platform means the Appical Platform, which is Appical's own software solution, which can be used to train personnel, e.g. for the 'onboarding' of new employees. The platform consists of the End User app and a Web Editor.

Services means the license granting the use of the Platform and making the Platform online available for use by Customer on Supported Devices, as well as the provision of the related support services as has been agreed in an Order.

Specifications means the description of the Services, encompassing the general specifications of the Services and the applicable technical and operational terms of use of these Services will be notified by Appical to Customer in writing (by e-mail) at least 30 days before the date of change.

Subcontractors means a third party which is not affiliated with Appical and which has been authorised by Appical to provide Customer with Services for the Platform.

Support Services means the standard maintenance and support services which are provided by Appical as specified in the SLA.

Term means the period specified in clause 10 during which Appical will continue to make the Services available to Customer and the Users.

Third Party Supplier means the third party which manages and controls the technical gateway and the distribution mechanism for loading End User apps on the relevant Supported Devices (like Apple for the loading of apps on iPads and iPhones).

Terms means these terms and conditions of Appical.

User means a Person whom Customer enables to make use of the Services.



User account means an account for a user in the Editor in which the user statistics relating to the relevant User are recorded. The User account is personal to the relevant User and may not be transferred to other persons, nor is it permitted that it is used by other persons.

User licenses means Individual User licenses and Admin User licenses.

Web Editor means the web interface via which Customer can log in on the Platform to change certain configuration settings and adjust specific aspects of Customer Details himself.

3. Terms relating to Third Party Suppliers

3.1. End user apps and all content appearing therein, must satisfy the regulations and restrictions which are imposed from time to time by the relevant Third Party Suppliers. Customer must see to it that all Customers details which he or his Users include in the Platform or furnish for inclusion in the Platform, comply with these regulations and restrictions within a reasonable period of time. Appical will see to it that the Platform and the Appical content comply with these regulations and restrictions.

3.2. Appical is not responsible or liable for a decision, refusal or approval by an Third Party Supplier with regard to an End User app and/or content of a Customer. However, if the approval of the End User app is refused or revoked by the relevant Third Party Supplier and Appical cannot have this decision reviewed within four (4) weeks after the original refusal and this is not caused by Customer Details entered therein, Appical will as the only remedy credit Customer, on his request, pro rata for all amounts paid or invoiced for that contract year for unused parts of the User licenses.

4. Provision of the Services

4.1. Appical provides the Services in accordance with the Specifications, on the condition that Customer complies with these Terms and timely pays all amounts due to Appical under the agreement.

4.2. Essential changes in the features or specifications of the Services described in the Specifications will be announced by Appical at least thirty (30) days in advance by means of a written notification by e-mail or via the website.

4.3. If a change in the Specifications has an essentially negative effect on Customer and Customer does not agree to the change, Customer must notify Appical thereof within thirty (30) days after receipt of the notice of the change. Appical will then discuss the change with Customer. If after this discussion Appical decides to implement the change, despite Customer maintaining his objections, Customer can terminate the non-expired User licenses at that time, in which case Appical will credit Customer the fees paid for the period that has not yet expired for those User licenses pro rata.

4.4. Appical will use reasonable endeavors to guarantee the timely availability and quality of the Services. The content management system only works real-time, in the event the system is down Customer will be informed about this within 4 hours. The up-time is within 2 to 8 hours. As soon as the problem has been resolved Customer will again be informed within 4 hours.



4.5. Appical is entitled to temporarily suspend the Services if this is necessary to implement a change in the Services or to execute preventive or corrective maintenance activities with regard to the Services. Appical will inform Customer in due time in advance and in writing (by e-mail) regarding activities planned by Appical which will have an expected significant effect on the Services.

5. Terms and restrictions of licenses

5.1. Only for the goal of the use of the Services in accordance with these Terms, will Customer be granted a non-exclusive, non-transferable license, which cannot be sub-licensed, for the duration of the Term to gain access, for Customer's own internal business purposes, to and make use of the Services for the number of User licenses that Customer has purchased and to thereby support his preboarding, onboarding and offboarding process. Customer may only make the use of the Services under this license possible for Users who are an employee or freelancer of Customer, unless explicitly otherwise agreed in the relevant Order. Customer also means the legal entities connected with Customer's parent company as referred to in Section 2:24 Dutch Civil Code (DCC).

