

ApplicationLink

End User License Agreement

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS SERVICE.

BY USING THE SERVICE OR CLICKING “AGREE”, THE PARTNER IS AGREEING TO BE BOUND BY THIS AGREEMENT (“**AGREEMENT**”). IF YOU ARE ACTING ON BEHALF OF OR FOR THE BENEFIT OF YOUR EMPLOYER, YOU REPRESENT AND WARRANT THAT YOU HAVE THE NECESSARY AUTHORITY TO ENTER INTO THIS AGREEMENT ON YOUR EMPLOYER'S BEHALF.

This Agreement is between APPLICATIELINK BV, a Dutch corporation (“**APPLICATIONLINK**”), and the Partner agreeing to these terms (“**Partner**”).

In the event of any inconsistency or conflict between this End-User License Agreement (EULA) and any other terms and conditions, including but not limited to our General Terms & Conditions, the terms of this EULA shall prevail solely with respect to the subject matter covered herein (i.e., the use and licensing of the software). All other provisions of the Terms & Conditions shall remain in full force and effect. Our Terms & Conditions can be found via: <https://www.applicationlink.eu/terms-and-conditions>.

1. DEFINITIONS.

“**Authorized Users**” means the user(s) who have been granted access to manage and administer the Platform on behalf of the Partner. Authorized Users must be employees or contractors of the Partner.

“**Order**” means the ordering document (such as a Quote, Sales Order, Order, or Order Form) entered between the parties for Partner’s use of the Platform, and any other ancillary services and products provided by APPLICATIONLINK.

“**Integration**” means connecting software applications or data sources to enable seamless data exchange provided by the APPLICATIONLINK middleware platform.

“**Platform**” means the APPLICATIONLINK middleware platform, as further detailed and licensed under the applicable Order.

“**Partner Data**” means any data made available to APPLICATIONLINK by Partner through or in connection with the use of the Platform and this Agreement, including but not limited to, partner and invoice related data, which are processed by the Platform.

“**Documentation**” means the standard documentation and user manuals of the Platform, as made available to Partner from time to time.

“**Platform Analyses**” means aggregated information and data related to the Partner’s use of the Platform, the Platform’s functions and processes as carried out by the Partner and that does not identify the Partner (or its Authorized Users), as well as data and information retained or compiled by APPLICATIONLINK (or on APPLICATIONLINK’ behalf) by reviewing, using, processing, analyzing, and transforming data and information (which may include segments of Partner Data) for providing and/or improving the Platform or other product or service offerings.

2. SOFTWARE AS A SERVICE.

This Agreement provides Partner access to, and usage of an Internet based middleware platform as specified on an Order. Implementation services may also be provided by APPLICATIONLINK if so, specified under an order.

3. USE OF SERVICE.

a. Partner Data. All data uploaded by or on behalf of Partner to the Platform remains the property of Partner, as between APPLICATIONLINK and Partner (Partner Data). Partner grants APPLICATIONLINK the right to use the Partner Data solely for purposes of performing under this Agreement. Partner represents and warrants to APPLICATIONLINK that Partner has provided all required notices and has obtained all required licenses, permissions, and consents regarding Partner Data for use within the Platform under this Agreement.

b. Access and Usage. Partner may allow its Authorized Users to access the Platform in compliance with the terms of this Agreement, which access must be for the sole benefit of Partner. Partner is responsible for compliance with this Agreement by its Authorized Users.

c. Partner Responsibilities. Partner (i) must keep its passwords secure and confidential; (ii) is solely responsible for Partner Data and all activity in its account in the Platform; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account and notify APPLICATIONLINK promptly of any such unauthorized access;

and (iv) may use the Platform only in accordance with the Platform's user guide and applicable law.

d. Onboarding and Support. APPLICATIONLINK's support services are provided with the intention of assisting customers in using the Platform efficiently and effectively. Support is offered for standard functionality, technical issues, and general guidance, with the expectation that requests are reasonable, not excessive, and within normal usage limits. Requests should be clear and relevant to the platform's intended use. Support is not available for issues related to customizations, third-party software, or misuse, nor for excessive or repetitive inquiries that place an unreasonable burden on the support team. APPLICATIONLINK reserves the right to limit or suspend support services if these terms are not adhered to.

4. WARRANTY.

APPLICATIONLINK DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WHILE APPLICATIONLINK TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, APPLICATIONLINK DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED. PARTNER UNDERSTANDS THAT THE SERVICE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED. APPLICATIONLINK HAS NO RESPONSIBILITY OR LIABILITY FOR ANY OF PARTNER'S ACTIONS OR OMISSIONS IN USING THE APPLICATIONLINK MIDDLEWARE PLATFORM, WHICH ACTIONS OR OMISSIONS NEGATIVELY IMPACT OR IMPAIR PARTNERS USE OF THE SERVICE.

