

1. Applicability

These General Terms and Conditions for the Purchase of IT ("AEB-IT") shall apply to the purchase of hardware and software, cloud-based services as well as other IT services associated therewith or other systems such as consulting, customization or programming ("IT Services").

2. Definitions

- 2.1 **Dräger** refers to the Drägerwerk AG & Co. KGaA, Moislinger Allee 53-55, 23558 Lübeck or the respective company affiliated with Dräger pursuant to Art. 15 et seq. AktG (German Stock Corporation Act) which commissions the IT services specified in the order.
- 2.2 **Individual order** is the commissioning of concrete individual service contents in accordance with the procedure described herein.
- 2.3 **Order confirmation** is the written confirmation of the Supplier regarding the order of a certain service.
- 2.4 **OSS** means Open Source Software, i.e. freely accessible, non-commercially distributed software components.
- 2.5 **Performance results** are programs in object and source code form, data collections and databases, user and program documentation and operating instructions, user manuals, configuration, parameterization, interface creation, all script programming, designs, drafts, specifications, hardware, etc., which the Supplier creates or provides to Dräger as part of the provision of IT services, which the Supplier creates or provides to Dräger as part of the provision of the IT services.
- 2.6 **Purchase order** is a binding call for goods and services by Dräger, which can be made by means of an SAP transaction and/or a signed contract (or in a framework agreement, if expressly stipulated).
- 2.7 **SAP transaction** is an electronic order from Dräger triggered by SAP and sent to the Supplier using remote communication methods (e.g. e-mail).
- 2.8 The **Supplier** is the company accepting the order.
- 2.9 **System** is a uniform application solution with coordinated, configured components and devices, usually equipped with operating system and user software.
- 2.10 The **Utilities** shall include e.g. all work equipment, in particular programs in object and source code form, data collections and databases, user and program documentation and operating instructions, user manuals, configuration, parameterization, interface creation, all script programming, designs, drafts, specifications, hardware, etc., which are provided to the Supplier by Dräger for use within the scope of the provision of the IT services.
- 2.11 **Written form/written** means a physical document at least digitally signed or an e-mail with signature, unless expressly defined otherwise in the relevant clause.

Part I: General Provisions

3. Contract Conclusion

Contracts must be accepted by Dräger in writing. Orders are placed by Dräger as an SAP transaction and are confirmed by the Supplier by means of a written order confirmation.

4. Remuneration and invoices

- 4.1 If no order has been placed prior to performance, no retroactive remuneration shall be paid to the Supplier ("*No Purchase Order, No Payment!*"). Any remuneration claim in excess of the purchase order requires a prior written purchase order by Dräger, accepted without reservation by the Supplier. The Dräger Travel Expenses Policy applies to all reimbursements of travel costs, incidental

costs and expenses. Payment may only be made after acceptance of the delivery or service owed, unless otherwise agreed in individual cases.

- 4.2 The remuneration agreed in the individual order shall apply for the entire term of such individual order. Conditions exceeding this, such as daily rates for further orders, shall be valid for at least one year from the conclusion of the individual order.
- 4.3 Dräger travel expense guidelines shall apply to the reimbursement of travel costs, incidental costs and expenses; Dräger shall provide these separately upon request.
- 4.4 Payment may only be made after acceptance of the delivery or service owed, unless otherwise agreed in individual cases.
- 4.5 Payments shall be made within 60 days without deduction from the due date of the claim for payment and receipt of both the invoice and the goods or provision of the corresponding IT service.
- 4.6 Invoices will only be accepted if they show a reference to the SAP transaction (order number). Invoices to Drägerwerk AG & Co. KGaA are to be sent to the following email address:
invoices-DWAG@draeger.com
- 4.7 The invoice must contain a detailed overview of services and costs, broken down according to the specific content of the respective service.
- 4.8 In addition, the invoice shall be accompanied by relevant evidence of performance by the Supplier in accordance with the contract, which is recognized by Dräger, in particular countersigned timesheets (insofar as applicable to the type of IT service in question).

