

DRAFT Agreement
between
Eindhoven Airport N.V.
and
Supplier
concerning
the supply of SSBD units
as well as
the maintenance and support
for 5 years

Subject : Agreement
Client : Eindhoven Airport N.V.
Department : Procurement
Date : []
Contract no. : []
Version : **Draft 0.1**

The undersigned:

1. **Eindhoven Airport N.V.**, having its registered office at Luchthavenweg 13 in (5657 EA) Eindhoven, the Netherlands, duly represented in this matter by Mirjam van den Bogaard in the capacity of COO, and Roel Hellemons in the capacity of CEO, hereinafter to be referred to as “EANV”

and
2. [] having its registered office at [], in () [], registered in the Commercial Register under number [], duly represented in this matter by Mr [] in the capacity of Director, hereinafter to be referred to as the “Supplier”.

also to be referred to jointly as the “Parties” and separately as the “Party”,

Whereas:

- EANV requires a supply of Equipment, Software and Services concerning 12 Self Service Bag Drop (SSBD) units, as described in further detail below, that will be supplied in accordance with the conditions set forth in this Agreement. If at a certain moment there is a greater need for additional SSBD unit(s), these will be delivered and implemented with all terms and conditions unchanged;
- Within this context, EANV issued an European call for tenders bearing reference Invitation to Tender (ITT) dated 25-01-2022 (hereinafter to be referred to as “Call for Tenders”) for the purpose of selecting a Supplier that meets the requirements and wishes set forth in the Specifications belonging to this Call for Tenders (hereinafter to be referred to as the “Specifications”);
- The Supplier submitted a tender and was granted the assignment by EANV in accordance with the applicable procedure;
- The Parties wish by means of this agreement (hereinafter referred to as the “Agreement”) to establish a number of standard provisions and preconditions relating to all current and future specific Services and deliveries to be carried out;

Have agreed the following:

Article 1 - General Purchase Terms and Conditions IT & Systems and additional definitions

- 1.1 EANV’s General Purchase Terms and Conditions IT & Systems apply to this Agreement. The Supplier’s general terms of delivery and payment or any other set of general or specific terms and conditions are expressly rejected. In the event of conflict between provisions of the Agreement and provisions of the General Purchase Terms and Conditions IT & Systems, the provisions of the Agreement shall take precedence over the provisions of the General Purchase Terms and Conditions IT & Systems.
- 1.2 In addition to the definitions given in the General Purchase Terms and Conditions IT & Systems, the following definitions apply within the context of the Agreement.

Appendices: The appendices that, after having been initialled by the Parties, form an integral part of the Agreement.

Maintenance: Maintenance relating to the Software and Equipment as further described in this Agreement and in the Service Level Agreement.

Agreement: This Agreement signed by both Parties, including the associated preamble and appendices.

Terms and Conditions: the 6 EANV’s General Purchase Terms and Conditions IT & Systems, which Terms and Conditions are attached to this Agreement as Appendix 1;

Appendix 1.1: General Purchase Conditions IT & Systems General Provisions

Appendix 1.2: General Purchase Conditions IT & Systems Special Provisions – Professional Services

Appendix 1.3: General Purchase Conditions IT & Systems Special Provisions – Housing and Hosting

Appendix 1.4: General Purchase Conditions IT & Systems Special Provisions – Hardware

Appendix 1.5: General Purchase Conditions IT & Systems Special Provisions – Software

Appendix 1.6: General Purchase Conditions IT & Systems Special Provisions – SaaS (if applicable)

Data Processing Agreement: The Data Processing Agreement, signed by both Parties, including appendices, see Appendix 3.

Data: All data, metadata and files provided by a Party, entered by (or on behalf of) a Party or generated by the Services with respect to the Services.