5.2. Every User account is personal for the User to whom the account is allocated, and may not be used on behalf of another user.

5.3. The license for the use of the Services encompasses the use of all standard features and all standard templates ('feature pages') which are available for the adjustment of the Platform from time to time as described in the Specifications applicable at that time. Features and templates/feature pages for the adjusting of the Platform (which are referred to as such in the Specifications) are only included in the license for the use of the Services if this is explicitly agreed in an Order.

5.4. Access to the Web Editor to change Customer Details and to configure advanced settings is a premium feature which is only available for use by Customer, if Customer purchases one or more Admin User licenses.

5.5. Customer may only make use of the Services, if he still possesses valid User licenses for the use of the Services. User licences may not be transferred to third parties, nor may they be used on behalf of third parties.

5.6. Customer is not permitted, either directly or indirectly:

1. to subject the Services or the Platform to reverse engineering, to decompile it, to disassemble it or to attempt in some other way to determine the source code or underlying ideas or algorithms of the Services or the Platform;
2. to change or translate the Services or the Platform or create derivative works based thereon;
3. to lease, distribute, sell, re-sell, allocate or in some other way transfer rights to the Services or the Platform;
4. to use the Services or the Platform for time-sharing or service bureau purposes or to use them in some other way on behalf of a third party;
5. to remove notices of property rights of the Services or the Platform; or
6. to publish an evaluation of the Services or the Platform without Appical's prior written consent or to disclose such to third parties.

5.7. When using the Services, Customer may not breach the applicable laws and regulations, these terms, the license and use restrictions imposed by the relevant other suppliers and insofar as Appical has informed Customer



thereof in time or the reasonable instructions for use included in the Specifications stipulate such and will see to it that his Users will not do so either.

6. Passwords and security

6.1. Appical can't provide Customer with passwords for User accounts and/or the Web Editor. On request Appical can send the User a password reset mail after which an email will be sent to the registered email address of the User so a new password can be set. Customer is responsible for the confidentiality of all passwords used by his Users and by every other provider of Support Services designated by Customer.

6.2. Customer is fully responsible for all activities which take place under Customer's accounts in the Platform for the Web Editor and/or the User accounts and for all costs made for the use of the Services to which access has been gained with Customer's passwords, unless such an activity is the result of a security leak for which Appical bears responsibility.

6.3. Customer will immediately notify Appical of every unauthorised use of these passwords and of every breach of the security that Customer has knowledge of.

7. Obligations of Customer

7.1. Customer is responsible for the acquisition and the maintenance of all computer equipment and software and communication equipment (including the Supported Devices) which are necessary for access and the use of the Services, for the installation and updating of the End User app on the Supported Devices, and for the payment of all costs of third parties which are incurred during the use of the Services.

7.2. Customer must immediately notify Appical of disruptions in the Services. Customer must provide all desired cooperation to an investigation of a disruption in the Services.

7.3. Customer will notify Appical at least fourteen (14) days in advance of all expected peaks in or increases in his use of the Services, to prevent overloading the Services and/or the networks and systems of Appical's suppliers. Appical does not have any responsibility for any disruption of the Services as a result of a default on the part of Customer to give such prior notice to Appical.

8. Intellectual property rights

8.1. All of Appical's intellectual property rights in, inter alia, Appical content, the Platform and the Services lie exclusively with Appical or its licensors. All of Customer's intellectual property rights lie exclusively with Customer or his licensors.

8.2. Appical acquires all intellectual property rights, with the exception of Customer Details which remain Customer's property, which arise in the framework of the Services. These intellectual property rights will be transferred by Customer to Appical in advance, in anticipation of the time that the intellectual property rights arise. This transfer is hereby accepted by Appical in anticipation of the time the rights arise.



8.3. Customer hereby grants Appical a license to use, reproduce, change, distribute and represent (to Customer and Users) Customer Details, with the exception of employee details insofar as necessary for provision of the Services.