5. CONFIDENTIALITY AND NON-DISCOLOSURE AGREEMENT

a. Obligations if No NDA Exists. The party receiving the information (the "Receiving Party") agrees to use the confidential and proprietary information ("Confidential Information") of the party disclosing such Confidential Information (the "Disclosing Party") solely to the extent necessary to fulfil the Receiving Party's obligations or in order to exercise its rights hereunder, and not for any other purpose. The Receiving Party agrees to hold the Disclosing Party's Confidential Information in confidence, not to disclose such Confidential Information to third parties not authorized by the Disclosing Party, and to disclose such Confidential Information only to the Receiving Party's employees and contractors on a "need to know" basis. The Receiving Party agrees to take reasonable steps, using at least the same degree of care that it uses to protect its own Confidential Information, but no less than reasonable care, to protect the Disclosing Party's Confidential Information to ensure that such Confidential

Information is not disclosed, distributed or used in violation of the provisions of this Agreement. Neither Party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects that embody the other Party's Confidential Information and that are provided to the Receiving Party under this Agreement.

b. Disclosure by Request or Order from Authority. The foregoing prohibitions on disclosure of Confidential Information shall not apply to the extent certain Confidential Information is required to be disclosed by the Receiving Party as a matter of law or by order of a court of competent jurisdiction, provided that the Receiving Party uses reasonable efforts to provide the Disclosing Party with prior notice of such obligation in order to afford the Disclosing Party an opportunity to legally seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. The Receiving Party shall cooperate with any attempts by the Disclosing Party to obtain such protective order or other appropriate remedy. In the absence of a protective order or a receipt of a waiver, the Receiving Party agrees to furnish only that portion of the Confidential Information that it is legally required to disclose, and such disclosure shall not be a breach of this Agreement.

c. Ownership and Return of Confidential Information. The parties recognize and agree that nothing contained in this Agreement will be construed as granting any property rights, by license or otherwise, to any Confidential Information of the Disclosing Party. Each party shall retain ownership of all proprietary and intellectual property rights, title and interest in and to the Confidential Information and materials furnished by the Disclosing Party to the Receiving Party. Within thirty (30) days of the expiration or termination of this Agreement, each party shall return to the other party or destroy (as requested by the other party) all Confidential Information and materials provided under this Agreement to such party and an officer of the returning party shall certify completion of such return or destruction in writing to the other party upon request.

6. APPLICATIONLINK PROPERTY.

a. Reservation of Rights. The software, workflow processes, user interface, designs and Documentation (as defined below), and other technologies and related materials provided by APPLICATIONLINK as part of the Platform, and any derivatives thereto, are the proprietary property of APPLICATIONLINK and its licensors (as applicable), and all right, title and interest in and to such items, including all associated intellectual property rights, remain with APPLICATIONLINK. Partner may not remove or modify any proprietary marking or restrictive legends in the Platform and Documentation. APPLICATIONLINK reserves all rights not expressly granted herein.

b. Restrictions. Partner may not (i) sell, resell, rent or lease the Platform in a manner not expressly identified in the order; (ii) use the Platform for any unlawful, illegitimate, or wrongful purpose, (iv) interfere with or disrupt the integrity or performance of the Platform; (iv) attempt to gain unauthorized access to the Platform or its related systems or networks; (v) reverse engineer the Platform or the Documentation; or (vi) access the Platform or use the Documentation to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

c. Documentation. All Documentation provided by APPLICATIONLINK as part of the Platform, and the sample data, marketing materials, training material and other material provided through the Platform or by APPLICATIONLINK (Documentation) are licensed to Partner as follows: APPLICATIONLINK grants Partner a non-exclusive, non-transferable, terminable license during the term of this Agreement, to configure and use such Integration in accordance with the Documentation, solely in connection with the Platform. Partner is required to configure and maintain the integrations in the Platform in accordance with APPLICATIONLINK user guide. Partner acknowledges and agrees that: (i) use of the Integrations may cause an increase in its third-party vendor' fees when the Integrations query such third-party services, and (ii) Partner is responsible for any such increase in fees.

d. Anonymized Data. During and after the term of this agreement, APPLICATIONLINK may use and owns all anonymized data within the Platform for purposes of enhancing the Platform, aggregated statistical analysis, technical support and other business purposes.

7. DATA SECURITY MEASURES.

a. Reasonable Security Measures. In order to protect Partner's Confidential Information, APPLICATIONLINK will (i) implement and maintain all reasonable security measures appropriate to the nature of the Confidential Information including without limitation, technical, physical, administrative and organizational controls, and will maintain the confidentiality, security and integrity of such Confidential Information; (ii) implement and maintain industry standard systems and procedures for detecting, preventing and responding to attacks, intrusions, or other systems failures, and regularly test or otherwise monitor the effectiveness of the system's key controls and procedures; (iii) designate an employee or employees to coordinate implementation and maintenance of its reasonable security measures; and (iv) identify reasonably foreseeable internal and external risks to the security, confidentiality and integrity of Partner Confidential Information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any systems in place to control these risks.

b. Notice of Data Breach. If APPLICATIONLINK becomes aware that Partner Confidential Information has been accessed, disclosed, or acquired without proper authorization, and contrary to the terms of this Agreement, shall be subject to the data processing agreement, available at: <https://applicationlink.eu/data-processing-agreement>.