Article 2 - Object of the Agreement

- 2.1 EANV hereby grants the Supplier the assignment to supply Equipment, Software and Services within the frameworks provided by the documents included in [], and the Supplier hereby accepts the assignment.
- 2.2 The Services relate to the delivery, Implementation, Installation and Maintenance of the Equipment and Software as set forth in the Programme of Requirements (Appendix 2.1 and 2.2), the Implementation Plan (Appendix 9) and the Service Level Agreement (Appendix 4).
- 2.3 The Supplier guarantees on the basis of its performance obligation that the Equipment and Software as referred to in Appendix 9 shall comply in full with EANV's requirements as formulated in the Programme of Requirements or, as the case may be, with the specifications agreed in writing during the term of the Agreement.

Article 3 - Term of the Agreement

- 3.1 This Agreement will start at 17-05-2022 for delivery and implementation of the new SSBD units and will end after completion of the implementation and training, no later than 16-12-2022. The Agreement regarding maintenance is being entered into for a term of five (5) years, coming into force on 1-11-2022 (or date of start implementation) and ending by operation of law on 01-11-2027 (or five years after implementation). EANV is entitled to extend this Agreement of 1 year each time till the end of support of the units, with its terms and conditions unchanged, provided that EANV informs the Supplier accordingly at least 3 months before expiry of the current term.

Article 4 - Prices

- 4.1 As remuneration for the project activities to be supplied and carried out by the Supplier, EANV shall pay the Supplier the remuneration amounts specified in Appendix 9, corresponding the quote of the Supplier (pricing form; Invitation to Tender).

Article 5 – Payment

- 5.1 The Supplier shall charge EANV the amounts owed as based on the Agreement and which have been elaborated in Appendix 8 (article 4.1). EANV shall send the Supplier a purchase order for this purpose.
- 5.2 The Supplier shall charge EANV the amounts owed for Maintenance as based on the Agreement on a yearly basis, which amounts shall be charged in advance and properly itemised. For this purpose, the Supplier shall first send to an EANV contract manager a pro forma invoice which EANV, if it agrees to it, will approve. EANV shall then send the Supplier a purchase order that accords with the pro forma invoice approved by EANV. The Supplier shall invoice EANV on the basis of this purchase order.
- 5.3 The Supplier shall charge EANV the variable amounts owed as based on the Agreement and as specified in Appendix 9 on a quarterly basis, which amounts shall be charged in arrears and properly itemised. For this purpose, the Supplier shall first send to an EANV contract manager a pro forma invoice which EANV, if it agrees to it, will approve. EANV shall then send the Supplier a purchase order that accords with the pro forma invoice approved by EANV. The Supplier shall invoice EANV on the basis of this purchase order.
- 5.4 All invoices shall be emailed to EANV as a PDF file to invoices@eindhovenairport.nl. Please state specifically the following reference on the invoice: [Reference]

Ensure the invoice is addressed to:

Eindhoven Airport N.V.
To: Finance department
Luchthavenweg 13
5657 EA EINDHOVEN
The Netherlands

Please use this email address for all other financial correspondence: finance@eindhovenairport.nl.
If your invoice does not meet the requirement(s) mentioned above, we cannot process your invoice.

- 5.5 EANV shall pay the amounts it owes as based on the Agreement into the bank or giro account indicated for the purpose by the Supplier within 30 days of having received the correct invoices concerned.

- 5.6 Payment of delivery, implementation training will be according to the following schedule: 10% after signing of this contract, 65 % after delivery of all equipment, 15% after installation of all equipment, 10% after final acceptance and completion of all training.
- 5.7 Payment of the maintenance and support contract will be on a quarterly basis.

Article 6 – Maintenance

- 6.1 The Supplier shall carry out Maintenance work on the Software and Equipment in accordance with the provisions of the Terms and Conditions and the service levels agreed upon the Service Level Agreement in appendix 4 of this contract.

Article 7 - Implementation and Acceptance (Test)

- 7.1 The Supplier shall implement and install the Software (and Custom-Made Software) and Equipment in accordance with the Implementation Plan as described in the implementation plan of the Tenderer. The terms specified in the Implementation Plan are strict deadlines.
- 7.2 During and after the Implementation phase, the Supplier shall give EANV the opportunity to carry out an Acceptance Test. The Acceptance Test shall take place on the date specified in the Implementation Plan unless agreed otherwise. The Acceptance Test shall serve as a guide to determine whether the Supplier has met its obligations arising from this Agreement. If, based on the Acceptance Test, EANV does not accept the Software and Equipment due to defects in the Software, whether or not these are associated with the Equipment, EANV shall be entitled to dissolve this Agreement with immediate effect. The Supplier shall then return to EANV all amounts paid by EANV to the Supplier pursuant to this Agreement; the preceding without prejudice to all of EANV's other rights, including the right to compensation. EANV shall return all Equipment, Hardware and Software (including Custom-Made Software).