9. Prices and payment for the Services

9.1 Customer will purchase User licenses for the use of the Services. The User licenses are subscription licenses for which Customer periodically owes subscription fees, as specified in the Order.

9.2 If Customer uses more User licenses during the Term, Appical will invoice such User licenses according to the tier as set forth in the Order.

9.3 All prices are in euros, unless explicitly otherwise stipulated in the relevant Order.

9.4 Customer will pay all invoices from Appical within thirty (30) days after the invoice date.

9.5 Customer shall not be entitled to invoke any set-off.

9.6 The price for the licenses is determined by the pricelist for User licenses applicable at that time, as notified by Appical to Customer in writing. Appical is entitled to increase prices on a yearly basis, at a minimum with the consumer's price index (CPI).

9.7 If Appical provides a discount, such discount shall apply only to the Services specifically identified in the Order. The discount will expire upon any renewal of the Order.

9.8 Every substantial price increase for User licenses for subsequent extensions will be announced to Customer at least one (1) month in advance by e-mail.

9.9 In addition to the agreed fees, Customer will pay all applicable sales, use and other taxes or charges (excluding taxes levied over Appical's income) which apply to the invoiced amounts and the Services.

9.10 Every amount that has not been received from Customer on the due date, will (except with regard to costs in respect of which there is a dispute as to their being reasonable and in good faith) increased by the statutory commercial interest ("wettelijke handelsrente") over the outstanding amount per month as of the due date of the relevant payment until the payment date. Customer will also pay all costs, including reasonable legal costs, which are made to collect payments in arrears.

9.11 If Customer is of the opinion that the invoice is incorrect, after presenting the invoice containing the disputed amount Customer must contact Appical within 14 days after the invoice date and motivate its objections in writing.

9.12 No restitution will take place on paid licenses which are not used during that year.

10. Term and termination

10.1. The Term for User licenses starts 6 weeks after the date on which the Order was agreed by both Parties, or an earlier date when the Platform is in use before such date.

10.2. The number of licenses cannot be reduced during the Term. Extra licenses can be bought.



10.3. If Customer orders additional User licenses after the start of the Term, the Term of these additional User licenses will end on the same date as the date that applies for the User licenses purchased at first instance, so that the Term for all User licenses always has the same end date.

10.4. The Order is entered into for the term stated in the Order. Upon the expiration of this term, the Order shall automatically be renewed for consecutive terms equal to the initial term of the Order, unless Customer or Appical has terminated the Order in writing no later than two (2) months prior to the then current term of the Order or has submitted a request in writing to amend the Services or the volume thereof.

10.5 Each of the Parties can terminate the agreement and all Orders by means of written notice, if:

- A. the other party has breached an essential condition of an Order and/or of these terms and has not rectified this breach at latest thirty (30) days after receipt of a warning from the non-breaching party in which the breach is precisely described;
- B. proceedings are instituted by, for or against the other party under any bankruptcy, insolvency or debt relief legislation; or
- C. the other party is liquidated or dissolved.

10.6 If Customer or Appical terminates an Order, Customer is obliged to pay the outstanding balance for all Services provided before the termination. Mid-term cancellation of the Order is not possible unless Clause 10.5 is applicable.

10.7 After the effective date when the Term expires or is terminated, for whatever reason, either by Customer or by Appical, Customer's right to use the services and the Platform will immediately cease to exist, while Customer during a period of fifteen (15) days has the opportunity to download Customer Details, insofar as these Customer Details can be downloaded separately from the Platform and are not included therein.

11. Service Levels and liability

11.1 Appical makes all reasonable efforts to make the Services available to Customer as set out in the Service Description/SLA. However, Appical cannot guarantee uninterrupted or continuous availability or accessibility of the Services, or the Services being error-free. Reduced availability can, for example, result from maintenance activities, bugs, errors, internet fall-out etc. Appical is never liable for damages incurred due to the Services and or any other applications not being available or accessible, or not functioning properly or at all functioning.

11.2 Appical is not liable for malfunctions of the Services which are wholly or partly caused by (i) Users, Customer, Customer's equipment or network, other suppliers or Subcontractors, unless they have been engaged by Appical; or (ii) force majeure, as specified in Clause 15.

