

Terms and Conditions of Purchase

1. Application

- 1.1 These General Terms and Conditions of Purchase ("TCP") shall apply to the purchase of goods ("Goods") and/or work performed and/or services ("Services") by Draeger New Zealand Limited ("Draeger") from a supplier ("Supplier") and shall form an integral component of any enquiries, offers, orders, contracts and agreements relating to such purchase.
- 1.2 Any deviating terms and conditions of the Supplier shall not apply unless expressly agreed to such terms in writing and the same has been signed by Draeger.
- 1.3 These TCP shall apply provided that Draeger and the Supplier have not expressly entered into an alternative signed written agreement.
- 1.4 In the event of any inconsistencies between the terms of an alternative signed written agreement expressly consented to and signed by Draeger and these TCP, then the interpretation in that alternative agreement shall prevail.
- 1.5 There shall be no variation to the TCP unless expressly agreed to in writing and signed by Draeger.

2. Offers

- 2.1 The Supplier shall be bound by its offer to supply Goods and Services for a period of six months from receipt of the offer by Draeger.
- 2.2 Any offer by the Supplier to supply Goods or Services may be accepted by Draeger in writing either in the format of a purchase order or in any other written format acceptable to Draeger ("Purchase Orders"). For the avoidance of doubt, Draeger is not obliged to accept any offer by the Supplier to supply Goods or Services.
- 2.3 All Purchase Orders issued by Draeger shall be subject to these TCP.
- 2.4 For the avoidance of doubt, a Purchase Order issued by Draeger under clause 2.2 shall be binding on the Supplier.

3. Goods and Services specification

- 3.1 The Supplier shall include in all documentation relating to the supply Goods or Services to Draeger: the item numbers, revision indices and/or material specifications of Draeger.
- 3.2 The Supplier shall respond, without undue delay, to any request by Draeger for clarification in the event of unclear item numbers and/or material specifications or instructions.
- 3.3 It shall always remain the responsibility of the Supplier to clarify any Goods or Services specification provided by Draeger.

4. Modifications

- 4.1 Draeger may from time to time and without notice modify specifications (e.g. drawings, packaging), dates and delivery destinations. The Supplier shall implement such modifications within a reasonable period.
- 4.2 In addition to the rights in clause 6.5, in the event of force majeure (in particular, labour disputes, fire, explosion, act of God or other contingencies beyond Draeger's control), Draeger may suspend or cancel its Purchase Order for the Goods and Services.
- 4.3 Modifications to the Goods or Services by the Supplier that may affect the form, fit, function, or certification must be notified to Draeger no less than four months prior to the desired commencement date. Modifications shall not be implemented without Draeger's written consent.

5. Prices & Payment

- 5.1 Prices shown in the Purchase Order shall prevail according to the last quoted price provided by the Supplier, unless otherwise agreed in writing and signed by Draeger.
- 5.2 The Supplier hereby agrees to afford to Draeger any general reduction or discount in prices given to their other customers and all prices provided to Draeger must be on a "preferred customer" basis. The Supplier shall be required to provide proof of its compliance with this clause 5.2 upon request by Draeger.
- 5.3 Tax Invoices, quoting Draeger order number and the Supplier's delivery note number, shall be sent as soon as practicable after the dispatch of Goods or completion of Services. The Supplier must ensure that such invoices meet the requirements to be a "tax invoice" for the purposes of the Goods and Services Tax Act 1985 and meets any other requirements of Draeger.
- 5.4 Payments shall be due and payable pursuant to formal acceptance by Draeger. Payment will not be made earlier than the calendar month following the month during which the Goods or Services are delivered, unless on cash or advance payment terms.
- 5.5 Payments by Draeger do not constitute a confirmation that the Goods or Services conform to the specifications or are free of defects. Draeger shall be entitled to reject Goods or Services after delivery and payment thereof.
- 5.6 Goods shall be delivered DDP (and in accordance with the latest version of the ICC Incoterms 2010) with Draeger's registered office being the delivery destination, unless Draeger specified a different delivery destination. Agreed prices shall be fixed prices and shall cover all costs to be borne by the Supplier according to DDP.
- 5.7 The compensation for Services shall cover any and all costs arising in conjunction with the relevant Service (e.g. travel costs, expenses).

