

# **Exact Online Additional App Center Partner Terms**

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## 1. GENERAL

- 1.1 Reference is made to the Exact Online App Center Terms and Conditions of Use, which You the App Center partner (hereinafter “You” or “Your”) has accepted and which apply to the relationship between You and Exact.
- 1.2 In the event You have not yet accepted the Exact Online App Center Terms and Conditions of Use, they are hereby incorporated by reference and will form an integral part of these Additional App Center Partner Terms.
- 1.3 You can access and download the Exact Online App Center Terms and Conditions of Use [here](#).

## 2. MUTUAL REFERRAL

- 2.1 You and Exact are allowed to mutually refer new customers for each other’s software applications in accordance with these Additional App Center Partner Terms.
- 2.2 Both You and Exact shall refrain from making statements or announcements about each other without prior written consent. You shall not actively promote, market or solicit any orders for Exact Online subscriptions outside the Exact Online App Center without Exact’s prior written consent. Neither party shall, in connection with the involvement in selling or promoting software products, pay or grant or agree to pay or grant, anything of value to any customer, or to any person acting for or subject to the control of a customer.
- 2.3 Parties shall have sole and complete control over the charges, terms and conditions for their own (software) products, applications and related services. Neither party shall have the authority hereunder to recommend any of the software products for any other applications or uses unless authorized by the proprietary owner of such software in writing.

## 3. RESELLER FEES PAYABLE TO YOU FOR NEWLY CONNECTED EOL COMPANIES

- 3.1 Provided that a reseller or partner agreement Exact Online is in effect between You and Exact, Exact will pay You a reseller fee of 20% percent of the applicable monthly recurring revenue (MRR) for a maximum period of three years, for any new Exact Online subscriptions concluded through Your reseller link(s). In the event the MRR changes, the net fee as payable to You will also change. Exact may revise the percentage periodically in line with the terms and conditions of the reseller or partner agreement EOL.
- 3.2 Such new Exact Online subscriptions will be visible to Exact after approximately 30 days. Payment of the reseller fee shall be made on a quarterly basis and in arrears. You will not be entitled to the payment of the reseller fee until Exact has invoiced and received payment from the newly connected EOL company.
- 3.3 Entitlement to the reseller fee shall end in the event Exact no longer receives any MRR for the newly connected EOL company.

## **4. CONNECTION FEES PAYABLE TO EXACT FOR NEW CONNECTIONS TO YOUR APPLICATION(S)**

- 4.1 You will pay Exact a connection fee equivalent to about 10% percent of the monthly fees as agreed upon between You and Your customer in respect to Your application(s) published in the Exact Online App Center. Specific arrangements can be made between You and Exact in this respect.
- 4.2 The connection fee shall be charged upon a monthly basis and payment will be made through a direct debit.
- 4.3 Exact will only charge a connection fee, after a minimum of 5 connected companies has been reached for Your application, after the 30-day trial period has lapsed and actual use of the connection has been detected by Exact.
- 4.4 Exact will not charge a connection fee to You for Exact Online customers that have been identified by Exact to have bought Exact Online through Your Reseller URL.
- 4.5 Exact may revise the connection fee percentage periodically in consultation with You.

## **5. TERMINATION**

Exact may terminate Your use of the App Center and any entitlement to the reseller fee as described in these Additional App Center Partner Terms, in the event:

1. You are in substantial breach of any of his obligations hereunder and has failed to remedy such breach within fifteen (15) days of receipt of written notice specifying such breach and requiring its remedy;
2. You are declared insolvent, bankrupt or are liquidated or in the case a receiver, administrative receiver, bankruptcy administrator or any other remedial step is imposed on You under the governing laws of the country, state or province of the jurisdiction in which You are located, appointed over any part of Your undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme or solvent amalgamation or reconstruction) or a court of a competent jurisdiction shall make an order to that effect or if You shall enter into any voluntary arrangements with Your creditors or any other form of insolvency;
3. In case of any significant change in Your ownership, management or business.

