
DATEV eG Special Terms and Conditions of Purchase for Hosting

1. Scope of Validity

The provisions of these Special Terms and Conditions of Purchase of DATEV eG (hereinafter referred to as "DATEV") apply to the provision and operation of software and/or IT infrastructure in a data center of the Contractor for use by DATEV ("hosting services"), in addition and paramount to DATEV's General Terms and Conditions of Purchase <https://go.datev.de/gpc> and DATEV's Special Terms and Conditions for Services <https://go.datev.de/spc-services>.

2. Access

Unless otherwise agreed in the contract, the provided software and/or IT infrastructure shall be accessed via web browser, whereby access and use must be compatible with at least two different conventional web browser products.

3. Data Center and Data Backup Requirements

- (1) The software and/or IT infrastructure shall be hosted, including storage and processing of DATEV's data, in a data center located within the European Union. The Contractor must continuously ensure logical separation of DATEV's data pools from other data pools.
- (2) The data centers used by the Contractor shall correspond to Tier III of the Uptime Institute's classification system. In particular, this means that each system element has its own automatic functions which start automatic response and defense mechanisms to counteract errors or failures of individual components, should they occur. All capacity and supply elements are also continuously redundant and technically harmonized with each other. Complementary systems and supply paths are operated in physical isolation from each other.
- (3) DATEV has the right to check whether the requirements are met, in particular through function tests and security analyses as per No. 16 Para. 1 and No. 17 Para. 5 of DATEV's Special Terms and Conditions of Purchase for Services.
- (4) The Contractor shall create a complete backup of DATEV's data at least once per day and retain the backups for a minimum of 30 days in each case. In creating the data backups, the Contractor must ensure that DATEV's data can be completely restored at any time.

4. Rights of Use for Software

- (1) The Contractor shall grant DATEV the non-exclusive, transferable, sublicensable right, which is not limited in terms of territory but is limited in time to the rental term of the contract, to use the software provided by the Contractor, including the respective documentation, in the licensing scope agreed in the contract. The right of use includes in particular the right to present, make available to public, exploit, and further exploit, and to perform such actions through and/or for a third party.
- (2) Unless otherwise agreed in the contract, the number of licenses (or any licensing scales) agreed in the contract shall correspond to the number of users who can use the provided software at the same time during the rental term of the contract ("concurrent user licenses").

5. Availability and Flat-Rate Reduction of Remuneration

- (1) The Contractor is responsible for ensuring a minimum availability of access to the software and/or IT infrastructure of 99.95% per calendar month. "Available" means always available both in a technical and functional sense.
- (2) Availability is measured during the agreed service time. The service time agreed for calculating availability is 24 hours, seven days per week, 365 days per year.

- (3) In principle service and maintenance work must be performed in parallel without affecting availability. If parallel maintenance is not possible, the Contractor must announce the planned service window to DATEV at least three working days in advance and is only permitted to perform service and maintenance work between the hours of 10 p.m. and 5 a.m. Permissible service windows announced in advance shall not be included in the availability calculation, provided the overall duration of the service windows does not exceed 30 minutes per month.

- (4) The Contractor is responsible for measuring and reporting minimum availability using the described measurement tools and procedures. These tools and procedures are subject to inspection by DATEV or its agents at any time. The Contractor shall provide DATEV with a report on functionality, availability, and performance of the cloud services in a month on the 5th working day of the following month. The respective handover point and therefore measurement point for the agreed minimum availability is the interface of the last network component operated on the public network in the Contractor's data center.

- (5) A drop in availability below the minimum availability of 0.1 percentage points in each case leads to a flat-rate reduction of remuneration amounting to 1% of the agreed monthly amount for hosting, but per month no more than 25% of the agreed monthly remuneration for hosting. The Contractor shall list the flat-rate reduction separately in the monthly invoice and deduct it from the invoice amount. The enforcement of other claims which may arise against DATEV contractually or legally remains unaffected.

6. Free from Defects, Maintenance and Service Work

- (1) During the rental term, the Contractor must provide the software and/or IT infrastructure for use free of material and legal defects, and must provide proper maintenance and service work for it.
- (2) The Contractor shall perform its services in accordance with the latest tried-and-tested state of the art and with processes that meet recognized quality standards. DATEV is entitled to check the Contractor's compliance with these standards.
- (3) The maintenance services for the provided software shall be provided based on the terms set out in Section F ("Additional Terms and Conditions for Software Maintenance") of DATEV's Special Terms and Conditions of Purchase for Services – with the exception of the provisions in No. 23 and 24 ("Remuneration" and "Termination") – and shall be covered by the agreed remuneration for the rental term of the contract. The same shall apply in corresponding application to the service work performed for the provided IT infrastructure.

7. Contract Management and Termination Support

- (1) In the event that the contract is terminated in part or in whole, regardless of the legal reason for this, the Contractor shall hand over free of charge the data and documents belonging to or specifically created for DATEV or shall either provide the data and documents via an interface to be specified or on a data carrier, whichever DATEV chooses, and disclose to DATEV the data structures. Statutory retention obligations remain unaffected by this. The Contractor is not entitled to enforce withholding rights on such data and documents.
- (2) Regardless of the reason for terminating the contract, the parties shall work together for the purposes of properly terminating the contract. DATEV may require the contractor to support DATEV in transferring the contractual services concerned to a successor provider. This support includes all services that are required or practical for properly transferring the services to the other provider, including helping devise and implement an appropriate transfer plan and providing the

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required information and data to enable as smooth a transition as possible to a data processing system chosen by DATEV. The other provider may be DATEV itself or a third party commissioned by DATEV. The proper performance of contractual services which DATEV continues to purchase from the Contractor must not be affected. The Contractor's assistance shall be reimbursed on a time and material basis based on explicitly agreed remuneration rates.

- (3) Regardless of the reason for terminating the contract, DATEV is entitled to reschedule the termination time for performance of service by the Contractor one or more times, whereby the termination time is permitted to be postponed by a total of no more than 12 months from the originally scheduled termination time. During such an extension period the provisions of the contract shall continue to apply unchanged. DATEV shall inform the Contractor in writing of the rescheduling 30 days in advance at the latest.
- (4) The Contractor commits to being available to answer questions and provide consultancy services for a duration of up to six months after the services are transferred to another provider. The Contractor can request remuneration for this on a time and material basis based on the last agreed remuneration rates prior to termination of the contract.

8. Remuneration

The contractually agreed price for the hosting services is specified either as a fixed price per month or year, or as an amount based on the hosting services actually used by DATEV in the respective calendar month just ended.

9. Termination

DATEV is entitled to terminate the hosting services contract in part or in whole at the end of each calendar month with a notice period of three months.