6. Delivery & Contractual penalty

- 6.1 The Supplier shall, as soon as possible, acknowledge the Purchase Orders issued by Draeger by issuing an official order confirmation or returning a copy of the Purchase Order with acknowledgement stamp and signature with date. No amendments or other terms and conditions of sale of the Supplier will be accepted by Draeger other than the TCP even if inadvertently accepted by Draeger in a Supplier order confirmation or other document.
- 6.2 The Supplier shall provide a delivery note to Draeger upon delivery of any Goods and Goods must be appropriately marked to ensure that they are easily identifiable.
- 6.3 If delivery is not made on the date or within the period specified in the Purchase Order, Draeger reserves the right to:
 - (a) cancel the whole or any part of the Purchase Order without compensation, but such cancellation shall be without prejudice to the rights of Draeger under conditions 12 and 13 below;
 - (b) apply late delivery charge of 0.5% per day (up to maximum 10% of the Purchase Order value).
- 6.4 Any Goods delivered before the time specified for delivery may be accepted or rejected at the sole discretion of Draeger.
- 6.5 Should Draeger's business be stopped, interrupted or restricted by an event of force majeure (in particular, labour disputes, fire, explosion, act of God, or any other cause beyond Draeger's control, Draeger shall be entitled to defer the date or dates of delivery and payment until the stoppage, interruption or restriction be ceased. The Supplier shall hold the Goods in safe custody and ensure that they are in good condition until the actual delivery.
- 6.6 The cost of carriage and packaging (including, without limitation, all packages or other containers) is at the expense of the Supplier unless otherwise specified in the Purchase Order.

7. Inspection and Rejection

- 7.1 All Goods will be checked and inspected by Draeger and only the quantity received and officially confirmed as satisfactory by Draeger will be accepted.

type	status	rev. ind.	effective date	number	organization	page/of
Policy	Effective	01	16-Jun-21	DNZ CS13	Draeger New Zealand Ltd	1/4

Printed copies are uncontrolled and for reference purposes only.

Terms and Conditions of Purchase

- 7.2 Draeger reserves the right to request replacement for rejected Goods or repeat of Services or to claim credit for same, all at Draeger's option.
- 7.4 Goods rejected by Draeger and returned will be credited to Draeger by the Supplier on dispatch.
- 7.5 Draeger's duly authorized representatives shall have access at all reasonable times to the Supplier's facilities and shall be allowed to inspect and examine the Goods to be supplied during manufacture. Where possible, prior notice will be given to the Supplier of Draeger's intention to send a representative.
- 7.6 Where Services constitute the whole or part of the Purchase Order such Services will be subject to inspection by Draeger. No payment will become due until Draeger has inspected the Services and confirmed that the Services have been satisfactorily performed.

8. Warranty

- 8.1 The warranty period shall commence on the date of receipt of the Goods by Draeger or performance of the Services by the Supplier. Without limiting clause 8.4, the length of the warranty period shall be twelve (12) months or such longer period as agreed in writing with Draeger.
- 8.2 Without limiting clause 8.4, when during the Warranty Period, any Goods or Services found to be:
 - (a) Defective in design, materials or workmanship; or
 - (b) Not in accordance with Purchase Order or any specifications incorporated therein by reference or otherwise; or
 - (c) Having been installed, operated, stored and maintained in accordance with the written instructions of the Supplier, fails to function properly or fails to meet any performance guarantees set forth in the Purchase Order or specifications published by the Supplier, then unless it is shown that the foregoing is caused solely by the improper use or mishandling by Draeger, the Supplier shall, at its own expense (including transportation costs), replace, rectify or completely repair the damaged or defective Goods or Services.
- 8.3 The Supplier must, to the maximum extent possible, obtain for the benefit of Draeger, and transfer to Draeger, any manufacturer's warranties applicable to the Goods and Services.
- 8.4 These TCP are deemed to include all guarantees that Draeger would be entitled to if the Goods and Services provided by the Supplier to Draeger were the supply of goods to a "consumer" (as that term is defined in the Consumer Guarantees Act 1993). Nothing in these terms or any other agreement between the parties will purport to contract out of the provisions of the Consumer Guarantees Act 1993. The consumer guarantees are incorporated into these TCP as warranties given by the Supplier to Draeger.
- 8.5 The warranties referred to in clause 8.4 above are in addition to any express warranty provided by the Supplier or the manufacturer, including a warranty against defects and are in no way limited by clauses 8.1 to 8.3.

