

Terms and conditions of use of Attainfive

Terms & conditions of Attainfive B.V.

We advise you to read these Terms and Conditions carefully so that you are aware of your rights and obligations under the Agreement between you and us. You are referred to in these General Terms and Conditions as the Client. For the sake of convenience, we choose the male form, but where "he" is written, we also mean "she".

Article 1 *Definitions*

1. In these General Terms and Conditions, the following capitalised terms always have the following meanings:

Company

the private limited company Attainfive, having its registered office and principal place of business in (9140) Temse at Luxemburgstraat 20 in Belgium;

General Terms & Conditions

these general terms and conditions of Company;

Service

the service provided by Company;

Intellectual property rights

all intellectual property rights such as copyrights, trademark rights, patent rights, trade name rights, database rights and related rights, as well as related rights such as rights relating to know-how and domain names;

Client

you, the client and other party of Company to the Agreement;

Agreement

the contract for services between Company and the Client in which the specifications of the Services are included;

Party(ies)

Company and/or Client.

Article 2. *Applicability*

1. The General Terms and Conditions apply to every Agreement between Company and Client. Any general terms and conditions of the Client are hereby expressly rejected.
2. Deviations from and additions to the Agreement are only valid if they have been agreed in writing by the Parties.
3. If the Contractor engages other parties to provide the Services, these General Terms and Conditions also apply to the performance of the Services by this other party.

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4. Company is entitled to change these General Terms and Conditions. Substantive changes will take effect one (1) month after publication.

Applicable law and disputes

Should disputes arise between the customer and Company, they will be submitted exclusively to the Central Netherlands District Court, Utrecht location. In connection with possible differences in interpretation, the Dutch text of the General Terms and Conditions is leading. Where one or more provisions are null and void or voidable, the remaining provisions shall remain in force.

Alterations

Company works every day on the further development of our software, which means that the general terms and conditions may also be subject to change. Changes will always be announced by e-mail. If the Company software and Company services continue to be used, the most recent 'General Terms and Conditions' applies. If necessary, an objection can be made to the changes by submitting a 'suggestion for improvement'. We will then assess whether the change may lead to its modification. In the extreme case, there is the possibility to terminate the agreement after the change, whereby the old conditions remain valid for 2 months.

Agreement

The agreement is entered into for an indefinite period of time with a minimum of one year, unless otherwise agreed. By entering into an agreement, the customer receives a license for the use of the Company software. This is invoiced via a subscription form.

License

In the license, the purchased product components (including users, employees, dashboards and test types) with corresponding numbers of tests and start and end date are encrypted. The license may only be used for the customer's own company(s).

Pricing

For the pricing of the license and product components, Company works with scales based on purchase quantities, among other things. When increasing or decreasing the license numbers, the price scale can change. A specification of the products offered, prices and scales can be found in the contract. Company conducts a market and price index with regard to its prices in accordance with policy. Company can index the prices annually, taking into account the annual change consumer price index of last July. In case of indexing, Company sends a message to customers before 1 October indicating the percentage. The indexation starts from the first invoice in the following calendar year. Read all about this on this page.

Invoicing

Company invoices: • Annual licenses: annually in advance;

- Product: immediately upon ordering
- Consultancy: weekly afterwards.

• Training/coaching: at the start of training/coaching. On the subscription invoice and in the Customer Portal, the current quantities per product are stated. All invoices are sent by e-mail in PDF and UBL file. The payment term is 14 days, unless otherwise agreed.

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License validity

The license is automatically renewed. The validity of the license can be shortened in the event of unwanted payment behavior, such as:

- An invoice that is not in dispute, which expires after 60 days is unpaid.
- Repeatedly pay invoices one month late each time.
- If a license expires within 21 days, an e-mail will be sent to the contact person responsible for administration.

Change of subscription

Change of subscription requests in the license can be made via administration@attainfive.com

Product parts

An extension of the license can be implemented immediately. A cancellation of the product component (license, team dashboard) can be implemented after at least one year of full invoicing of the license.

Numbers

An increase in the numbers (employees, dashboards, tests, etc.) can be implemented immediately. A reduction in the numbers is only possible after one year of full invoicing of the license.

Termination of the agreement

The termination of the agreement can be done by e-mail to administration@attainfive.com

Termination by customer

For customers, a notice period of 3 months applies before the start of a new calendar year. Access to the software and associated data will then remain possible until 1 March of the following year.

Termination by Company

The notice period for Company is 12 months. Company has the right to terminate the agreement with immediate effect if the customer does not comply with his obligations (after having been given notice of default), has applied for suspension of payment or has filed for bankruptcy.

