

General Terms of Business of AppTec GmbH

A. General terms

1. Scope of application

1.1 These General Terms of Business in conjunction with the provisions additionally stated in the order confirmation/invoice, where agreed, including:

- AppTec contractual conditions for the use of AppTec software products
- maintenance and support conditions

(henceforth referred to as “Terms of Business”), are deemed legal framework conditions for all services rendered by AppTec GmbH, St. Jakobs-Strasse 30, CH-4052 Basel (henceforth referred to as “AppTec”) to companies, legal entities or special funds under public law (henceforth referred to as the “Customer”), which are defined in further detail in the respective order confirmation/invoice (henceforth referred to as the “services”).

1.2 Terms of business of the Customer do not apply, even if AppTec has not expressly objected to their application in the individual case. Even if AppTec refers to a document that contains terms of business of the Customer or which in turn refers to same, this may not be construed as tacit agreement to the application of such terms of business.

1.3 Agreements reached with the Customer in individual cases (including ancillary agreements, supplements and amendments) always take precedence over these contractual conditions. A written contract or the written confirmation of AppTec is decisive for the content of such agreements.

1.4 The Terms of Business of AppTec are also valid in their respectively valid version as the framework agreement for future contracts on the performance of services with the same Customer, even if their application is not expressly agreed once again.

1.5 The provisions in Section A and Section B apply to all services rendered by AppTec, unless deviating provisions are expressly agreed.

2. Offer and contract conclusion

2.1 Offers on the part of AppTec are non-binding. Subject to deviating agreements, AppTec is committed to offers in this regard for a period of four (4) weeks.

2.2 A contract only arises upon written order confirmation or upon order performance by AppTec and is determined exclusively according to its content. The order confirmation contains the specific description of the services and the amount of the remuneration.

3. Deadlines and force majeure

3.1 Deadlines are non-binding, unless otherwise agreed in writing in the order confirmation.

3.2 AppTec is not responsible for force majeure, in particular the absence of staff without fault, outage of telecommunication connections, delay by upstream suppliers, official interventions or similar circumstances. AppTec shall inform the Customer of a case of force majeure in an appropriate manner. Should a case of force majeure last longer than four (4) weeks, each of the parties may extraordinarily terminate the affected IT services in writing.

4. Prices, payment, default, security payment and offsetting

4.1 All prices are stated before the application of the valid statutory value added tax.

- 4.2 The payment period, amount of the remuneration, payment method and due date are determined by the invoice. The Customer must assert objections to invoices without delay, yet no later than within fourteen (14) calendar days following receipt of the invoice. If no objection is submitted within this period, the invoices will be deemed to be accepted.
- 4.3 In the case of late payments received by AppTec, a flat-rate compensation of zero point five percent (0.5%) of the amount in arrears – yet no more than five percent (5%) of the amount in arrears – will be charged per week of default started. In the event that AppTec asserts further compensation claims, the flat-rate compensation will be taken into account. The Customer is free to furnish evidence of lesser damages.
- 4.4 In the event of circumstances that indicate a significant deterioration of the financial situation of the Customer, AppTec is permitted to request advance payments or security payments and to deny fulfilment of the obligations of AppTec until settlement of the advance payment or the security payment. The right to deny performance pursuant to Point 6 remains unaffected. If the request of AppTec is not satisfied within a reasonable period set by AppTec, AppTec shall be permitted to withdraw from the contract or to terminate same on important grounds without observing a notice period and/or to demand compensation. Further rights of AppTec remain unaffected.
- 4.5 The Customer may only offset with counterclaims that are accepted by AppTec or which are undisputed or are legally determined in court.

5. Warranty

- 5.1 The statutory provisions on warranty apply.
- 5.2 Where third-party products (software or hardware) are integrated into service performance, in particular as part of SaaS services and on-premise operations, AppTec shall be liable for faults of these products in accordance with the liability limitation pursuant to Point 7. AppTec denies any responsibility for faults of open-source software as well as for third-party software whose configuration is merely controlled by AppTec software.
- 5.3 The Customer undertakes to inspect sold products without delay. Faults or malfunctions, disruptions or impairments must be reported to AppTec without delay and as precisely as possible.
- 5.4 The application of a duty to pay compensation on the part of AppTec is ruled out insofar as the applicable statutory regulation stipulates strict liability for initial defects of software.

