

# General Purchase Conditions IT & Systems

## Special Provisions Software

Schiphol Nederland B.V.

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These Conditions are registered with the Chamber of Commerce  
in Amsterdam

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## Article 1 General

- 1.1 These Special Provisions Software apply in addition to the General Provisions.
- 1.2 In the event of contradictions between an article of the General Provisions and an article of the Special Provisions Software, the article of the Special Provisions Software takes precedence.

## Article 2 Definitions

- 2.1 In addition to Article 1 of the General Provisions, the Special Provisions Software apply the following definitions.

<b>Escrow</b>	Filing the Source Code or a copy thereof with an independent third party so that SNBV can use it, or instruct it to be used, without the cooperation of the Other Party and when one or more conditions cover the compliance of the Escrow Agreement, to restore errors and otherwise maintain and manage the Software.
<b>Malware</b>	Time bombs, Trojan horses, worms, viruses or other software codes added to the Software that may cause changes in the hardware and/or software functionality.
<b>Patch</b>	A temporary fix of a defect in the Software.
<b>Source Code</b>	The set of programme instructions in their original programming language, including the associated Documentation, intended for execution by a computer, in such a form that a programmer with knowledge and experience of the programming method and technique used is able to modify the Software.
<b>User Right</b>	The right on the basis of which SNBV is authorised to install and use the Software in accordance with the agreed use, including all reproductions and disclosures deemed reasonably necessary for this, whether temporary or not.

## Article 3 Nature and contents of the User Right

- 3.1 By concluding an Agreement, SNBV obtains from the Other Party a perpetual and irrevocable User Right to the Software as well as to Improved and New Versions, in accordance with the provisions of the Agreement, the General Provisions and the Special Provisions Software.
- 3.2 The User Right does not include the Other Party's transfer to SNBV of patent rights, copyright or trademark rights if the User Right relates to standard software.
- 3.3 The User Right is non-exclusive and only transferrable to third parties with the Other Party's consent. The Other Party may only withhold its consent if there are well-founded reasons to suspect that the conditions under which the User Right is granted will be violated and/or if it has a well-founded fear of an infringement of intellectual property rights on the Software.
- 3.4 The User Right is not bound by certain hardware or a location.
- 3.5 Without SNBV being liable to pay any additional compensation in this respect, the User Right in any case includes:
  - a) the right to use all Software's features accessible to SNBV, even if these are not listed in the Documentation;
  - b) the right to make copies of the Software, to save it, to regularly test it and to keep it on 'hot standby' in case of an emergency or emergency exercise;
  - c) the right to use the Software for testing and development purposes;

- d) the right to use the Software without any restriction or limitation in terms of location, equipment, duration or otherwise, including the use thereof by third parties on behalf of SNBV.
- 3.6 SNBV may make copies of the Software and use them as often as deemed necessary for its business operations. Before SNBV makes use of this possibility and thus owes the Other Party an additional payment, SNBV first informs the Other Party thereof with notable rapidity. SNBV does not remove any indications of ownership or copyrights when reproducing Software.
- 3.7 If the Other Party only fixes defects in the Software by releasing Patches or Improved Versions, SNBV reserves the right to receive and use the Software free of charge during the warranty period referred to in Article 7, even where SNBV and the Other Party have not agreed to Maintenance.

#### **Article 4 Third-party software**

- 4.1 If the Software does not originate from the Other Party, but from a third party instead, this Software will then be supplied to SNBV either by the Other Party or by the third party.
- 4.2 If the Software is supplied by the third party, SNBV only enters into a licence agreement with the third party under the following conditions:
  - a) article 14 of the General Provisions applies;
  - b) the Data Processing Agreement and/or the Security Annex of SNBV will be signed, if applicable;
  - c) the conditions of the licence agreement may not contravene the Agreement, including its appendices, and;
  - d) the Other Party remains responsible and liable for the performance of the Agreement.
- 4.3 Prior to the conclusion of the Agreement, the Other Party will clarify whether any licence agreements need to be signed with third parties, and what the contents of those agreements are. If the Other Party fails to indicate this before the Agreement is concluded, and the licence agreement contravenes the conditions referred to in the previous paragraph, this results in a failure of the performance of the Agreement.

#### **Article 5 Open-source software**

- 5.1 If the Other Party makes use of open-source software in the performance of the Agreement, it will first check the quality thereof and carefully examine whether, and if so, by whom and with what result claims on intellectual property rights have been or will reasonably be asserted.
- 5.2 If use is made of open-source software, the Agreement may include additional conditions with regard to the open-source software.