9. Title & Risk

- 9.1 All Goods shall remain at the Supplier's risk until Draeger issues formal written acceptance (which shall include delivery and acknowledgement of delivery or in the case where installation and commissioning is required, then upon final written acceptance by Draeger of installation and commission) by Draeger.
- 9.2 Title passes to Draeger on the earlier of payment or the performance or delivery in accordance with the Purchase Order (as the case requires).

10. Drawing & Samples

- 10.1 Any drawings and samples by Draeger in connection with the Purchase Order must be returned when called for in good condition, carriage or postage paid, by the Supplier to Draeger. Drawings so supplied are confidential and must be kept at the Supplier's works and used only for the purpose of the Purchase Order, and must not be copied or communicated to any other party without Draeger's express sanction in writing.

11. Tools

- 11.1 Jigs, tools or patterns made specially for the execution of the Purchase Order or supplied by Draeger to the Supplier for the purpose of the Purchase Order must not be used for any other purpose or by any person other than the Supplier without Draeger's prior written consent. All such jigs, tools and patterns shall be kept in workmanlike condition by the Supplier (fair wear and tear excepted) and shall be delivered to the order of Draeger carriage paid upon reasonable notice being given. Any Purchase Order including full and part cost tooling will be subjected to Draeger's specific terms and conditions relating thereto.
- 11.2 Should Draeger pay the Supplier for tools which the Supplier uses for providing the Goods and Services, the Supplier shall transfer ownership of such tools to Draeger, including any accessories, plans, documentation.
- 11.3 The Supplier shall mark any tools owned by Draeger permanently with "Draeger" and Draeger's inventory and material number. The tools shall be stored appropriately, protected against any type of damage and maintained in a functional condition. The Supplier shall maintain the tools at its own cost. The Supplier acknowledges that where the tools are located on the Supplier's premises or are otherwise in the Supplier's possession or control, the tools will be held by the Supplier as bailee only (under a bailee arrangement of a term of less than one year).
- 11.4 Tools owned by Draeger shall be used only to manufacture Goods for Draeger. The Supplier shall return the tools to Draeger immediately upon request to this effect.

12. Design Rights

- 12.1 Insofar as any work to be performed by the Supplier under the Purchase Order may consist of design, all rights in such design shall belong to Draeger and the same shall not be used except for the purpose of the Purchase Order nor copied or communicated to any other person without Draeger's prior written consent.
- 12.2 All drawings and other documents delineating or recording such design shall likewise be Draeger's property and shall be handed over to Draeger immediately upon completion of the Purchase Order unless Draeger expressly authorizes the Supplier in writing to the contrary.
- 12.3 For Goods or Services manufactured or provided custom-made for Draeger, the Supplier shall transfer to Draeger any and all transferable intellectual property rights, in particular, rights in inventions and works subject to copyright protection. The Supplier shall, immediately upon request, provide Draeger free of charge all associated documents, models and drawings. The Supplier shall grant Draeger free of charge an unlimited, transferable license in any non-transferable rights.
- 12.4 The Supplier warrants that its Goods and Services shall not infringe any third party intellectual or industrial property rights. Should third party intellectual or industrial property rights be infringed, the Supplier shall remedy the infringement of such property rights by modifying the Goods or Services, acquiring relevant licenses or in any other manner requested by Draeger. Failing which, Draeger may rescind the Purchase Order. Other rights on the part of Draeger shall remain unaffected.
- 12.5 The Supplier may not use trademarks and company designations of Draeger without prior written consent.

