



## T&Cs AFAS PROFIT

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# 1 About these T&Cs

We want you to know what to expect when doing business with us. In these General Terms and Conditions (T&Cs), we explain our terms and conditions for the provision of our software and services. We try to be as transparent as possible and avoid difficult terms so that everyone understands our T&Cs. For that reason, this document does not include any complicated legal provisions or all sorts of exceptions.

We would love to hear from you if you have any questions or comments about these T&Cs. You can submit a 'T&C/SLA query' via the 'Service Level Agreement and General Terms and Conditions' page on the [Customer Portal](#). You can also download the latest version of these T&Cs [here](#).

## 1.1 Validity

These T&Cs come with a Service Level Agreement (SLA). The T&Cs and SLA form an integral part of the contract between you and us. The T&Cs will remain valid for the term specified in the contract, including any optional extensions. These T&Cs will cease to apply on termination of the contract. Provisions that reasonably continue to apply after termination of the contract will remain valid.

This is an automatic translation of the Dutch T&Cs. In the event of any differences in interpretation or translation errors, the Dutch texts shall always prevail.

## 1.2 Changes

We work continuously to further improve our software and the services we provide to our customers. We also monitor any changes in laws or regulations so as to remain compliant. This means that we will update our T&Cs at least twice a year to reflect the improvements and changes we make. If there are any changes, we will let you know via the [customer portal](#) and our newsletter.

If you use our software and services, the most recent T&Cs always apply. You are under no obligation to accept changes to our T&Cs. If you have any questions or comments about a stated change, you can also submit a 'T&C/SLA query' for that purpose. We will then examine whether an adjustment may be necessary. We know more together. If we cannot come to an understanding, you may as a last resort terminate all or any part of the contract with us.

# 2 Customer portal

All our processes are designed for self-service. We offer you an online portal where you can find information about our processes, our practices and how to use our software. A personal [customer portal](#). You can also use the customer portal to submit questions to our support desk, change your subscriptions and sign up for courses.

Service requests and requests for additional services also go through the customer portal. You can find the necessary information, such as dates, costs and terms, here as well. The customer portal allows you to monitor the handling of all your requests, submit any further questions or upload additional information.

# 3 Contract

The contract is the quotation signed by you or the document in which we have recorded our written arrangements with you. Our contract with you will be valid for an indefinite period of time unless we have agreed otherwise. Under the contract, you will receive a licence (against payment of the agreed fee) to use our software and the agreed related services.

## 3.1 Licence

The licence specifies the components that you have purchased, including the quantities, such the number of users, employees, environments, returns, etc.

## 3.2 Fee

The licence fee is calculated according to graduated scales based on the quantities purchased and the prices per sector/industry. The fee may therefore change when licence quantities are increased or decreased. Details of the components offered, prices and graduated scales can be found in the contract.

Prices are index-linked annually and apply as of the first invoice in the following calendar year. Prices are index-linked to reflect changes in the consumer price index (CPI), specifically the annual change made in July of the current year. As of the last week of September, the indexation details will also be available on the indexation page on the [customer portal](#). We will also send you an indexation email by October at the latest.

## 4 Liability

We will do everything we can to ensure that our software and services meet the specifications listed. If there are nonetheless any errors, we will resolve them as quickly as possible. We want our software to operate as effectively as possible and for you to be satisfied with our services. However, things may go wrong. If you suffer any loss or damage as a result, we will work together to find a suitable solution.

### 4.1 Limitation of liability

All liability issues (on any basis whatsoever) will be handled by AFAS Software B.V. in the Netherlands. Hereby, our liability is limited to €1,000,000.- per event or series of events with the same cause. Combined, our liability never exceeds €2,500,000 per calendar year. In case of intent or deliberate recklessness of AFAS, our employees or third parties engaged by us, we cannot invoke the limitations of liability.

We are not liable for any form of consequential damage, such as lost sales, lost profits and lost opportunities. This also applies if you or third parties engaged by you make unauthorised changes to our software.