11.3 Customer's sole remedy in the event of any malfunction of the Services is limited to the resources Customer has as described in the Service Description/SLA, including any applicable penalty as may apply.

11.4 Appical's total liability ensuing from or in any way connected with the Agreement or the Services will in no event amount to more than the amount or amounts paid by its insurer, increased with the excess Appical bears



under this insurance. Every other claim for damages, for whatever reason, is excluded unless there is intent or gross negligence (“*opzet of aan opzet grenzende roekeloosheid*”) on the part of the senior management of Appical.

11.5 Except for infringement by Customer of the provisions in Clause 5 or infringement by a party of the provisions in Clause 15, both parties and their suppliers are in no event liable (a) for indirect, special, criminal or consequential damage, including, but not limited to, lost profit, operating losses or revenue loss, or (b) to third parties who demand compensation via Customer, not even if Appical was informed in advance of the possibility of such loss.

11.6 Any liability of the shareholders, directors and managers of Appical and employees, freelancers and third parties engaged by Appical is explicitly excluded. These persons/entities can rely upon this third party clause.

12. Indemnification

12.1. Appical indemnifies Customer against the reasonable out-of-pocket costs made as a result of an allegation that the technology used to provide the Services (with the exception of Customer Details) infringes a patent, copyright, trademark or manufacturing or business secret and Appical will assist Customer with a court procedure against Customer regarding this allegation or reaching a settlement agreement, provided that: (i) Appical is immediately notified in writing of such claim or lawsuit; (ii) Appical or the person/agency appointed by Appical has the exclusive control over the defense and/or the settlement; and (iii) Customer furnishes all information reasonably possible and provides all cooperation requested by Appical or the person/agency appointed by Appical.

12.2 Insofar the use of the Services is prohibited or can be prohibited as a result of a claim of a third party, Appical can, up to its sole discretion: (i) on behalf of Customer purchase the right to use the Services; (ii) replace the Services with other suitable products; or (iii) transfer the advance amounts paid by Customer for unused Services, provided that Customer opts to extend the cooperation.

12.3 Appical accepts no liability under this paragraph in other respects insofar as a claim or lawsuit is based on:

- A. use of the Services in combination with software or computer equipment which has not been delivered by Appical, which use would not have constituted an infringement in the absence of this combination;
- B. changes in the Services which have not been made by Appical, which use would have not constituted an infringement in the absence of these changes;
- C. use of the Services which is not in accordance with these terms; or
- D. an act or omission of Customer for which Customer is obliged to indemnify Appical in accordance with Clause 12.4 below.

12.4 Customer indemnifies Appical against, defends Appical against, or at his election will make a settlement for every claim or lawsuit of a third party which is based on a claim ensuing from a failure of Customer to use the Services in accordance with all applicable laws and regulations; or (ii) which is connected with or based on Customer Details. Appical will immediately notify Customer of such claim or lawsuit and will furnish all information and provide all assistance which Customer or the person/agency appointed by him reasonably requests.

13. Confidentiality



13.1. Each of the parties agrees to be subject to a duty of confidentiality in respect of all non-public information of the other party, whether or not in writing, which in the course of the execution of an Order is announced by the other party and for which a party knows or should reasonably know that the announcing party deems it confidential ('confidential information').

13.2. The parties hereby agree that the confidential information includes the terms and conditions of all Orders and all discussions relating thereto. The receiving party may not disclose, use, pass on, furnish any confidential information or make any confidential information available to an entity, person or agency, except insofar as such is necessary in the framework of the performance of its obligations under the heading of the relevant contract, and it will take all measures which are reasonably necessary and suitable to preserve and protect the confidential information and the respective rights of the parties in this respect, whereby they at all times must observe at least a reasonable degree of care.

13.3. Each of the parties agrees to restrict the access to the confidential information of the other party to the employees or agents who require this access to perform the contract, and neither party will make confidential information available to another person or entity without the prior written consent of the other party, unless otherwise stipulated.

13.4. Confidential information does not include information which:

- A. at the time of announcement was common knowledge or becomes common knowledge in some way other than due to wrongful act or default of the receiving party; or
- B. the receiving party discloses information to a third party with the explicit written consent of the other party.