13. Indemnity

- 13.1 The Supplier is solely responsible for and indemnifies and holds Draeger harmless against all suits, proceedings or demands, damages, actions, losses, costs or expenses of any kind (including, without limitation, loss of profits) that Draeger suffers, sustains or incurs arising from any one or more of the following:

type	status	rev. ind.	effective date	number	organization	page/of
Policy	Effective	01	16-Jun-21	DNZ CS13	Draeger New Zealand Ltd	2/4

Printed copies are uncontrolled and for reference purposes only.

Terms and Conditions of Purchase

- (a) a breach by the Supplier of any laws or regulations;
- (b) a breach by the Supplier of any of the Supplier's obligations (including any warranty) under this TCP or under a Purchase Order; and
- (c) any negligent act or omission or wilful misconduct by the Supplier arising out of the performance of the Purchase Order.

14. Packing

14.1 The Goods shall be packed in a manner which is suitable for long distance transportation and sold protected against dampness, moisture, shock, rust and rough handling. The Seller shall be liable for any damage to the Goods because of improper packing and for any rust or other damage attributable to inadequate or improper protective measures taken by the Supplier.

15. Shipping Mark

15.1 On the surface of each package, the following shipping marks shall be stencilled legibly in fadeless paint in English: a: Draeger b: Order Number; c: Part Number; d: Package Number; e: Measurement; f: Gross Weight; g: Net Weight; h: Caution Marks (if needed).

16. Confidentiality

- 16.1 The Supplier may not notify third parties of the contractual relationship with Draeger or any details relating to this Purchase Order, unless it is obliged to do so by public authorities or operation of law.
- 16.2 The Supplier undertakes to use Confidential Information only for the purpose of fulfilling its contractual obligations to Draeger, and to treat such as strictly confidential and not to pass on such to any third party without the prior written approval of Draeger.
- 16.3 For the purposes of the TCP, "Confidential Information" shall mean any and all information and data of a confidential nature belonging to, or possessed by, a Party or its Affiliates Companies, including, but not limited to, proprietary, technical, research, development, inventions, manufacture, purchasing, engineering, marketing, sales, operating, performance, cost and know-how, whether or not patentable, business and process information, computer programming techniques, and all record-bearing media containing or disclosing such information and techniques, patents, trademarks, trade secrets and copyrightable materials, which is disclosed in connection with this TCP and/or a Purchase Order. Confidential Information shall include any proprietary or confidential information disclosed to the Receiving Party by or on behalf of the Disclosing Party, either directly or indirectly, in writing, orally or by drawings or inspection of documents or other tangible property, and shall expressly include any samples, models or prototypes, or parts thereof.

17. Breach and Cancellation

17.1 In the event of the Supplier's failure to comply with the terms of the Purchase Order, Draeger reserves the right to cancel the Purchase Order at any time by giving notice to the Supplier in writing. In the event of a satisfactory part completion of the Purchase Order by the Supplier, a fair and reasonable price shall be paid for all work in progress or Goods/ Services supplied at the time of cancellation. Draeger shall not be liable for any consequential loss to the Supplier.

18. Patents

18.1 The Supplier warrants that the design, construction and quality of the Goods and Services comply in all respects with any relevant laws and regulations which may be in force at the time and further that the use or sales of the Goods and Services by Draeger will not infringe any local or foreign patent, trade mark, or registered design. The Supplier undertakes to indemnify Draeger against all any loss, damage, liability, costs or expenses which Draeger may suffer or incur by reason of any breach of the said warranties.