Procedure customer data after termination

Before termination, the customer has the possibility to export all data in various formats (Excel and PDF). The entire production environment is archived for 1 year (can be requested via the Support Center support@attainfive.com) and is then permanently deleted from the backup location. Upon request, the backup can be deleted earlier.

Liability

Company warrants that the software meets all the specifications it specifies. In the event of errors, Company will always correct them as soon as possible. Company pays great attention to the correct operation of Company software and the correct execution of its services.

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Despite these efforts, things can go wrong, which lead to damage for the customer. Company always strives for a suitable solution in consultation with the customer.

Liability

The liability of Company is limited to the invoice value of 1 calendar year. Company cannot invoke the limitations of liability if there is intent or deliberate recklessness in the actions of itself, its employees or third parties engaged by it. Company excludes its liability for any form of consequential damage, such as loss of turnover, loss of profit and missed opportunities. Company's liability is also excluded if the customer or third parties engaged by the customer have made changes to Company's products, which is not permitted.

Company and the customer are not liable to each other in the event of force majeure. Force majeure is understood to mean: Force majeure within the meaning of the law, also with suppliers of the parties, inadequate fulfilment of obligations of suppliers prescribed by the customer to Company, malfunctions in the electricity grid and malfunctions that impede data traffic insofar as the cause thereof is not attributable to the parties themselves.

Delivery times

If Company does not meet a delivery or delivery period, the customer will first give Company notice of default and still give Company a reasonable period to fulfil its obligations.

Processing of personal data

Company processes, among other things, personal data for and on behalf of the customer because the customer has a software user agreement with Company. Company and the customer are therefore obliged according to the General Data Protection Regulation (GDPR) to conclude a Processor Agreement. Because Company provides a standard application (test, PDF reports, digital dashboard) with the associated standard services (Consultancy and support), Company has included the processing agreement in the General Terms and Conditions. Company is the 'processor' and the customer the 'controller'. Company and the customer undertake to comply with the General Data Protection Regulation (GDPR). The definitions of terms are adhered to the GDPR. Company will only process the personal data for and on behalf of the customer and to implement the agreement.

Processing instructions

The processing consists of making the Company applications available with the data entered and generated by the customer and its employees. Company will not add, modify or delete any data without written instructions from the customer. That instruction can be given by means of a request. Within the application, which Company makes available, different types of personal data can be recorded. Company is aware that the customer can enter all these, and possibly still to be created personal data or categories, and that Company will then process them. The customer is responsible for assessing whether the purpose and nature of the processing fits in with the services provided by Company.

Company collects anonymised data about the use of its products and services. This data supports Company to gain insight into whether, how and how often certain parts of the product are used. The anonymised data will only be used to improve products and services. Company will never use the collected user statistics for commercial purposes or offer them to third parties.

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Confidentiality

Company is aware that the information that the customer shares with Company and stores within the digital dashboard has a secret and business-sensitive character. All Company employees are obliged through their employment contract to keep any data of the customer strictly secret.

Employees with access to customer data

Only system administrators of Company have full access to the customer data for:

- placing a new version;
- implementing patches and hotfixes;
- making a backup;
- moving a data within the digital dashboard.

Consultants, Support employees and other Company employees only have access to the customer data if they have received permission from the customer and for as long as they have permission from the customer.

Security

Company continues to take appropriate technical and organizational measures to protect the customer's personal data against loss or any form of unlawful processing. Company works together with service provider AWS in Dublin, Ireland (Amazon Web Services), AWS is ISO27001 certified (more information: <https://www.Company.com/aws>). We follow OWASP for web application security. These measures are regarded as an appropriate level of security within the meaning of the GDPR. Company will assist the customer in fulfilling the customer's obligations under the GDPR and other applicable laws and regulations with regard to the processing of personal data.

If the Dutch Data Protection Authority (AP) or the Belgian Data Protection Authority (DPA) will give the customer a binding instruction, the customer must inform Company of this binding instruction. Company will do everything that can reasonably be expected of it to enable compliance. If Company does not do what can reasonably be asked of it, resulting in a fine, or if the Dutch Data Protection Authority immediately imposes a fine because there is intent or serious culpable negligence on the part of Company, then the applicable limitation of liability as mentioned above in the liability chapter does not apply.

Sub-processors

Company processes the customer data in data centers in Europe and Amazon Web Services in Dublin, Ireland and these are therefore sub-processors. The data centers that Company uses are located exclusively in Europe and are subject to European laws and regulations and comply with the strict Dutch and European legislation with regard to logical and physical access security and continuity. The data centers are at least ISO 27001 certified. The (personal) data are processed by Company and sub-processor exclusively within the European Economic Area. COMPANY has imposed on the sub-processor(s) the same obligations as apply to itself.