## **6. PRIVACY**

Protecting the privacy of our customers, clients and users of our App Center is important to Exact. The Exact Privacy Statement, as updated and amended from time to time, which can be found on this App Center at <http://www.exact.com/global/privacy-statement> and is applicable to the use of this App Center, describes how we use and protect information You provide to Exact.

## **7. LIABILITY**

- 7.1 Exact shall not be liable towards You for any damages whatsoever, either being direct, indirect, special, incidental or consequential or damages of any kind or nature whatsoever, arising out of or in any way related to these terms.
- 7.2 No limitation of liability is intended hereunder in respect of death or personal injury or fraud (including without limitation fraudulent misrepresentation), to the extent caused by the negligent act or omission, breach or default.

## 8. NON POACHING

- 8.1 From the moment of You being an App Center Partner until one year after the termination of You being an App Center Partner, You are prohibited without prior written permission from Exact:
- (i) to conclude an (employment) agreement with any employee or other person directly involved with Exact, directly or indirectly, or to approach these persons, directly or indirectly, with the intention of persuading them to end all or part of their relationship with Exact, on the understanding that a general recruiting campaign targeting the general public does not fall under this prohibition.
  - (ii) to (attempt to) persuade customers, suppliers or persons, authorities, companies or other parties that do or have done business with Exact, directly or indirectly.
- 8.2 In the event of a breach of this clause 8 You shall, for the benefit of Exact, forfeit a directly due and payable penalty – without any prior notice of default being required – of EUR 10.000,-- for each violation made, to be increased with an amount of EUR 1.000,-- for every day that the violation continues, without any damages or losses being required to be proven and without prejudice to the right of Exact to claim compliance of the provisions.

## 9. APPLICABLE LAWS AND DISPUTES

- 9.1 The interpretation of these Exact Online Additional App Center Partner Terms shall be governed by the laws of the Netherlands.
- 9.2 Any dispute, controversy or claim arising out of or relating to these Exact Online Additional App Center Partner Terms, or the breach, termination or invalidity thereof, shall be submitted to the adjudication of the competent court in The Hague, the Netherlands.

## 10. MISCELLANEOUS

- 10.1 You will not have the right to assign or otherwise transfer its rights or obligations under these terms without the prior written consent of Exact .
- 10.2 If any provision of these terms is declared by any judicial or other competent authority to be void, illegal or otherwise unenforceable, the invalidity or unenforceability shall not affect the other provisions of these terms and all provisions not affected by the invalidity or unenforceability shall remain in full force and effect. The parties shall attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial obligations of the invalid or unenforceable provision.
- 10.3 Parties are independent contractors. Under no circumstances shall either party be considered as an employee of the other party. You do not have the right or authority to assume, create or incur any liability or any obligation of any kind, expressed or implied, against, or in the name of, or on behalf of Exact, except with prior written authorization of Exact.

## 11. REVISION OF THE TERMS

- 11.1 These Additional App Center Partner Terms may be revised and updated from time to time by Exact. Such amended Additional App Center Partner Terms shall be effective upon Exact's posting of such amended terms on this App Center. Please check the terms as published on this App Center regularly to ensure that You are aware of all terms governing Your use of this App Center. Other Exact Web sites may have their own terms of use or privacy statement, which apply to such Web sites. Also, specific terms and conditions may apply to specific content, products, materials, services, discussion forums, information, or published Apps independently developed and provided by third party owners and contained on or available through this App Center (collectively, the "Content") or transactions concluded through this App Center. Such specific terms may supplement these App Center Terms; or, where inconsistent with these App Center Terms, such specific terms will supersede these App Center Terms only to the extent that the content or intent of such specific terms is inconsistent with these App Center Terms.
- 11.2 Exact reserves the right to make changes or updates with respect to or in the Content of the App Center or the format thereof at any time without notice. Exact reserves the right to terminate or restrict access to the App Center for any reason whatsoever at its sole discretion.