Article 8 - Contact persons

- 9.1 Both Parties shall designate one or more contact persons and one or more substitute contact persons who shall maintain contact with regard to (method of) performance of the Agreement.
- 9.2 The contact person(s) of EANV is/are;
 - Ton Verblackt, Technical & Facility manager
 - Eveline Dings, Technical & Facility coordinator
 - Sven Bastianen, Manager Digital & IT

The contact person(s) of the Supplier is/are;

-
 -

Article 10 - Data Protection

- 10.1 The Supplier will take the measures set out in the Security Annex (Appendix 5) in order to protect all Data.
- 10.2 The Supplier will be considered processor as defined in the General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR") and therefore Parties shall conclude a Data Processing Agreement (Appendix 3). The Data Processing Agreement applies solely to the processing of personal data within the scope of and the Services performed by Supplier under this Agreement.

Article 11 - Exit conditions

- 11.1 At the end of this Agreement, the Supplier shall ensure that without loss of Data, all Data shall be transferred to EANV, with the guarantee that this data, including metadata, can be imported in XML format inclusive XSD-diagram, which shows the meaning of the XML, by EANV or by a third party appointed by EANV.
- 11.2 The Supplier shall ensure that at the end of this Agreement all activities shall be performed that will enable EANV or a third party appointed by EANV to receive all Data and to import all Data including Meta data. The Data is to be provided in XML format by the Supplier to EANV or to a third party appointed by EANV. EANV shall be entitled to perform an Acceptance Test in order to check whether the Data including all Meta data has been provided in

the right way and can be used for the desired functionality. The Supplier shall solve any problems uncovered by the Acceptance Test.

- 11.3 The Supplier shall guarantee its complete cooperation in the provision of Data to EANV or to a third party appointed by EANV.
- 11.4 Should EANV wish to receive the Data in a format other than that described in Article 11.2 then the Supplier shall take care of this for a fee to be agreed at that time.
- 11.5 The Supplier shall inform EANV promptly in writing of any circumstances that could give cause to amend the Exit conditions. No later than one month after the circumstance occurred that gave rise to the amendment, the Supplier shall submit to EANV for the latter's approval two copies of the amendments to the Exit conditions that it is proposing. EANV shall assess the amended plan within twenty days.
- 11.6 In the event of termination or dissolution of (all or part of) this Agreement, the Supplier shall implement the Exit conditions in good time before this Agreement expires.
- 11.7 The Supplier shall remain fully responsible for a complete, prompt and correct performance of the Services until the stipulated end date for the Services.
- 11.8 The Supplier shall ensure that the end date for the Services in question shall on no account be later than 6 months after the notice of the termination or dissolution, and in the case of the expiry of the Agreement on the day that the fixed duration of this Agreement ends.
- 11.9 The Supplier shall guarantee that the Exit conditions can always be immediately implemented.

Article 12 - Additional documents

- 12.1 The Supplier shall guarantee that the "Supplier Code of Eindhoven Airport N.V." (Appendix 6) will always be considered.
- 12.2 The Supplier shall guarantee that the "Airport Regulations Eindhoven Airport" (Appendix 7), will always be considered.
- 12.3 The Supplier shall guarantee that the "Access Policy EANV" (Appendix 8), will always be considered.