Company will not have new sub-processors process data without informing the customer in good time. The customer can object to Company against the sub-processor. Company will

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handle these objections at board level. If Company still wants to have data processed by the new sub-processor, the customer has the option to terminate the agreement.

Privacy rights

Company has no control over the personal data made available by the customer. Without necessity, given the nature of the assignment given by the customer, explicit permission from the customer or legal obligation, Company will not provide the data to third parties or process them for purposes other than for the agreed purposes. The customer guarantees that the personal data may be processed on the basis of a basis stated in the Company.

To the extent required by applicable laws and regulations, Regulators are entitled to conduct audits to verify that the Company complies with the terms and conditions set forth in the Agreement, supervisory rules and/or applicable mandatory law. Company will inform the customer of such an audit as soon as possible, unless this is prohibited.

Those involved

The customer is responsible for the entered data of the data subjects and thereby for informing and assisting the rights of the data subjects. Company will never respond to requests from data subjects and will always refer to the person responsible. Company will, insofar as possible within the application, cooperate with the customer so that he can comply with his legal obligations in the event that a data subject exercises its rights under the GDPR or other applicable regulations regarding the processing of personal data.

Obligation to report data leaks

The GDPR requires that any data leaks are reported to the Dutch Data Protection Authority by the controller of the data. Company will therefore not itself report to the Dutch Data Protection Authority or the Belgian Data Protection Authority (DPA). Of course, Company will inform the customer correctly, timely and fully about relevant incidents, so that the customer as controller can comply with his legal obligations. The Policy Rules on the obligation to report data leaks of the Dutch Data Protection Authority provide more information about this.

If the customer makes a (provisional) report to the Dutch Data Protection Authority and/or the data subject(s) about a data breach at Company, without the customer having informed Company about this in advance, the customer is liable for damage suffered by Company and costs of this report. If it appears that there is no data breach at Company, the customer is obliged to withdraw the report immediately.

Determination of data breach

To determine a breach in connection with personal data, Company uses the GDPR and the Policy Rules on the obligation to report data leaks as a guideline. See this page for that.

Notification to the customer

If it appears that Company has a security incident or data breach, Company will inform the customer as soon as possible after Company has become aware of the data breach. To achieve this, Company ensures that all its employees are and remain able to detect a data breach and Company expects its contractors to enable Company to comply with this. To be clear: if there is a data breach at a sub-processor of Company, Company will of course also

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report this. Company is the point of contact for the customer. The customer does not have to contact company's sub-processors.

Inform customer (set up contact person)

In the first instance, Company will inform the contact person of the subscription about a data breach.

Providing information

Company immediately tries to provide the customer with all the information that the customer needs to make a possible report to the Dutch Data Protection Authority and / or the person (s) concerned.

Period of information The GDPR indicates that a 'prompt' report must be made. According to the Dutch Data Protection Authority, this is without undue delay and if possible, no later than 72 hours after its discovery by the controller. If a security incident occurs, Company will inform the customer as soon as possible, but no later than 48 hours after company discovers it. The customer will have to make the assessment himself whether the security incident falls under the term 'data breach' and whether a report will have to be made to the Dutch Data Protection Authority. The customer has 72 hours to do this after the customer has been informed of this.

Progress and measures

Company will keep the customer informed about the progress and the measures that are taken. Company makes agreements about this with the primary contact person at the initial report. In any case, Company will keep the customer informed in the event of a change in the situation, further information becoming known and about the measures that are taken. Company registers all security incidents and handles them according to a fixed procedure (workflow).

Delete data

Company will, after expiry of the agreement, delete all customer data as described in 'Termination of the agreement'. If the customer wants to have the data deleted earlier, a request can be submitted. Company undertakes to comply with this.

Service

Company supports the customer in implementing the system with consultancy. Company has an extensive partner network with whom we work together.

Consultancy

Company appoints a project leader to supervise the implementation. This project leader, together with the customer, draws up a project plan with a.o. the planning, objectives, scope and responsibilities. Each project is monitored up to and including delivery within the proposed budget on the quotation. The project leader will immediately identify and coordinate any exceedance. Consultancy transfers the client to the Support Center as soon as the implementation project has been completed.

Incidental or additional consultancy or coaching or training activities of 1 or more separate days can be requested by the customer via an e-mail on support@attainfive.com. A

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consultancy working day is effectively 7 hours, half a day 3.5 hours. No additional travel or accommodation costs will be charged, unless the location is not in the Netherlands or Belgium. There is also the possibility to have work carried out remotely. In that case, the hours that are mutually agreed will be charged.