5. Dates

- 5.1 Agreed dates (e.g. delivery, acceptance or overall completion dates) or deadlines are binding. If circumstances occur at the Supplier, which have or could have a negative effect on dates and deadlines, the Supplier shall notify Dräger of these circumstances without delay, so that Dräger can arrange for damage-reducing measures, if necessary. If the Supplier culpably exceeds an agreed deadline, it shall be in default (cf. Art. 286 (I) BGB (German Civil Code) without a warning notice.
- 5.2 In the event of delays for which the Supplier is not responsible, the dates affected by the delay shall be postponed accordingly.
- 5.3 If the Supplier culpably fails to meet an agreed deadline for delivery or performance, it shall owe a contractual penalty of 1% of the total remuneration agreed for the corresponding IT services ("total price") for each commenced week of failure to meet the deadline, but no more than 5% of the total price. Any further rights of Dräger shall remain unaffected. A contractual penalty shall be offset against Dräger's claims for damages caused by the same exceeded deadline.
- 5.4 Other claims of the Parties remain unaffected.

6. Liability

- 6.1 The Supplier shall be liable for damages attributable to defects or a breach of contractual obligations by the Supplier, unless the Supplier is not responsible for the damages. This includes reasonable costs for legal defense. Subcontractors of the Supplier shall be deemed to be its fulfillment agents (c.f. Art. 278 BGB (German Civil Code)).
- 6.2 If Dräger's products are recalled to prevent danger to life and limb of third parties, because IT services supplied by the Supplier are defective, the Supplier shall reimburse any expenses incurred in this connection in accordance with Articles 683 and 670 BGB (German Civil Code).

Dräger shall inform the Supplier without delay of any possible recall measures and shall give due consideration to the Supplier's interests.

7. Third-party Property Rights

- 7.1 The Supplier warrants that the IT services which are the subject matter of the contract are free from third party rights, in particular from property rights which are suitable to restrict or exclude their use in accordance with the contract. Insofar as the Supplier engages fulfillment agents to provide the contractual services, it shall ensure that Dräger's rights to the results of the services are not impaired by any copyrights, co-authorship rights or other third-party rights.
- 7.2 The Supplier undertakes to indemnify Dräger against all claims made by third parties against Dräger due to an actual or alleged infringement of rights as a result of the contractual use of the IT services which are the subject of the contract, as well as all legal costs necessary to defend against these claims, unless Dräger is responsible for the infringement of rights.
- 7.3 This independent claim for indemnification shall include, in particular, reasonable out-of-court and in-court legal fees, court costs, other procedural costs (e.g. in arbitration proceedings), settlement payments as well as obligations to pay damages to third parties. Other claims on the part of Dräger remain unaffected.
- 7.4 The Parties shall notify each other in writing without delay if claims are asserted against them for infringement of third party rights.

8. Insurance coverage

- 8.1 The Supplier shall obtain and maintain for the entire term of the contract a customary business liability insurance policy which adequately covers the risks of the performance of the service, including damage caused by editing and processing. Upon Dräger's request, the existence and scope of the insurance coverage shall be proven by submitting a certificate from the insurer.
- 8.2 The insurance coverage must be extended – if necessary – to include coverage for lent and rented items.
- 8.3 Within the scope of the financial loss coverage, in addition to loss of data, non-availability and damage to data, damages due to defective software or defective implementation of the software as well as defectively manufactured products as a result thereof must also be insured.

9. Confidentiality, return of data

- 9.1 "Confidential Information" shall mean all information and data of Dräger and its affiliates pursuant to Art. 15 AktG (German Stock Corporation Act) made available to the Supplier by Dräger or an affiliate, regardless of whether it is expressly designated as "confidential". In particular, this includes all financial, technical, economic, legal, tax, business, employee or management-related information. It is irrelevant whether and on which carrier medium the information is embodied.
- 9.2 The Supplier undertakes to keep the Confidential Information confidential for an unlimited period of time, to protect it from unauthorized access, to use it only for the purposes of the cooperation with Dräger and not to pass it on to third parties without the prior written consent of Dräger.
- 9.3 The obligation does not apply to information,
 - which is already publicly accessible at the time the information is received,

- which is already known to the Supplier at the time of receipt or which is subsequently independently developed or discovered by the Supplier, independently of this contractual relationship or which was made accessible by third parties without any restriction and without any confidentiality obligations,
- that became public knowledge by means other than a breach of the confidentiality agreement,
- the publication of which Dräger has expressly consented to in writing, or
- which the Supplier is legally obliged to disclose.

- 9.4 The confidentiality obligation extends to all employees of the Supplier. The Supplier shall only disclose the Confidential Information to those employees who require it in the context of the execution of the contract ("*need to know*" principle). The Supplier undertakes to inform its employees of existing confidentiality obligations and to impose corresponding confidentiality obligations on them.
- 9.5 After termination of the cooperation, the Supplier must delete or return to Dräger all information and data received, including all copies, at Dräger's discretion. Insofar as these are subject to statutory retention obligations of the Supplier, the Supplier may retain corresponding copies exclusively for this purpose.