6. Limitation

The limitation period for claims arising from breaches of duty on the part of AppTec and from claims for defects amounts to twelve (12) months, unless mandatory statutory limitation provisions apply.

7. Liability

- 7.1 AppTec shall render the owed contractual services with due care. A certain outcome is only owed in the case of its explicit written assurance in a separate contractual agreement.
- 7.2 AppTec shall be liable for intent and gross negligence in accordance with the statutory provisions; in the case of slight negligence, however, AppTec shall only be liable for injuries to life, limb or health.
- 7.3 In the event of slight negligence, AppTec shall otherwise be liable only for the breach of an essential contractual duty, whose fulfilment makes proper performance of the contract possible in the first place and in whose compliance the Customer trusts and may trust, to the amount of the typically foreseeable damage or the typically foreseeable expenses. In case of loss of data, the liability of AppTec is limited to compensation of the damage that would have occurred, had the Customer ensured a proper data backup.

- 7.4 The parties assume that the compensation pursuant to Point 7.3 will not exceed the amount of 50% of the contract value of the service subject to the dispute. Otherwise, the Customer shall expressly inform AppTec accordingly prior to order placement.
- 7.5 In particular, AppTec shall not be liable in any case for indirect damages, collateral damages, consequential damages, pure financial damages (such as loss of profit or non-realised savings), operational disruptions, loss of earnings or revenue and/or additional costs, atypical and unforeseeable damages as well as for damages which the Customer could have prevented had it implemented reasonable measures (such as data backup in particular).
- 7.6 Any further liability is ruled out.
- 7.7 Insofar as the liability of AppTec is excluded or limited, this also applies to the personal liability of employees, members of staff, workers, representatives and agents.

8. Confidentiality

- 8.1 The parties shall maintain secrecy with respect to all confidential information of which they become aware in connection with this contractual relationship and they shall only use same with respect to third parties according to the advance written agreement reached with the other party, regardless of the purpose. Confidential information includes the information marked as confidential by the disclosing party and such information whose confidentiality arises from the circumstances of disclosure.
- 8.2 The obligations according to Clause 1 do not apply to such information or parts thereof, for which the receiving party demonstrates that the information:
- a) was known or was publicly accessible prior to the date of receipt, or;
 - b) was lawfully disclosed by a third party after the date of receipt without a violation of confidentiality, or;
 - a) was disclosed or became accessible to the public prior to the date of receipt, or;
 - b) was known to, or was generally accessible for, the public following the date of receipt, without the receiving party being responsible for this.
- 8.3 The obligations according to Clause 1 are also applicable for an indefinite period following the end of the contract, until such time as an exception is determined pursuant to Clause 2.

9. Data protection

- 9.1 **Direct marketing:** AppTec points out to the Customer that the company email addresses provided in connection with contract conclusion may also be used for the purposes of promotional electronic communication. This only relates to the email addresses entered within the framework of registration, but not to the email addresses managed via AppTec software generally. The Customer or the affected email recipients have the right to object to such use at any time.
- 9.2 **Consent with respect to log and analysis data:** AppTec and its external service providers may collect and use logs for the purpose of facilitating the services, including for the protection, administration, measurement and improvement of services. Such logs may only be used in summarised, aggregated form. The collection and processing of customer-specific log data in support and warranty cases remain reserved, unless such collection and processes are already regulated in the maintenance and support agreement.

In addition, the following provisions apply to Customers based in the EU/EEA:

- 9.3 **Order processing:** Insofar as AppTec is commissioned with the processing of personal data, AppTec shall exclusively collect, process or use this data in compliance with the applicable statutory data protection regulations by means of order processing pursuant to Art. 28 of the General Data Protection Regulation (GDPR) according to the instructions of, and for the purposes of, the

Customer. If necessary, the Customer and AppTec shall enter into a corresponding agreement on order processing. In this case, the Customer and AppTec shall agree on the details regarding how AppTec shall handle the data of the Customer in order processing according to Art. 28 GDPR, which shall likewise satisfy the requirements of Art. 10a of the Swiss Data Protection Act (*Schweizerisches Datenschutzgesetz – DSG*).