13.5. The disclosure of confidential information which is pursuant to the law must be disclosed in conformity with a summons, demand, order or other judicial or government process, is not deemed an infringement of this paragraph, provided the receiving party immediately notifies the other party of such summons, order, etc. so that this party has the opportunity to obtain a prejudgment measure or to object to the disclosure in some other way. This does not apply if the authorities determine that Appical is obligated to confidentiality.

13.6. After expiry or termination of the Term, for whatever reason, each of the parties will immediately return, on the written request of the other party, to the other party all copies of the confidential information of the other party or it will destroy such, depending on what the parties agree. All copies, notes or other derived materials relating to the confidential information, will be immediately retrieved or destroyed, as agreed, and such materials may not be kept or used by the receiving party in any form or for any reason.

14. Data protection and personal data

14.1 Each Party agrees that it will process personal data in accordance with the General Data Protection Regulation (GDPR).

14.2 The Parties will conclude the Appical data processing agreement and Customer is aware of the content of Appical's Privacy Policy.



14.3. It is the exclusive responsibility of Customer to obtain all rights and consents which are required from Users for the gathering and use of data relating to Users in the framework of the Services. Customer indemnifies Appical against any and all costs, damages and fines in the event it has not properly obtained the User's consent.

14.4. Appical has the right to analyse the data processed with the Services, in order to improve the quality, functionality, reliability and effectiveness of the Services and to gather use and market statistics. This analysis will be executed in a strictly anonymised way whereby no data will be gathered which can be traced to specific persons.

15. Force Majeure

15.1 Neither Party, provided that it has complied with the provisions of this Clause 15, shall be in breach of this Agreement, nor liable for any failure or delay in performance of its obligations under this Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("**Force Majeure**"), including any of the following: (a) Acts of God, including flood, earthquake, windstorm, pandemic, epidemic, outbreak, national or global crises or other natural disaster; (b) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; (c) terrorist attack, civil war, civil commotion or riots; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary license or consent; (f) fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the party seeking to rely on this clause or companies in the same group as such party) or accidental damage; (g) loss at sea; (h) extreme adverse weather conditions; (i) collapse of building structures, failure of plant machinery, machinery, computers or vehicles; (j) strikes, industrial action or lockouts; (k) non-performance by subcontractors; and (l) interruption or failure of utility service, including but not limited to electric power, gas or water. Notwithstanding the foregoing, no occurrence of an event of Force Majeure shall relieve Customer from its obligation to make payment for the Services already delivered hereunder.

15.2 The affected Party shall promptly notify the other Party in writing of the cause of the delay or non-performance and the likely duration thereof. If performance is not resumed within sixty (60) days after that notice period, each Party may terminate this Agreement immediately by written notice to the other Party.

16. Miscellaneous

16.1 The general terms and conditions of Customer are hereby explicitly excluded.

16.2 If any of the provisions in this Agreement is declared fully or partially null and void or otherwise not binding, the validity of the remaining provisions shall remain unimpaired, and the Parties shall immediately enter consultations on finding a solution that is in accordance with the spirit of this Agreement and that are as much as possible in conjunction with provisions of the provision declared null and void or invalid.

16.3 This Agreement shall be amended or altered only by a written agreement signed by the authorised representatives of the Parties.

16.4 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any



right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

16.5 The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by applicable laws.

16.6 This Agreement supersedes any and all prior agreements or arrangements between the Parties, unless the parties explicitly state otherwise in writing.

16.7 Each of the Parties shall be responsible for the costs of its respective professional advisers and agents in relation to the preparation, negotiation, execution and implementation of this Agreement.

17. Applicable law and jurisdiction

17.1 The Agreement, all Orders and any Proposal shall be governed by and construed in accordance with the laws of the Netherlands. The UN Convention on Contracts for the International Sale of Goods ('CISG') is expressly excluded.

17.2 Any dispute or claim arising out of or in connection with the Agreement or an Order, or the breach, termination or invalidity thereof, will be submitted exclusively to the competent court in Amsterdam, the Netherlands, unless Appical chooses to bring a dispute before the competent court of the country where Customer is established.