10. Data protection

- 10.1 Any processing of personal data by the Parties underly the applicable provisions of data protection law, in particular the General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG).
- 10.2 If necessary, the Parties will conclude a separate agreement on commissioned processing in accordance with Art. 28 DS-GVO.

11. Rights of use and exploitation of performance results

- 11.1 Unless otherwise agreed for the respective individual order, the Supplier shall grant Dräger the following rights at the time of performance of the service in each case
 - the non-exclusive,
 - unrestricted in terms of location, time and content,
 - transferable, irrevocable and non-terminable,
 - exercisable in any environment (including system environment),
 - sublicensable,
 right of use and exploitation to use the results of the performance in the original or in modified, translated, processed or redesigned form; this means in particular to permanently or temporarily store, load, display and run them as well as to modify, translate, process or redesign them by other means and to have them used and processed by third parties for their own purposes or to have them operated for Dräger; in particular also for the further processing or redesign and duplication of all documents, data sources, programs and evaluations created within the scope of the performance of the contract.
- 11.2 Furthermore, Dräger shall be entitled to store, reproduce and exhibit the results of the performance on any medium or in any other way, either publicly or non-publicly, including by means of broadcasting, imaging, sound and other information carriers and radio transmissions, as well as to make them publicly accessible – with the exception of the source code – for example in order to use them in databases, data networks and online services.

12. Commercial Law Regulations

The Supplier warrants that it will comply with all relevant trade and customs regulations and laws of the countries into which the Supplier's products are to be imported in accordance with these Terms and Conditions. This may include, but is not limited to, regulations and laws regarding customs tariff codes, proof of country of origin, product labeling and product evaluation (country of origin calculation), which are necessary for both the delivery of the contractual products to Draeger and the further distribution of these products by Draeger to its end customers. The Supplier undertakes to provide Dräger or companies affiliated with Dräger with any documents required under commercial or customs law in a timely manner and free of charge. Furthermore, the supplier shall inform Dräger in advance if the goods to be delivered are subject to special export restrictions (e.g. prohibitions or licensing requirements with respect to certain countries) and shall specify the product data and parameters required for implementation. The supplier undertakes to inform Dräger if the products are subject to the US Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR) and to notify Dräger if the US share exceeds 10% or 25% respectively. If, in individual cases, export licenses are required for export to the country of destination due to applicable regulations in the country of origin, the supplier undertakes to obtain these and to make them available to Dräger free of charge.

13. Code of Conduct for Suppliers

The Supplier accepts the Code of Conduct for Suppliers available under https://www.draeger.com/en-us_us/About-Draeger/Company-Principles.

14. Final provisions

- 14.1 The contractual relationship between Dräger and the Supplier shall be governed by German law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.2 The place of jurisdiction is Hamburg, Germany. Dräger may also choose to bring an action at the Supplier's place of business.
- 14.3 Should individual provisions of these AEB-IT be invalid, this shall not affect the validity of the remaining provisions of these AEB-IT. In this case, the Parties shall endeavor to find a permissible replacement provision that comes as close as possible to the originally intended provision.
- 14.4 The Supplier may only assert rights of set-off and retention insofar as these are based on undisputed counterclaims or counterclaims which have been finally determined by a court of law.

Part II: Special provisions for work, services and consulting

15. Staff employed and subcontractors

- 15.1 The Supplier shall only be permitted to provide agreed services through subcontractors with the prior written consent of Dräger.
- 15.2 The employees posted by the Supplier must have the training, qualifications and experience required to provide the service in accordance with the contract. The Supplier shall provide proof of this at Dräger's request. Communication with Dräger shall be in German unless otherwise agreed.
- 15.3 Communication with Dräger shall be in German or English, unless otherwise agreed.
- 15.4 The Supplier shall be responsible for organizing the project. He shall be free to arrange the place and time of performance of any work owed.

15.5 Both Parties shall appoint a contact person. The designated contact person shall control the entire project work on the part of the respective party. The contact person of Dräger is not authorized to issue instructions to the personnel or the subcontractor of the Supplier – neither in technical nor disciplinary terms.