Availability Company is hosted on systems of professional European data centers. These top-tier data centers have a network availability of 99.9999%. The availability and performance of Company are continuously monitored. Company Online may not be available in the following situations:

- preventive maintenance;

- install new version Company;
- maintenance that has been short-circuited with the customer;
- calamities as a result of natural disasters and other force majeure situations.

Maintenance

The customer will be informed at least 5 days in advance if Company Online may not be available. The work will be carried out between 21:00 and 07:00 or on weekends. Occasional patches and hotfixes run automatically and overnight without prior notice.

Performance

Company Online should have a good performance, but depends on the internet connection and layout of the customer's environment. In case of performance nuisance, contact can be made with support@attainfive.com

Backup & restore

The entire environment is backed up daily:

- Day backup is deleted after 1 day.
- Average time of restoring an environment is 4 hours.

Monitoring

At Company, systems, processes and users are continuously monitored in our own Cyber Operations Center with the aim of:

- Prevent malfunctions or solve them at an early stage. Monitoring is aimed at the timely detection of malfunctions and undesirable behaviour. Control of abuse is part of the (daily) standard monitoring activities.
- Collection of general user statistics, such as response times. This information is analyzed and possibly discussed with the customer for improvement.
- Collecting anonymous statistics from the customer environment to improve our products and services.

Security and access

Company has multiple layers of security. If one of the layers fails, the next layer will still offer protection. This ensures the availability, integrity and confidentiality of the application.

Continuity

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Company has emergency procedures in place to prevent loss of data due to system failure, physical destruction or otherwise and to promote the recovery of such data. The data centers are equipped with redundant techniques, so that failure of a few servers or storage does not directly lead to a calamity.

Continuity data center in bankruptcy

Additional (contractual) agreements have been made with the data center that should contribute to ensuring that Company customers retain access to their data in the event of bankruptcy:

- The data center will not cease providing services to Company in the event of a bankruptcy of the data center, before a continuity plan has been agreed with the trustee.
- In the event of a bankruptcy of Company, the data center will not cease the service up to a minimum period of 2 weeks after the date of bankruptcy. Before the service is discontinued, the data center will consult with the trustee for the preservation of the service and the securing of the financial obligations.

Support

The employees of the Support Center solve problems and answer questions about the Company dashboard.

General Support

Each report to the Support Center is called an "incident." An incident can be an error, malfunction, wish, design issue or user question.

Registration and response time

We work according to a best-effort response time because Company is not a business-critical system. The recovery time in the event of a problem depends on the severity and duration of the situation and the extent to which Company is dependent on third parties for carrying out repair work.

Priorities and recovery times

The priority of the demand determines the recovery time. Most incidents are about questions that have to do with knowledge about the product. These questions are often handled within 48 hours. If the question concerns functionality that does not yet exist, also known as a wish, it will be submitted to Product Management. It is not always possible to indicate when and whether the wish will be fulfilled. Each incident is assigned a priority. This is awarded by the Support Employee who handles the incident. The guidelines we use are:

- Prio 3: Informative questions/ wishes: In 90% of cases within 48 hours
- Prio 2: Non-production disrupting problems: Recovery time/workaround within 1 month, as far as possible.
- Prio 1: Production disrupting problems: Recovery time/workaround within 5 working days, as far as possible.

Signaling

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Company monitors the number of user questions and the contact moments with Support on a daily basis to analyze how these questions can be prevented. In some situations, the customer is contacted to discuss this point. For many user questions or frequent contact with the Support Center, a solution is sought with the customer to prevent this in the future.

Opening hours and extra support

The Support Center answers these questions from Monday to Thursday between 09:00 and 17:00 CEST.

Product

Company provides the customer with a product that is continuously developed and delivered with new functionalities, improvements and legal adjustments.

Product Description

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Services and responsibilities

Company develops and delivers the cloud software and in most cases can take care of the implementation guidance of this software at its customers. Customers are responsible for a correct design. Company is not responsible for the correct operation of links of additional software packages or additional services of third parties.

Proprietary rights

The intellectual property right of the product rests, and remains, with Company. If a third party claims that the intellectual property right of the software lies with him, Company will indemnify the customer. A condition for this is that the customer informs Company about this as soon as possible, cooperates with research and leaves the handling of the case entirely to Company. The ownership of the entered data and the data generated by the application rests with the customer. Company may not and will not appropriate any rights to the customer data. A license does not entitle you to the so-called source code.

Development and version control

The software is continuously developed and delivered with new functionalities, improvements and legal adjustments. The delivery policy can be found on the Customer Portal. Overall, Company uses the following delivery schedule:

Version: 2-4 times a year;

Patch: Daily if applicable.

Each version is provided with Release notes via e-mail to the contact person. Describes which parts have been modified.