- a) The Customer and AppTec shall ensure that the employees they engage are committed in writing to confidentiality and to processing only in accordance with the directives of the controller, in compliance with the GDPR (in particular Art. 28, 29 and 32), and are instructed accordingly. This applies accordingly to employees of subcontractors.
- b) The Customer shall bear any disadvantageous consequences arising from such instructions for contract fulfilment.
- c) The Customer remains the controller both generally in the contractual relationship and within the meaning of data protection law. Should the Customer process personal data in connection with the contract (including collection and use), it shall be responsible for ensuring that it is permitted to do so in accordance with the application regulations, particularly under data protection law, and shall indemnify AppTec from third-party claims in the event of a violation.
- d) AppTec guarantees that data of the Customer will be stored exclusively in the EU or in another contracting state to the Agreement on the European Economic Area (EAA) or in Switzerland, unless otherwise agreed.

10. Transfer of rights and obligations

- 10.1 AppTec is permitted to transfer its rights or obligations arising from this contract to third parties in whole or in part.
- 10.2 The Customer may neither transfer or delegate its rights and obligations arising from this contract in whole or in part without the advance written consent of AppTec, unless the Customer is able to transfer this contract wholly to an affiliated company or an interested successor in connection with a corporate reorganisation, consolidation, merger or sale of all or a significant part of its entire assets. The Customer shall notify AppTec following completion of a permissible transfer.
- 10.3 Any attempted transfer in violation of the above provisions is invalid.
- 10.4 The special conditions of Section B.I apply to the resale of software.

11. Right to deny performance

In the event of a justified suspicion of AppTec that conduct of the Customer or conduct of a third party attributable to the Customer evidently violates applicable law or the rights of third parties or these Terms of Business, AppTec may deny the performance of its services. AppTec shall promptly inform the Customer accordingly at least in writing. AppTec is permitted to make resumption of performance dependent on the Customer rectifying the unlawful situation and submitting a declaration of discontinuance to AppTec which includes a contractual penalty in order to eliminate the risk of recurrence.

12. Contractual term and termination

- 12.1 The following applies to services, which AppTec renders on the basis of a rental agreement, in particular SaaS (software as a service) services: unless otherwise agreed, the contract has a fixed term of twenty-four (24) months. It is automatically extended by the initial term if it is not terminated by one of the parties with a notice period of three (3) months to the end of the term or the extension. Termination must be made in writing.
- 12.2 Both parties reserve the right to extraordinary termination on important grounds according to statutory provisions. Important grounds for AppTec exist, in particular, if the Customer enters into default on the payment of a due remuneration for more than two (2) months in spite of a reminder.

Insofar as the Customer is responsible for the grounds of termination, the Customer undertakes to pay AppTec the agreed remuneration until the time at which the contract would end at the earliest in the event of ordinary termination.

- 12.3 Declarations of termination must be made in writing to be valid. Compliance with this requirement on the written form is necessary for the effectiveness of termination.

B. Special conditions

I. Sale of hardware and software

13. Product description

- 13.1 The products are described in further detail in the product description. Information about weights, quantities, loads, delivery periods, etc. is only binding if it is expressly stated as binding in the respective order confirmation.
- 13.2 The combination of third-party hardware or third-party software with AppTec products requires the advance written consent of AppTec. If such consent is given, these General Terms of Business still only apply to the products delivered by AppTec.
- 13.3 Further services (e.g. setup, connection, installation or customisation of products or services in combination with products) require a separate agreement. The conditions of Section B. III apply.

14. Delivery of products

AppTec shall deliver to the Customer the number of products defined in the order confirmation within the period likewise defined in the order confirmation. Delivery may also occur directly through an upstream supplier of AppTec. The delivery period commences upon dispatch of the order confirmation by AppTec, but not before the fulfilment of all cooperation duties on the part of the Customer and receipt of the advance payments defined in the order confirmation. Partial deliveries as well as deliveries prior to the stated delivery date are permissible.

