



General Terms of Use
("Terms")
for the use of applications provided
free of charge on the marketplace
Version 1.0, last updated May 3, 2021

Preamble

Simplifier AG is the producer and creator of the Simplifier low-code platform (hereinafter “Simplifier”) and solutions based on it. In the low-code platform, Simplifier provides a technology that can be used to configure integrated applications in a manner that conserves resources. Via the marketplace, Simplifier also offers the possibility of using applications and content* created by Simplifier or third parties free of charge or of making one’s own applications available to other users free of charge on the marketplace. Placing, accessing, and using the content placed on Simplifier free of charge take place exclusively on the basis of the General Terms of Use set out below and on the basis of further terms and conditions where these are expressly referenced herein. Since third-party applications can be provided for use via the marketplace, there may be further terms and conditions of business that apply in addition.

1. Applicability

These General Terms of Use apply in the version hereof then current at the time of use (e.g., access to the application). They govern the use of the marketplace and also set out the terms for the use of the marketplace by users. These Terms apply accordingly to the provision of updates, extensions, and other changes to the content provided.

Simplifier reserves the right to amend these Terms of Use at any time with effect for the future where necessary for compelling reasons, particularly based on changes in the legal situation or case law at the supreme court level, technical changes or further developments, new organizational requirements for public transportation, gaps in the provisions of the Terms, changes in market circumstances, or other equivalent reasons, provided that this does not unreasonably disadvantage the user. Amendments to the Terms will be communicated to the user in writing or by e-mail at least six (6) weeks before they take effect. The changes will take effect if the user does not object in writing or by e-mail within this time limit of six (6) weeks (starting after receipt of the written change notification) and Simplifier has notified the user of this legal consequence in the change notification. In the case of services provided on a gratuitous basis, Simplifier is entitled to amend or revoke the Terms at any time or to replace them with other general terms of use and to make new services available on a gratuitous or non-gratuitous basis.

These Terms apply on an exclusive basis. Simplifier rejects the application of any terms and conditions of business of the users or third parties. General terms and conditions of business of the user or third parties that deviate from, conflict with, or supplement these Terms will become an element of the contract only if and to the extent that Simplifier has expressly consented in writing to the application thereof.

2. Usability of the Simplifier marketplace

Simplifier provides the marketplace in the then-available form, with the then-available functions. Simplifier has the right to modify the functions or appearance of the marketplace, technical mechanisms, and services offered at any time. Such changes may lead to users being required to update their software or hardware and their offerings. This will take place at users’ own expense. Simplifier will endeavor, but is not obligated, to announce such measures in advance. There is no claim to a particular availability of the marketplace. Availability may be restricted in whole or in part on a temporary basis due to maintenance work or for other reasons. Simplifier moreover reserves the right to discontinue the services offered on the marketplace in whole or in part, temporarily or permanently, or to restrict access for reasons of maintenance, security, or capacity. Simplifier will endeavor, but is not obligated, to announce such measures in advance.

3. Registration/formation of the contract

When the user registers free of charge and consents to these Terms, the user issues an offer to Simplifier to enter into a use agreement for the marketplace. There is no claim to registration. Simplifier is permitted to reject a registration at any time without stating any reasons. When an activation link is sent, the use agreement for the use of the marketplace is formed between Simplifier and the user. This agreement entitles the user to use content that has been uploaded to or provided on the marketplace within the scope of these Terms and to upload or provide the user's own content on the marketplace within the scope of these Terms.

4. Granting of rights to content uploaded to or provided on the marketplace

By registering, the user consents to these Terms. With respect to content that the user uploads to or provides on the marketplace, the user grants Simplifier and each further user of the marketplace registered there as a user a worldwide, non-exclusive, unlimited-term, irrevocable, and gratuitous license with the right of sublicensing. The granting of rights encompasses, in particular, the right of reproduction, making available to the public, adaptation, broadcasting, and distribution of the content, along with the right to provide, store, and archive the content and otherwise use it. The user has no claim to being mentioned as a creator or to licensing fees or other payments arising from use or for the content the user has uploaded to or provided on the marketplace.

Simplifier has the right to modify the functions or appearance of the content and the services offered at any time, and particularly to remove them from the marketplace offerings. The user has no claim to a particular condition or functional scope being maintained or brought about with regard to the content provided on the marketplace.

5. Release from liability

The user shall indemnify and hold harmless Simplifier from and against any and all damage and/or losses, obligations, losses, and claims arising from a culpable violation of the obligations based on or in conjunction with the use of the content provided by the user on the marketplace or used by the user and/or that are asserted by third parties against Simplifier. This also applies with regard to any and all damage and/or losses, obligations, losses, and claims arising from or in conjunction with the use of the marketplace itself or from and in conjunction with a violation of these Terms of Use as well as from and in conjunction with the violation of third-party rights in conjunction with the use of the marketplace. This also applies to reasonable court costs and attorneys' fees.

6. Rights of use with regard to content provided on the marketplace

The user receives with regard to the content available on the marketplace an irrevocable, unlimited-term, non-exclusive, and gratuitous license to download, copy, modify, distribute, and otherwise use the content, including for commercial purposes.

7. Restrictions and exclusion with regard to the use of content

Content may be provided on or uploaded to the marketplace and used by users only within the meaning of and in application of these Terms.