19. Anti-Corruption Code

- 19.1 The Supplier shall not, directly or indirectly, make any payment or gift or favour or advantage or promise of offering to any officer, manager or employee of a supranational, governmental or non-governmental organization or institution or of a company for purpose of influencing any act or decision by such officer, manager or employee in order to generate or secure an improper advantage in relation to the business with Draeger.
- 19.2 The Supplier shall comply with all anti-corruption, anti-bribery and anti-money laundering laws and policies applicable in the territory in which it operates and will also comply with global anti corruption legislation to the extent that it relates to the Goods and Services being provided by the Supplier. Draeger believes corruption distorts competition, destroys trust with suppliers and the public and ultimately leads to higher costs. Draeger expects that none of its suppliers will ever take part in any corruptive business transaction.
- 19.3 The Supplier agrees to indemnify and hold harmless Draeger, its employees, customers, assigns, and others in respect of any claim asserted against Draeger or its employees, customers, assigns or others alleging any liability arising out of any breach by Supplier or any of the representations, obligations and warranties set forth in these TCP, or any negligent or intentional wrongful acts of the Supplier that occur during the term of these TCP. Such liability shall include, but is not limited to, damages (including punitive damages where applicable), costs, fees, and expenses.
- 19.4 The Supplier understands and accepts that Draeger will take appropriate measures against suppliers not complying with the obligations hereunder. Draeger is entitled to terminate all existing agreements with Supplier with immediate effect once Draeger has sufficient evidence of such violation.

20. Code of Conduct

The Supplier acknowledges that conducting business in accordance with the highest ethical standards is fundamental to Draeger. As a condition of Draeger purchasing the Goods and Services from the Supplier, the Supplier agrees to adhere to the standards set forth in Draeger's Supplier Code of Conduct, available at https://www.draeger.com/en_aunz/Terms-Conditions/Supplier-Code-Of-Conduct which is hereby incorporated into this TCP by reference (and may be amended (acting reasonably) by Draeger from time to time by notice to the Supplier).

21. Governing Law

21.1 The laws of New Zealand shall apply to this TCP and the Purchase Order. The Courts of New Zealand shall have non-exclusive jurisdiction to decide any matter arising out of this TCP.

22. Insurance

22.1 The Supplier must obtain and maintain any insurance that a reasonable and prudent supplier of Goods and Services would obtain in like circumstances to the supply under these TCP. Upon written request from Draeger, the Supplier must provide evidence of, or certificates of currency with respect to, the insurance policies held by the Supplier that are relevant to the supply of the Goods and/or the Services the subject of the Purchase Order.

type	status	rev. ind.	effective date	number	organization	page/of
Policy	Effective	01	16-Jun-21	DNZ CS13	Draeger New Zealand Ltd	3/4

Printed copies are uncontrolled and for reference purposes only.

Terms and Conditions of Purchase



23. Assignment, Subcontracting and Proportionate Liability

23.1 The Supplier shall not without the prior written consent of Draeger assign, transfer or sub-contract the manufacture of the Goods or provision of the Services without the express written consent of Draeger.

24. Limitation of Liability

24.1 Nothing contained herein shall deem to be construed as a limitation of Suppliers liability.

25. Right to Audit Supplier

25.1 Draeger shall upon reasonable notice to the Supplier be entitled to audit all books and records relating to the supply of Goods and Services by the Supplier.

26. Notices

26.1 Service of any notice or other communication under these TCP must be in writing and sent to the address set out in the front page of the Purchase Order.

27. Severability

27.1 A provision or part of a clause of this TCP that is illegal or unenforceable may be severed from this TCP and the remaining provisions or parts of the provisions of this TCP continue in force.

28. Waiver

28.1 No waiver of any right under this TCP will be binding on a party unless in writing and signed by the party giving that waiver.

type	status	rev. ind.	effective date	number	organization	page/of
Policy	Effective	01	16-Jun-21	DNZ CS13	Draeger New Zealand Ltd	4/4

Printed copies are uncontrolled and for reference purposes only.