Finally, neither you nor we will be liable to each other in the event of force majeure. By this, we mean force majeure within the meaning of the law (Section 74 of Book 6 of the Dutch Civil Code). This concerns, for example, supplier force majeure, power grid failures or malfunctions hampering data traffic, provided that the cause is not attributable to you or to us.

### 4.2 Professional and business liability insurance

We have in place a combined professional and business liability insurance policy for exceptional events.

If you have a claim or a complaint, it is important that you let us know as quickly as possible via the [customer portal](#). We can then immediately start finding a solution. We will also need to report any claims to our insurance company. Whatever goes wrong, we will always work with you to find the right solution together.

### 4.3 Delivery deadlines

We believe it is important to keep our promises. However, unforeseen circumstances may occur, or we may be dependent on third parties. If we fail to meet a delivery deadline, we will contact you to agree on a reasonable grace period for us to properly meet all our obligations after all.

## 5 Governing law

Our contract is governed by the laws of the country where our office is located. Any disputes will be submitted exclusively to the competent court in the jurisdiction where our office is located.

- For the Netherlands: Central Netherlands District Court, Utrecht location
- For Belgium: Antwerp Court of First Instance, Mechelen location
- For the Caribbean: Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba

If any of the provisions are void or voidable, the remaining provisions will remain in force. We will then work together to agree on a similar provision to replace the void or voidable provision.

The Dutch versions of these T&Cs and SLA will prevail in the case of any interpretation differences.

## 6 SaaS terms

We provide our software in the form of a SaaS (Software as a Service) service. Our SaaS service allows you to access your own online environment containing our software functionalities and your own data. We will ensure that these remain available in line with our SLA, but you will not receive a copy or download of the software itself.

### 6.1 Use of the SaaS service

The following provisions of use apply:

- Our SaaS service is intended for use within your organisation.
- You will only use the SaaS service for as long as a valid licence is in place.
- You will only use the SaaS service for the agreed quantities.
- You are not permitted to imitate or copy the SaaS service or use it inappropriately.
- You may only use the test and acceptance environments for tests and acceptance work.

We will update our SaaS service regularly. In the case of any major changes affecting your work processes, we will let you know in good time. If you do not accept the change, you may terminate the contract, unless the change is required by laws or regulations.

We may update, upgrade or roll out a new version of the SaaS service, but we are under no obligation to maintain or add specific features. We may sometimes have to take the service offline temporarily for maintenance purposes. We will try to keep this to a minimum and schedule maintenance at quiet times, outside office hours if at all possible.

You will be responsible for setting up, configuring and uploading data yourself, unless otherwise agreed. You may need to adjust your systems, or we may ask you to do so, in order for a new version to operate effectively.

You will find further details and an explanation of this in Sections 2.3 and 2.4 of the SLA.

### 6.2 Licensing and invoicing

We will invoice you as follows, unless different arrangements are set out in our contract:

- licences: monthly in advance;
- consultancy: weekly in arrears or via agreed instalments;
- service management: weekly in arrears;
- training: at the start of the training programme.

The current quantities per product are listed on the subscription invoice and in the customer portal. You will receive all our invoices by email as PDF and UBL files or via the Peppol network. The payment term is 14 days.

#### 6.2.1 *Validity of the licence*

We will automatically renew the licence, but will not do so if:

- an uncontested invoice has still not been paid after 60 days;
- you consistently pay your invoices more than a month late;
- you or we terminate the licence as described below in Clause 6.2.2.

If the licence is due to expire within 21 days, you will receive a notification when logging in.

#### 6.2.2 *Change or terminate the licence*

You can amend the licence via the [customer portal](#).

- You can increase the licensed quantities at any time and several times a month, except where a reduction was already implemented in that month.
- You can also reduce the licensed quantities at any time, except where an increase was already implemented in that month. In addition, reductions are only possible after one full year of invoicing or after expiry of the agreed initial period (if any).