15. Default on delivery and force majeure

- 15.1 In the event of a delivery delay attributable to AppTec, the Customer undertakes to declare within a reasonable period at the request of AppTec whether it still insists on delivery or withdraws from the contract due to the delay and/or demands compensation instead of the delivery. No complaint may be made for customary or technical deviations.
- 15.2 The Customer may only demand default damages at least in the event of gross negligence on the part of AppTec and following unsuccessful expiry of a reasonable grace period set by the Customer in writing. In the event of default on the part of upstream suppliers, the claim to compensation on the part of the Customer is limited to the assignment of the claims on the part of AppTec against the respective upstream supplier.
- 15.3 If the delivery is delayed due to the request of the Customer, AppTec may charge the Customer with the resulting damages.
- 15.4 AppTec is not responsible for force majeure, disruptions due to labour disputes, absence of personnel without fault, transport impediments, delay by upstream suppliers, official interventions or similar circumstances (henceforth referred to collectively as "force majeure"). AppTec shall inform the Customer regarding the beginning and end of the force majeure.
- 15.5 In the event of force majeure, AppTec is permitted at its own discretion to extend the delivery period by the duration of the force majeure or to withdraw from the contract in whole or in part. Withdrawal by AppTec is also possible following an extension of the delivery period. In the event of partial deliveries, AppTec may make a separate decision for each partial delivery. In the event

of withdrawal, any considerations settled by the Customer will be refunded. Claims to compensation on the part of the Customer are ruled out.

- 15.6 Should AppTec choose to extend the delivery period and if the force majeure lasts longer than three (3) months, the Customer may withdraw from the contract after setting a reasonable grace period in writing.

16. Transfer of risk and insurance

- 16.1 Delivery is made ex works or ex stock or from the upstream supplier upon receipt of delivery by the Customer. Upon receipt of delivery by the Customer, the risk of loss or damage to the product is transferred to the Customer.
- 16.2 If the products are ready for shipment and if receipt of delivery by the Customer is delayed for reasons not attributable to AppTec, the risk is transferred to the Customer upon receipt of the notification of readiness for shipment.
- 16.3 The Customer shall arrange insurance against the risks of transport.

17. Warranty for products

- 17.1 AppTec guarantees that the products essentially correspond to the product description (freedom from material defects). A further quality or use for other purposes than those stated in the product description is not owed.
- 17.2 The Customer shall conduct an appropriate incoming goods inspection. Obvious defects are to be reported to AppTec without delay (within three (3) days) in writing; hidden defects are to be reported without delay (within three (3) days) of their discovery. The Customer shall receive and properly store supplied products, even if they exhibit defects, without prejudice to the following rights.
- 17.3 AppTec shall rectify material defects by way of subsequent fulfilment at its discretion either by subsequent improvement or replacement delivery and assume the resulting costs (transport, carriage, work and material costs), insofar as these are not increased due to performance at a place other than the place of delivery. The Customer shall grant AppTec a reasonable period in writing for the rectification of material defects. In any case, subsequent fulfilment must be reasonable for both parties in terms of technical, economic, temporal and organisational aspects. The Customer agrees that subsequent fulfilment may also occur through reasonable workaround solutions.
- 17.4 If the defects are not successfully rectified within the grace period, the Customer may suitably reduce the remuneration of the affected product or withdraw from the contract regarding the affected products. Withdrawal due to only insignificant material damages is not possible. Notwithstanding the above, the Customer may demand compensation or reimbursement of expenses in accordance with the liability limitation in the event of unsuccessful subsequent fulfilment.

18. Delivery of software and documentation

- 18.1 Within the delivery period defined in the order confirmation, AppTec shall deliver to the Customer the quantity of data media likewise defined in the order confirmation which contain the software in object code as well as the associated documentation, where agreed. Alternatively, AppTec may provide the Customer the software and the documentation in the defined version for download by the delivery deadline.
- 18.2 The software is considered delivered if AppTec has sent the data media or provided the possibility to download the software and the documentation. Insofar as an alphanumeric code (referred to as the "licence key") is required for the use of the software, this will be provided to the Customer by email, unless otherwise agreed.

19. Granting of the licence and usage rights

- 19.1 The granting of usage rights and the licence is determined according to the AppTec contractual conditions for the use of AppTec software products and the underlying order confirmation/invoice.
- 19.2 If the Customer intends to transfer the software to a third party, this may only occur in full and in the original condition, and the Customer must demonstrate to AppTec by way of written documents that it has removed all components of the software (with the exception of automated backup copies) from its systems and has credibly and definitively discontinued use. Moreover, the Customer must demonstrate by way of written documents that the third party has committed to comply with these General Terms of Business and the applicable contractual conditions for the use of AppTec software products.