#### **Article 6 New and Improved Versions**

- 6.1 The Other Party ensures a consistent version policy. The starting point is that New and Improved Versions will be available on time. To this end, the Other Party regularly checks the need to release such versions. The Other Party will inform SNBV as soon as possible about New and Improved Versions, as well as about the contents and consequences thereof relating to the application of the Software.
- 6.2 At SNBV's request, the Other Party will provide SNBV with a free copy of a New and Improved Version for testing and evaluation purposes.
- 6.3 SNBV is under no obligation to accept any New Versions. Instead, it may continue to use all the old versions. The Other Party will inform SNBV in writing of the period during which the Other Party can continue to guarantee the Maintenance on the old versions. The Other Party will at least be obliged to guarantee the Maintenance during the term of the Agreement, even if SNBV does not accept New Versions.
- 6.4 Improved Versions and/or New Versions will never lead to a limitation in the application possibilities of the Hardware and/or Software, whether or not in conjunction with other files that are present. The Other Party guarantees the compatibility of the Improved Versions and/or New Versions it delivers with the Hardware and/or Software in use or to be used by SNBV.
- 6.5 Any applied Patches must form part of the Improved Versions and/or New Versions.
- 6.6 If, instead of releasing a New Version, the Other Party opts to release other software and to stop preventive, corrective or innovative maintenance as referred to in Article 12(1) on the Software used by

SNBV, SNBV may claim (i) full compliance with the obligations in respect of Maintenance, or (ii) a User Right on that new software in accordance with the conditions for a New Version set out in the Agreement.

- 6.7 In the event of a security incident, both by a defect in the Software or an external event affecting the Software, the Other Party must restore this by means of a Patch or an Improved Version.

## Article 7 Warranties

- 7.1 The Other Party guarantees that the Software is of good quality and suitable for the purpose as set out in the Agreement. The Software's technical and functional features will at least equal the specifications that the Other Party agreed or committed to in conjunction with the hardware and software to be used by SNBV.
- 7.2 The Other Party guarantees that, for a period of twelve months from the date of Acceptance, it will remedy without delay and at its own expense, all defects that occur during this warranty period.
- 7.3 If Software does not function for a period of twelve hours or more due to a defect, in accordance with paragraph 1 of this Article, the warranty period will be extended by the duration of the period of the defect. If there are different periods of defect which are all attributable to one and the same defect and these periods added up account to ten or more Working days, the warranty period will be renewed for twelve months from the date on which the defect is rectified.
- 7.4 SNBV may have a third party carry out the repairs of the defects or the Maintenance that it has agreed with the Other Party during the term of the Agreement while reserving the right to compensation of the costs from the Other Party, if the Other Party has not commenced these activities within a reasonable period of time set by SNBV, if the work has not been carried out to SNBV's satisfaction, or if SNBV receives consent to do so from the Other Party.
- 7.5 The warranty is subject to the same conditions and obligations for the Other Party arising from the Agreement with regard to Maintenance, on the understanding that the services and work will take place under this warranty.
- 7.6 The Other Party guarantees that the Software delivered by it does not harbour any Malware or will not transfer any Malware. On the discovery of possible Malware, the Other Party will immediately notify SNBV and will undertake every effort to prevent the Malware and/or to resolve this, as well as its consequences.
- 7.7 The presence of Malware, which is designed to make unwanted changes to the Software, will not have any effect on the Other Party's maintenance obligation, irrespective of who is liable for the presence of the Malware. Insofar as there is no guarantee obligation or maintenance obligation, the Other Party declares itself to be prepared to repair the defects caused by the Malware based on the rates to be agreed.
- 7.8 If the Software is affected in whole or in part before the expiry of the warranty period due to damage made by SNBV, or by loss or theft, the Other Party is obliged to implement copies thereof on the Hardware at cost price.
- 7.9 The warranty referred to in this Article does not apply if the Other Party can prove that the defect was the result of an amendment made to the Software either by SNBV or a third party engaged by SNBV, without the Other Party's consent thereto.