Please note that you will need to make these changes at least three working days before the new invoicing period. We process changes in subscriptions every night, so they will be available the next day.



### **Termination by you**

You may terminate the licence as of the new invoicing period or as of a date specified by you, after one full year of invoicing or after expiry of the agreed initial period (if any). Please note that you will need to notify us three working days ahead of the new invoicing period. After the contract has been terminated, you will no longer have access to the software or the related data.

### **Termination by us**

Our notice period is 12 months. We may terminate the contract immediately if you fail to meet the arrangements made and we have given you notice of default. The same applies if you apply for a suspension of payments or insolvency. After we have terminated the contract, you will no longer have access to the software or the related data.

### **How do we handle your data after termination?**

Prior to termination, you can export all data in the usual formats (such as MS Excel, CSV and PDF). You can save all attachments to file items onto your own system via the GET connector (API).

We will archive your entire production environment for one year. After one year, we will delete your data permanently. Upon request, we will delete the data earlier. Your data will remain fully available if you continue your subscription with a smaller licence. For more information, see the '[See you soon](#)' page on the customer portal.

## **6.3 Warranty and support**

We do not warrant that the SaaS service will always operate flawlessly or without interruptions. We will do our best to fix any errors in our software within a reasonable period of time. However, we will need a detailed description of the defect for this. This does not cover any errors in third-party software. We will offer support during our regular working hours. We will do our best to help you in a timely manner.

You will be responsible for taking measures to mitigate any malfunctions, data loss, or other risks and damage. Where possible, we will help you recover lost or corrupted data by restoring the last available backup of the affected environment.

We will do our best to make any necessary adjustments to the SaaS service based on changes in laws and regulations in a timely manner. However, this will be conditional on the timely announcement of the changes in the law and the availability of the necessary detailed information.

See our SLA for more details on this.

## **6.4 Use, checks and audits**

You must adhere to the agreed provisions of use as described in Clause 6.1. On request, you will cooperate with any compliance checks. This may include allowing us to inspect your systems. We will of course keep any company information confidential in the process.

To the extent required by applicable laws and regulations, independent auditors hired by you (or the regulatory authorities) may conduct audits. They may check our compliance with the terms and conditions set out in the contract, any regulatory rules and applicable mandatory rules of law. We will notify you of any audit by the regulator as soon as possible, provided that the audit covers your data and notification is not prohibited by law.

All costs associated with conducting an audit at your request, including internal costs of our staff, will be charged on to you. We will not pass on all the costs if the audit shows that we failed to meet our obligations in key areas. In that case, we will agree on a reasonable division of costs.

## **6.5 Acceptance of the SaaS service**

If we have not agreed an acceptance procedure, you will accept the SaaS service as is. Once you start using the SaaS service, we consider the SaaS service as having been accepted. Acceptance means that we have met our obligations to make the SaaS service available in accordance with the arrangements made in the contract.

## 6.6 Fair use

We assume fair use: you use our software in a way that is fair to everyone. So without abusing or unnecessarily burdening the systems.

Does your use not meet this requirement? Then we will contact you to find a solution together. If we can't reach you or can't work it out, AFAS retains the right to take measures. This is how we ensure that the software remains available to everyone.

More information can be found on the AFAS Online page on the [customer portal](#).

## 6.7 Property rights

We are and will remain the owner of all intellectual property rights in the software. If a third party claims otherwise, you must let us know as soon as possible. You must cooperate with the investigation and let us handle the matter further. If a court rules that the intellectual property is indeed owned by a third party, we will ensure that you can continue to use the software or else will provide equivalent software. In that case, we will indemnify you for any direct costs, including in particular the legal costs incurred.

## 6.8 Legal matters

You must use the SaaS service in a way that is compliant with laws and regulations, while respecting the rights of others. This means, among other things, that you must not infringe copyrights, violate privacy rules or distribute harmful software. If you breach the rules, we may take action, including deleting data or blocking access to your environments. In the case of a serious breach, we may terminate the contract with immediate effect.