Article 13 - General

- 13.1 For the duration of the Agreement, Appendices may be altered and/or added. Altered and/or added Appendices shall be signed by both Parties, after which they shall form an integral part of the Agreement.
- 13.2 Notifications that the Parties shall give each other based on this Agreement shall be given in writing.
- 13.3 If a court deems one or more provisions of the Agreement to be null and void and/or declares one or more provisions to be void and/or not legally valid, the remainder of the Agreement shall remain in force. Furthermore, the Parties undertake now for then to engage in consultation about new provisions to replace those that have been deemed or declared null and void, while retaining the essence of the original provision or provisions to the greatest extent possible.
- 13.4 The following documents form an integral part of the Agreement. Insofar as these documents may be found to conflict with each other, the document below listed first shall take precedence, i.e. the lower the document in the list, the lower its respective priority:

The Agreement including all Appendices;

Appendix 1 – EANV General Purchase Conditions IT & Systems, consisting of the following General Provisions and Special Provisions:

- *Appendix 1.1 - General Purchase Conditions IT & Systems - General Provisions*
- *Appendix 1.2 - General Purchase Conditions IT & Systems - Special provisions hardware*
- *Appendix 1.3 - General Purchase Conditions IT & Systems - Special provisions housing and hosting*
- *Appendix 1.4 - General Purchase Conditions IT & Systems - Special provisions professional services*
- *Appendix 1.5 - General Purchase Conditions IT & Systems - Special provisions SaaS*
- *Appendix 1.6 - General Purchase Conditions IT & Systems - Special provisions Software*

Appendix 2 – Programme of Requirements

Appendix 3 – Data Processing Agreement
Appendix 4 – Service Level Agreement
Appendix 5 – Security Annex
Appendix 6 – Supplier Code of Eindhoven Airport N.V.
Appendix 7 – Airport Regulations Eindhoven Airport
Appendix 8 – Access Policy EANV
Appendix 9 – Tenderer's Tender including compliancy list, dated [dd-mm-yyyy]

Agreed and signed in duplicate.

For the Supplier:

Name:

Name:

Position:

Position:

Date:

Date:

Signature: _____ Signature: _____

For EANV:

Name: R.A.J. Hellemons

Name: M.P.J. van den Bogaard

Position: Chief Executive Officer (CEO)

Position: Chief Operating Officer (COO)

Date:

Date:

Signature: _____ Signature: _____

Appendix 1 - EANV General Purchase Conditions IT & Systems

The General Purchase Conditions IT & Systems, consisting of the General Provisions and the Special Provisions as set out below, are enclosed as separate documents;

- *Appendix 1.1 - General Purchase Conditions IT & Systems - General Provisions*
- *Appendix 1.2 - General Purchase Conditions IT & Systems - Special provisions hardware*
- *Appendix 1.3 - General Purchase Conditions IT & Systems - Special provisions housing and hosting*
- *Appendix 1.4 - General Purchase Conditions IT & Systems - Special provisions professional services*
- *Appendix 1.5 - General Purchase Conditions IT & Systems - Special provisions SaaS*
- *Appendix 1.6 - General Purchase Conditions IT & Systems - Special provisions Software*

Appendix 2 - Programme of Requirements

The Programme of Requirements will be enclosed when finalising this contract. The programme of requirements consists of 2 documents:

- 2.1 Programme of Requirements
A text document with explanation of the situation and usage of the SSBD's at EANV
- 2.2 Requirements
A Excel file with the Requirements divided in 3 categories: "Must have", "Preferred" and "Nice to have".

Appendix 3 - Data Processing Agreement

The Data Processing Agreement is enclosed as a separate document.

Appendix 4 - Service Level Agreement

The Service Level Agreement is part of the procurement and will be enclosed when finalising this contract.

Appendix 5 – Security Annex

The Security Annex is enclosed as a separate document.

Appendix 6 - Supplier Code of Eindhoven Airport N.V.

The Supplier Code of Eindhoven Airport N.V. is enclosed as a separate document.

Appendix 7 - Airport Regulations Eindhoven Airport

The Airport Regulations Eindhoven Airport is enclosed as a separate document.

Appendix 8 - Access Policy EANV

The Supplier Code of Eindhoven Airport N.V. is enclosed as a separate document.

Appendix 9 - Tenderer's Tender including compliancy list, dated [dd-mm-yyyy]

The Tenderer's Tender is part of this contract and will be enclosed when finalising this contract.