II. SaaS services and on-premise installation

20. General conditions

- 20.1 AppTec shall render services for the Customer in relation to the unified endpoint management platform. This includes solutions for mobile device, mobile app and mobile content management, digital signage management, gateway solutions and IoT management. The services may be rendered as SaaS (software as a service) services or as on-premise installations (henceforth referred to collectively as "SaaS"). Furthermore, AppTec shall render associated training, consulting or installation services if necessary (Section B. IV). The individual services to be rendered by AppTec for the Customer are defined in further detail in the order confirmation.
- 20.2 AppTec is permitted to render the owed services itself, through affiliated companies or through subcontractors at its discretion. The statutory liability for agents remains unaffected.
- 20.3 AppTec may discontinue voluntary unpaid services on the part of AppTec at any time in consideration of the justified interests of the Customer. Services are considered voluntary and unpaid if they are described as free in the order confirmation or if they are not expressly listed in the order confirmation as agreed paid services. Even without separate agreement, the normal remuneration (in case of doubt, the remuneration paid by other AppTec customers) must be paid for services on the part of AppTec, which are normally only rendered in exchange for remuneration and in whose performance the Customer may only expect in exchange for payment of the remuneration. Point 11 remains unaffected.
- 20.4 The Customer is not permitted without the advance written consent of AppTec to transfer SaaS services to third parties or enable use of same for third parties. However, AppTec shall not unreasonably deny consent for this. In the event that consent is given to transfer same to third parties, the Customer shall be liable for use by third parties.

21. Cooperation obligations

- 21.1 The Customer undertakes to fulfil all cooperation obligations and provision performances in its sphere of operations required for the SaaS services in good time, free of charge for AppTec and without being requested to do so.
- 21.2 In the case of on-premise solutions, the Customer is responsible itself for proper installation at the Customer's premises, commissioning and maintenance of supplied software. Both installation by AppTec as well as training and instruction of the Customer or its operators (end users) in use of the supplied software are not included in the scope of service. These services are only provided on the basis of a corresponding agreement and are charged separately.
- 21.3 The Customer undertakes to hold harmless and indemnify AppTec from all damages and charges that AppTec incurs as a result of the violation of these cooperation obligations on the part of the Customer.

22. Service alterations

Insofar as the Customer would like additional or fewer IT services compared to those IT services described in the order confirmation or service statement or should such additional or reduced services become necessary, this shall require an agreement between the parties in the form of a written supplement (referred to as a “change request”).

23. Warranty

The conditions in Section A.5 apply.

III. Services

24. Training, consulting or installation services

24.1 Insofar as AppTec renders training, consulting or installation services, the Customer shall ensure that the necessary requirements on the part of the Customer are satisfied, in particular that the necessary space and infrastructure, documents and personnel are made available.

Should the Customer fail to duly fulfil its cooperation obligations pursuant to Clause 1, the contractually agreed execution periods for AppTec will be extended accordingly. AppTec may charge additional costs caused by the delay, in particular for the extended provision of its own personnel or for its own materials. The contractual language is German.

C. Final provisions

25. Applicable law and legal venue

25.1 These General Terms of Business and the underlying contract are subject to Swiss substantive law. The application of the United Nations Convention on the International Sale of Goods dated 11 April 1980 is excluded.

25.2 The exclusive legal venue for all disputes arising from or in connection with this contract is the registered address of AppTec. However, APPTEC is also permitted to take legal action against the customer at its registered address in accordance with the applicable statutory provisions and the law applicable there.

26. Miscellaneous

26.1 This contract and amendments as well as all contractually relevant declarations, notifications and documentation obligations require the written form, unless a different form has been agreed or is prescribed by law. This also applies to a rescission of, or amendment to, this requirement for the written form.

26.2 Should individual provisions of this agreement be void, this will not thereby affect the validity of the remaining provisions. In this case, the parties will cooperate to replace the void provision with a valid provision that comes as close as possible to the intended purpose of the original provision.

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