



General Purchase Conditions IT & Systems
Special Provisions SaaS

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Article 1 General

- 1.1 These Special Provisions SaaS apply in addition to the General Provisions.
- 1.2 In case of conflict between the General Provisions and the Special Provisions SaaS, the Special Provisions SaaS shall prevail.

Article 2 Definitions

- 2.1 In these Special Provisions Professional Services, in addition to article 1 of the General Provisions, the terms below have the following meaning:

Escrow	The periodic deposit of (a copy of) the SaaS with an independent custodian so that EANV, upon fulfilment of one or more of the conditions set out in the escrow agreement, can obtain access to the SaaS from the custodian without the cooperation of the Supplier.
Right of Use	The right under which EANV is authorised to Implement and use the SaaS in accordance with the Agreement, including all disclosures, temporary or otherwise, reasonably necessary for that purpose.
Malware	Time bombs, Trojans, worms, viruses or other malicious software code embedded in the SaaS that can make changes to functionality of the Hardware and/or Software.
MTD	Maximum Tolerable Downtime; the total time a business process supported through the service may be disrupted without unacceptable consequences.
RPO	Recovery Point Objective; the maximum acceptable amount of data loss measured in time.
RTO	Recovery Time Objective; the maximum acceptable time within which Supplier implements a solution.
SaaS	Software as a Service; as defined in the General Provisions.
System	The system used by EANV which the SaaS, hosting and Data is a part, whether or not provided by Supplier, used by EANV for the purpose of the agreed functionality.

Article 3 Right of use

- 3.1 The Supplier grants EANV for the duration of the Agreement a worldwide, non-exclusive Right of Use in accordance with the Agreement, the General Provisions and the Special Provisions SaaS. EANV may sub-licence the Right of Use to its Affiliates.
- 3.2 The Right of Use includes, without EANV owing any additional compensation:
 - a) the right to use all functionalities of the SaaS accessible to EANV, including those not mentioned in the Documentation;
 - b) the right to use the SaaS for testing and development purposes; and
 - c) the right to use the SaaS without any restriction or limitation as to place, equipment, duration or otherwise including its use by third parties for the benefit of EANV.

Article 4 Third-party software

- 4.1 If the SaaS is not owned by the Supplier but by a third party, the Supplier must ensure that the Supplier or the third party provides the SaaS to EANV.
- 4.2 If the SaaS is owned by a third party and that third party provides the SaaS to EANV, the Supplier remains responsible and liable for the performance of the Agreement.
- 4.3 Prior to the formation of the Agreement, the Supplier shall clarify whether EANV must conclude or accept licence agreements of third parties in order to use the SaaS, and what the content of those agreements is. If the Supplier fails to make this transparent prior to the formation of the Agreement, EANV may terminate the Agreement for breach (*ontbinden*) and all additional costs incurred by EANV shall be borne by the Supplier.

Article 5 Service levels

- 5.1 At EANV's request, the Parties shall enter into an SLA regarding at least the following: maintenance, utilisation, availability, service description, availability management (including MTD, backup and recovery), RPO, RTO, capacity management, monitoring, performance management, security management (including patch management) and reporting.
- 5.2 Supplier shall maintain fall-back facilities for the purpose of service continuity. EANV may impose special requirements on the fall-back facilities.
- 5.3 Supplier guarantees that the SaaS (i) is of good quality and suitable for EANV's purpose of use as included in the Agreement and (ii) does not contain any Malware. Technical and functional properties of the SaaS comply at least with the agreed and promised specifications by the Supplier in connection with the other software in use by EANV (as a service).
- 5.4 Supplier regularly reviews the need to release New and Improved Versions. Supplier shall inform EANV as early as possible about New and Improved Versions and about the content and consequences in relation to the use of the SaaS.
- 5.5 Supplier shall make New and Improved Versions available to EANV for testing and evaluation purposes free of charge upon request.
- 5.6 Improved Versions, New Versions and changes in hardware and hosting on the part of the Supplier may under no circumstances lead to a degradation of the specifications and functionality of the System. The Supplier warrants the compatibility of the Improved Versions and New Versions it supplies with the Hardware and Software (as a service) in use, or to be in use, at EANV.

Article 6 Continuity

- 6.1 In the event that the Supplier is no longer able to provide the SaaS, with the exception of the case of force majeure as referred to in Article 17 of the General Provisions, the Supplier shall fully cooperate in ensuring the continuity of the SaaS, for example by (temporarily) transferring its cloud hosting account, including all responsibilities concerning the continuity of the hosting environment to EANV.
- 6.2 To safeguard the EANV Data, Supplier shall ensure at least a daily back-up copy of the EANV Data and the underlying database structures it processes, unless otherwise agreed in the SLA.
- 6.3 At EANV's first request, the Supplier shall immediately hand over an export of the EANV Data, including the associated data model to EANV, in the same format in which EANV has made the EANV Data available to the Supplier.

Article 7 Escrow

- 7.1 EANV may at any time require the Supplier to place the SaaS in Escrow with a professional Escrow depository to be approved by EANV in accordance with an escrow agreement to be concluded by the Parties. The reasonable costs associated with Escrow shall be borne by EANV. The Supplier also undertakes to periodically deposit the modified SaaS with that depository, as set out in the escrow agreement.
- 7.2 If Escrow has been agreed, the Supplier must provide EANV with written confirmation from the custodian no later than the agreed date showing that the SaaS has been deposited with that custodian.
- 7.3 The SaaS residing in Escrow shall be released to EANV if (i) Supplier is declared bankrupt, ceases to exist, or a third party acquires Supplier and that Supplier does not consider itself bound by the Agreement or poses unreasonable conditions to the continuation of the Agreement; (ii) Supplier is in material breach of the SLA; or (iii) the Agreement is terminated, ends within one month, or is not renewed.