15.6 No project-related coordination, instructions or comparable communication between the Supplier's personnel or subcontractors and Dräger's personnel shall take place without the involvement of the designated contact persons. The Supplier shall involve Dräger's contact person for binding information and for all questions arising from the performance of the contract. Decisions and information from other persons shall only be binding for the Supplier and its personnel if they have been confirmed in writing by Dräger's contact person.

15.7 In the event that, in an individual order, the Supplier or the persons deployed to provide the service use Dräger utilities, this must be stated in the respective individual order with accompanying reasoning. The same shall apply to any exceptionally required participation of in-house training courses, the receipt of a personalized telephone connection or the allocation of a fixed working space.

16. Poor performance

- 16.1 In the event of non-performance or poor performance and/or defective performance ("Defect"), the Supplier shall, at Dräger's discretion, either remedy the Defect within a reasonable period of time at its own expense or provide its services renewed and free of Defects.
- 16.2 A Defect shall be deemed to exist, particularly, if IT services provided deviate from specifications, drawings, samples e.g., provided by Dräger.
- 16.3 If the Supplier fails to remedy the defect despite a reasonable grace period, or if the Supplier fails to provide renewed services free of Defects, Dräger may withdraw from the contract or reduce the remuneration appropriately or remedy the defect or have it remedied at the Supplier's expense and claim damages instead of performance.
- 16.4 Claims for Defects shall become time-barred 36 months after delivery, acceptance (where provided) or, in the case of other IT services, not provided for acceptance, after complete performance of the service.
- 16.5 Otherwise, warranty claims and further claims for damages by Dräger shall be governed by the relevant statutory provisions.

17. Duty to Cooperate

- 17.1 Dräger shall cooperate appropriately during the performance of the contract in the sense of a requirement ("Obliegenheit"), insofar as this is contractually agreed upon and necessary.
- 17.2 The Supplier shall be obliged to request Dräger to cooperate within a reasonable period of time, stating the specific cooperation action, insofar as it deems this to be necessary. If the request is not made, the Supplier may not invoke improper cooperation.
- 17.3 Dräger shall only be responsible for insufficient or delayed cooperation if Dräger is accountable for this.

18. Dealing with Utilities provided

18.1 If Dräger provides Utilities (including licenses) as part of the performance of the contract, the Supplier shall ensure that the licensing provisions of the respective Utility manufacturer are complied with and shall inform Dräger without delay of any changes in system configurations (including hardware replacement for servers, software version updates, virtualization).

- 18.2 If this information is not provided, Dräger shall be entitled to charge the Supplier for any resulting infringement of third party rights.
- 18.3 Physical Utilities are to be handled properly and carefully. Damage thereto, which exceeds normal wear and tear, shall be compensated by the Supplier upon return.

19. Remote access

When accessing Dräger's information and telecommunication technology, the Supplier shall strictly observe the applicable information security guidelines, particularly in the event of remote access. Access to personal data – if any – shall be strictly limited to what is absolutely necessary for the performance of the contract. Upon termination of the contract, access authorizations of the relevant personnel of the Supplier to systems and the premises of Dräger shall end.

20. Changes in Performance

- 20.1 Dräger may request changes and additions to the content or scope of the IT services owed by the Supplier ("Change Requests"). The Supplier shall be entitled to reject the implementation of a Change Request, if it is either technically not feasible or involves disproportionate effort and expense, that is unreasonable for the Supplier.
- 20.2 The Supplier shall evaluate the respective Change Request with regard to its effects and shall prepare a corresponding offer in a timely manner, i.e. within five (5) working days at the latest, containing at least the following information:
- specification of the change or addition;
 - expected impact on the timetable and schedule; and
 - additional or reduced effort for the implementation of the change request, including any compensation effects.
- 20.3 Dräger shall decide on the implementation of the Change Request on the basis described above. A claim to any additional remuneration owed hereunder arises only, if Dräger has expressly approved the implementation of the Change Request in advance in writing with corresponding details.
- 20.4 If the implementation of the Change Request has an impact on the contractual performance structure (remuneration, deadlines, acceptance modalities, etc.), the Parties shall promptly adjust the respective accompanying documents and specifications – if available. If necessary, the procedure pursuant to Clause 18.3 shall also be repeated.