The user is responsible for the applications provided by the user and for complying with all statutory provisions applicable in this regard. Simplifier does not endorse these applications and is not obligated to review the content. Users are prohibited from placing on the marketplace any content that violates applicable law or these Terms, infringes the rights of third parties, particularly trademark and copyright, or is immoral, particularly from inserting unlawful or immoral content into the applications or transmitting such content. Advertising for products or services offered outside the marketplace is not allowed. Users are only permitted to place on the marketplace applications to which the users hold the exclusive rights or with regard to which the users otherwise have disposal authority. The user represents and warrants that the user is the holder of the rights to content provided by the user on the marketplace and that the content does not infringe any rights of third parties (particularly copyrights, license rights, etc.).

Simplifier reserves the right to delete applications in individual cases, particularly if they violate applicable law, infringe third-party rights, or are immoral or violate these Terms. No editorial checking or revision of the content takes place in the process.

In the event that applications not created by Simplifier are provided on the marketplace, Simplifier merely provides the marketplace as a technical platform. Any position or activity as a broker / intermediary is explicitly ruled out.

The user is not entitled to copy the content of the marketplace in order to reconstruct or offer a similar service or a service that competes with Simplifier.

8. Violations of the Terms of Use; termination of use

Simplifier reserves the right to exclude the user from the use of the marketplace or restrict the user's access to the marketplace at any time in whole or in part without prior notice in the event of any violation by the user of these Terms, particularly in the event of violations of Sec. 7 hereof. Users are permitted to demonstrate that they have not violated the Terms of Use.

9. Rights to the marketplace

All rights to the marketplace are vested in Simplifier.

As a basic principle, Simplifier reserves the right to conduct proceedings in and out of court against infringers, including settlement negotiations, concerning a violation or other unauthorized use of the marketplace and the content provided there. The user is not permitted to take any measures relating to the violation or unauthorized use of the content provided on the marketplace except with Simplifier's prior written consent. The user shall, however, support Simplifier in a reasonable manner, at the latter's request and expense, in conjunction with proceedings against an infringer.

10. Disclaimer of warranty

The use of the content provided on the marketplace and the marketplace are at the user's own risk. Liability for material and legal defects with regard to the content provided free of charge on the marketplace and the use of the marketplace itself is ruled out unless Simplifier has committed an intentional or grossly negligent breach of duty.

The description of the relevant content is to be understood as a description of performance, not a warranty.

11. Limitation of liability

Since the content is provided free of charge on the marketplace, Simplifier is liable for damages due to defects or due to breach of other contractual or extracontractual duties only in cases of intent or gross negligence. This limitation of liability does not apply in case of malice, in case of loss of life, bodily injury, or impairment of health, if a warranty has been provided, or if liability exists pursuant to the German Product Liability Act (ProdHaftG). Any further liability is ruled out. In particular, Simplifier is not liable for the behavior of users or other third parties or for content or declarations that are shared by users or other third parties within the scope of the use of the marketplace. Simplifier does not endorse any external content.

Simplifier's liability, to the extent that such liability should exist regardless of the foregoing provisions for any legal reason whatsoever, is limited in all cases to damage and/or losses that have been caused by intentional or grossly negligent behavior or are based on the infringement of a principal duty that is essential to the contractual relationship. Essential principal duties are those duties whose fulfillment renders the proper execution of the contract possible in the first place and in compliance with which the other party to the contract trusts and is permitted to trust.

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12. Data protection and privacy provisions

The user is hereby notified pursuant to the provisions of data protection and privacy law (EU GDPR) that the personal data provided within the scope of the registration process are stored, processed, and used in machine-readable format exclusively for this purpose. Simplifier is entitled to collect, store, and use these personal data to the extent necessary to carry out and settle the registration. Disclosure of the data to third parties does not take place unless this has been expressly noted and the user has consented thereto. The user is also permitted to withdraw consent to the disclosure of the data toward Simplifier at any time.

Sec. 13 – Consent to the use of data

The user consents that Simplifier is permitted to collect and use the above-mentioned data within the meaning of Sec. 9 as well as technical data and associated information, particularly technical information relating to the hardware and software environment for the objects of the contract as well as their application software and peripheral devices, which data are collected at regular intervals, in order to facilitate the provision of software updates, product support, and other services provided in conjunction with the marketplace. Simplifier is permitted to use this information in order to improve its information or provide the user with services or technologies provided that this takes place in a form that does not divulge the user's identity. The user is permitted to receive information from the licensor at any time, free of charge, regarding the personal data concerning the user that are stored.

14. Final provisions

Should individual provisions of these Terms prove to be invalid, the legal validity of the Terms or of the remainder of the contract shall be unaffected thereby. The invalid provision must be replaced with a provision that most closely approximates the intended economic effect. The same applies to any gaps that may be present in the provisions of the contract.

These Terms and all legal relationships between Simplifier and the user associated herewith are subject to the laws of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is ruled out.

Würzburg is agreed as the place of jurisdiction for all legal disputes between Simplifier and the user, where the user is not a legal entity under public law or a public-law special fund or lacks a place of jurisdiction in Germany. Each Party is also entitled to bring a legal action against the other Party at the latter's general place of jurisdiction.

*Content includes, for example, applications, app covers, modules, connectors, and other content.