## Article 8 Implementation

- 8.1 Implementation will start and be completed by the agreed dates at the latest. Upon SNBV's written request, the agreed data of the Implementation may be postponed until further notice.
- 8.2 If the Hardware and/or Software requires necessary adjustments for the Implementation that are not included in the Other Party's offer, these adjustments will be made at the expense of the Other Party.
- 8.3 As soon as both Parties agree that the Implementation has been completed, the Parties will draw up and sign a proof of Implementation. This proof merely serves as Acceptance of the Implementation; it does not necessarily include the Acceptance of the Software. SNBV may not refuse to draw up the proof of Implementation if the Software delivered meets the agreed requirements or only contains minor defects that do not affect its use. The Other Party guarantees to rectify any such defects with due rapidity after the proof of Implementation has been drawn up.
- 8.4 Where applicable, the provisions of this Article also apply to Improved Versions and New Versions.

## Article 9 Materials

- 9.1 If the use of the Software requires Materials, the Other Party will transfer the ownership thereof to SNBV. The cost price of those Materials is deemed to be included in the user fee.

## Article 10 Escrow

- 10.1 SNBV may at all times require for the Other Party to hold the Software in Escrow, even if this has not initially been agreed. All reasonable costs associated to the above will be borne by SNBV.
- 10.2 Escrow comprises all information which has not been made public which SNBV reasonably needs for fault recovery, maintenance and management of the Software. Escrow complies with that which is customary on the Dutch market at the time it was concluded.
- 10.3 If the Source Code is changed at any time, the Other Party undertakes to also deposit the changed version(s) in Escrow.
- 10.4 If an agreement has been made on Escrow, the Other Party will provide SNBV with a written confirmation from the agreed custodian no later than on an agreed date showing that all information to be held in Escrow has been deposited with that custodian.
- 10.5 SNBV will be entitled to require all versions of the Source Codes held in Escrow to be surrendered if the Other Party is declared bankrupt, ceases to exist or is taken over by a third party that does not consider itself to be bound by the Agreement or imposes unreasonable conditions to the continuation of the Agreement.
- 10.6 SNBV will be entitled to require all versions of the Source Codes relating to Custom Software held in Escrow to be surrendered if and as soon as the Agreement has been terminated, or will be terminated within one month, if it will not be extended, or if the Other Party can or no longer intends to maintain the Custom Software in accordance with the Agreement.

## Article 11 Maintenance

- 11.1 At SNBV's first request, the Other Party undertakes to agree to Maintenance relating to the Software.
- 11.2 Even if Maintenance is not agreed until after the conclusion of the Agreement, the General Provisions and these Special Provisions Software apply to Maintenance.
- 11.3 The Other Party guarantees that it can maintain the Software at least during the term of the Agreement.

## Article 12 Contents of the Maintenance

- 12.1 The Maintenance relating to Software will comprise the following:
- a) Preventive Maintenance:  
Maintaining the Software and taking measures to prevent malfunctions. As part of the preventive maintenance, the Other Party will regularly check the proper functioning of the Software; 'regularly' meaning at least once every six months.
  - b) Corrective maintenance:  
The detection and repair of defects in the Software and making Improved Versions and Patches available in order to repair defects, after these having been reported by SNBV or which are otherwise known to the Other Party.
  - c) Innovative maintenance:  
Modifying any part of the Software to increase its reliability, change features, or add new features, including making New Versions available.
  - d) Adjusting the System Software:  
Adjusting the System Software at SNBV's request if other hardware and/or software is changed or if the impact of external factors or the connection of other hardware and/or software require this.
  - e) Support:  
Providing support in solving defects, as well as giving advice on the use and features of the Software.

g) Training:

Where applicable, training SNBV staff at SNBV's request, so that these staff members can ensure the performance of the maintenance work.

The exact nature, scope and costs of the Maintenance will be further agreed.

### **Article 13 Time and place of the performance of Maintenance**

- 13.1 Maintenance that may lead to disruption of SNBV's business continuity will only be carried out with SNBV's prior written consent.
- 13.2 In principle, maintenance is carried out on or from the Other Party's site. Maintenance that reasonably needs to take place at the site of SNBV, will be carried out on site at SNBV.
- 13.3 The Other Party is obliged to provide itself in good time with the Materials required for the performance of the Maintenance.

### **Article 14 Maintenance on Customs Software**

- 14.1 If SNBV carries out maintenance on the Custom Software itself or has it maintained by a third party, the Other Party will, if so requested, support SNBV in this for a fee in line with the market. Upon request, the Other Party will provide SNBV or a third party engaged by the latter with the (additional) information required for this purpose. The above also applies to the management activities in respect of Custom Software which SNBV carries out itself or for which it has engaged a third party.