21. Acceptance

- 21.1 Insofar as the IT services which are the subject of the contract relate to a work product capable of acceptance, such acceptance shall take place. Partial acceptance is excluded, unless this has been expressly agreed upon. For clarification: interim tests, the use of parts of the service or partial payments shall not be deemed partial acceptance.
- 21.2 The Supplier shall notify Dräger of the completion of the performance without delay and, insofar as the nature of the work permits, shall deliver it to Dräger by the agreed completion date. If no date has been agreed upon, delivery is owed after a reasonable completion period.
- 21.3 Dräger shall inspect the performance within a reasonable period of time in accordance with its complexity and the requirements of the intended use. Within the scope of the acceptance inspection, the Supplier shall prove the contractually owed suitability of the performance and the existence of the warranted characteristics and shall

provide Dräger with reasonable support in the inspection process.

- 21.4 Acceptance of the performance must – in any event – take place formally; the declaration of acceptance must be made in writing. Dräger may refuse acceptance if there is a material defect. In the event of only minor defects, Dräger shall accept the work, but shall declare a reservation in respect to the remaining defects; these shall be listed individually in the acceptance declaration. The Supplier shall only be entitled to demand a new acceptance once it has proven that the defect has been remedied.

22. Availability of Systems and SLA Credits

- 22.1 To the extent cloud-based services are provided and unless otherwise agreed, an average monthly system availability of at least 99% shall apply.
- 22.2 If the Supplier does not achieve this system availability, Dräger shall be entitled to a contractual penalty in the amount of 5% of the monthly remuneration per percentage point of the shortfall in the monthly system availability.
- 22.3 The contractual penalty shall be applied as a credit to the next subsequent invoice amount for the cloud-based services or - if no future invoice is due - paid to Draeger.
- 22.4 Contractual penalties paid shall be credited against any claims for damages Dräger may have.
- 22.5 If Supplier fails to achieve (i) system availability for three consecutive calendar months, or (ii) five or more calendar months in a rolling twelve-month period, or (iii) system availability of at least 95% for any calendar month, Draeger may terminate the affected cloud-based service, upon thirty days' written notice to Supplier following the occurrence of the noncompliance. Termination shall be effective at the end of the calendar month in which Supplier received the notice.

Part III: Special provisions for hardware and software, including software adaptation/development

23. Hardware requirements

- 23.1 Each device must be approved for use in the relevant market and must comply with the agreed specifications.
- 23.2 The Supplier undertakes to take back and properly dispose of old equipment at Dräger's request.

24. Requirements for standard software

- 24.1 The Supplier shall ensure that a German software version is provided, unless otherwise agreed. This version must contain proper and complete documentation.
- 24.2 Furthermore, the Supplier warrants that the delivered software is free of malware (e.g. Trojans, viruses, spyware, etc.) and complies with the agreed specifications and the current state of the art.

25. Software customization/development and open source

- 25.1 The Supplier shall provide Dräger with software developed on behalf of Dräger within the scope of the performance of services, insofar as this does not involve pre-existing intellectual property or standard materials, in object code and – taking into account any licensing restrictions – source code, including manufacturer documentation in a form agreed with Dräger, otherwise customary and machine-readable.
- 25.2 The use of OSS within the scope of the performance of services and in particular the use of OSS as a component of the results of the performance shall only be permitted to the Supplier with the written consent of Dräger. Any consent granted shall only relate to the specific OSS

component covered by the consent. When requesting Dräger's consent, the Supplier shall precisely designate the OSS component concerned, stating the version number and the applicable licence conditions.

- 25.3 Insofar as the Supplier uses OSS with the consent of Dräger within its performance, the Supplier warrants that the rights of use granted or to be granted in accordance with these AEB-IT do not impair Dräger the results of the services and their commercial usability, in particular that neither the results of the services provided to Dräger (with the exception of the OSS itself approved by Dräger for use) nor other software programs of Dräger are covered by the so-called "*copyright*" effect.
- 25.4 The use of OSS without the consent of Dräger shall constitute a material breach of contract by the Supplier and the contractual performance shall be deemed to be defective.
- 25.5 At Dräger's request, the Supplier shall – without prejudice to Dräger's further rights in respect of defects – undertake all commercially reasonable actions to replace OSS which was used without Dräger's written consent. Any use of OSS shall be deemed to be the Supplier's own performance. All claims of Dräger in this respect due to defects as well as claims for damages and/or indemnification shall be directed against the Supplier.

26. Additional license volumes

- 26.1 Dräger may procure additional rights of use during the term of a right of use on the basis of the existing conditions.
- 26.2 The term of the additionally procured rights of use shall end together with the term of rights of use already procured. Remuneration shall be paid pro rata in accordance with the reduced term.