8. TERM AND TERMINATION.

a. Term. This Agreement continues until all orders are expired, cancelled by Partner or are terminated for material breach under Section 8(b).

b. Termination for Material Breach. If either party is in material breach of this Agreement, the other party may terminate this Agreement immediately if such breach is incapable of cure or at the end of a written 30-day notice/cure period if the breach has not been cured within such timeframe.

c. Anonymise of Partner Data. Subject to Section 5(c) above, within 60 days of the date of termination, upon request, APPLICATIONLINK will anonymise Partner Data at the expiration of such period.

d. Effect of Termination. Upon termination of this Agreement for any reason, Partner must destroy or return all property of APPLICATIONLINK as directed by APPLICATIONLINK. Upon APPLICATIONLINK request, Partner will confirm in writing its compliance with this requirement.

e. Suspension for Violations of Law. APPLICATIONLINK may temporarily suspend access to the Platform or remove the applicable Partner Data, or both, if it in good faith believes that, as part of using the Platform, Partner has violated a law. APPLICATIONLINK will attempt to contact Partner in advance regarding any such suspension or removal.

f. Suspension for Non-Payment. In addition, APPLICATIONLINK may temporarily suspend access to the Platform if Partner is more than 30 days late on any payment due pursuant to an order.

9. LIABILITY LIMIT.

a. Exclusion of indirect damages. APPLICATIONLINK is not liable for any indirect, special, incidental or consequential damages arising out of this Agreement (including, without limitation, costs of delay; loss of or unauthorized access to data or information; and lost profits, revenue or anticipated cost savings), even if it knows of the possibility of such damage or loss or if the damage or loss is foreseeable.

b. Total limit on liability. Except for APPLICATIONLINK indemnity obligations, APPLICATIONLINK total liability arising out of or related to this Agreement (whether in contract, tort or otherwise) is not to exceed the amount paid by Partner during the 12-month period prior to the event that gave rise to the liability.

10. INDEMNITY.

a. Infringement. APPLICATIONLINK has no obligation for any claim arising from the following: APPLICATIONLINK' compliance with Partner's specifications, a combination of the Platform utilized with other technology or aspects thereof where the infringement would not have occurred but for such combination or the use of Partner Data.

b. Governing law and forum. This Agreement is governed by the laws of the Netherlands (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this Agreement. Any suit or legal proceeding must be exclusively brought in the courts of Rotterdam, the Netherlands and each party submits to the personal jurisdiction and venue of such courts. Nothing in this Agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.

11. OTHER TERMS.

a. Entire Agreement and Changes. This Agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Partner is not relying on any representation concerning this subject matter, oral or written, not included in this Agreement, and no representation, promise or inducement not included herein is binding. No modification of this Agreement is effective unless both parties sign it, although this Agreement may be modified through an on-line process provided by APPLICATIONLINK. No waiver is effective unless the party waiving the right signs a waiver in writing.

b. No Assignment. Neither party may assign or transfer this Agreement or an order to a third party, except that this Agreement with all orders may be assigned, without the consent of the other party, as part of a merger, or sale of all or substantially all of the assets of a party.

c. Audit. APPLICATIONLINK may monitor Partner's Platform usage to review compliance with this Agreement and the order.

d. Independent Contractors. The parties are independent contractors with respect to each other. The term "Partner" as used herein does not refer to a legal partnership.

e. Enforceability and Force Majeure. If any term of this Agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of monies, neither party is liable for events beyond its reasonable control, including, without limitation, force majeure events.

f. Money Damages Insufficient. Any breach by a party of this Agreement or violation of the other party's intellectual property rights or Confidential Information could cause irreparable injury or harm to the other party. The aggrieved party may seek a court order to stop any breach or avoid any future breach.

g. Conflicting Terms. APPLICATIONLINK rejects conflicting terms of any Partner form-purchasing document (Order). Additionally, if Partner's order acknowledgment, invoice or any other communication from or on behalf of Partner contains provisions inconsistent with this Agreement, then this Agreement and its terms prevails, and APPLICATIONLINK hereby notifies Partner of its objection to and rejection of any such terms and conditions stated by Partner, whether or not material.

h. Order of Precedence. If there is an inconsistency between this Agreement and an order, the order prevails.

i. Survival of Terms. Any terms that by their nature survive termination of this Agreement for a party to assert its rights and receive the protections of this Agreement, will survive (including without limitation, the confidentiality terms).

j. Feedback. If Partner provides feedback or suggestions about the Platform or its Integrations, then APPLICATIONLINK (and those it allows to use its technology) may use such information without obligation to Partner.

k. Integration Setup. Partners are responsible for set-up of the Integration and for complete management of the Integration through the Platform.