

AEB

AEB (International) Limited

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# General Terms and Conditions

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## A General Terms and Conditions

### 1 Background

- 1.1 The following General Terms and Conditions (the “**Terms**”) set out the terms and conditions that apply to the provision of products and/or services to the customer specified in an order confirmation (the “**Customer**”) by AEB (International) Limited (“**AEB**”) and apply, except to the extent stated otherwise in these Terms, to all products and services provided under and/or in connection with these Terms.
- 1.2 AEB and its affiliates have developed and/or deploy certain software and, in connection with such software, make available certain products and services, in each case of the kind and nature described in these Terms.
- 1.3 The Customer wishes to receive:
  - 1.3.1 a license to use the software; and
  - 1.3.2 services and/or products in connection with the software, on and subject to these Terms.
- 1.4 AEB’s written confirmation of an order (the “**Order Confirmation**”), these Terms, and the Special Terms described in clause 1.9 are, together, the “**Agreement**”.
- 1.5 The Agreement is established and shall have immediate effect from and including the date on which the Order Confirmation is sent by AEB to the Customer in writing (which may include email) (the “**Effective Date**”).
- 1.6 Clause 17.1 (Entire Agreement) applies to the Agreement and the parties acknowledge and agree that the content of the Order Confirmation, to the extent that it is describing the payment terms and price conditions of the AEB quotation, is valid at the start of the corresponding but the Terms shall take precedence over any alternative payment terms and price conditions that the Customer seeks to apply.
- 1.7 Opposing or supplemental terms to the Agreement, in particular the Customer’s business terms and conditions, do not form part of the Agreement under any circumstances. The provision of contractually defined services by AEB does not imply the acceptance of the Customer’s terms.
- 1.8 These Terms are supplemented or specified in greater detail by “special terms” as described in Sections B, C, D and E (the “**Special Terms**”).
- 1.9 The Special Terms reflect the provisions unique to AEB’s various operating models and/or service types.

### 2 AEB services

- 2.1 Scope of services
  - 2.1.1 AEB grants the Customer temporary use of software and services made available by AEB, through the AEB data centre (“**AEB Cloud**”) and/or for installation and use in an IT environment not controlled by AEB (“**On-Premise**”). The AEB Cloud and On-Premise models can apply in combination, depending on the overall solution purchased by the Customer and described in the Order Confirmation. For software used through the On-Premise model, the Customer and AEB together define the country or countries in which each installation is located except where prohibited under applicable law, especially export control laws.
  - 2.1.2 The subject of the Agreement is the standard version of the licensed software (for example: software that enables business services such as list screening or electronic communications with the customs authorities) excluding custom software, adaptations, or configurations.
  - 2.1.3 The scope of AEB’s contractual services (software, services, and other obligations) are described in the relevant Order Confirmation.
  - 2.1.4 The applicable descriptions of software and services are either: (a) referred to in the quotation to which the Order Confirmation applies; or (b) attached thereto. Otherwise, the Customer can obtain a copy of these descriptions by email upon request.
  - 2.1.5 All information of a legal nature (relating to customs law) available in the online help or manuals of AEB’s software products represent tips for users, are used at the Customer’s own risk, and under no circumstances constitute the provision of legal or tax advice. This disclaimer does not affect the product attributes described in the corresponding online help.
  - 2.1.6 AEB’s services provide the Customer with software-based support for its activities in the various distinct areas of activity used (“**Solution Area**”). AEB does not evaluate the results produced by the Customer using the software. AEB does not handle customs clearance or provide any legal or tax consulting services. This applies in particular, but not exclusively, to “Customs Management” and “Trade Compliance Management” products.
- 2.2 Right of use
  - 2.2.1 AEB grants the Customer a single, non-exclusive, non-transferable, non-assignable, non-sub licensable (except to its employees) right to use the purchased services and

software listed or described in the relevant Order Confirmation under, and in accordance with, the Terms and for the duration of the Agreement. All other rights to the software and the associated documentation – in particular the right to modification, reproduction, or distribution – remain with AEB throughout the Agreement term and thereafter.

- 2.2.2 AEB retains ownership of the software and its documentation at all times (including all intellectual property rights created before the Agreement, throughout the term of the Agreement, and thereafter).
- 2.2.3 The parties acknowledge and agree that all software and related documentation provided and/or made available to the Customer under and in connection with the Agreement have been licensed for use and not sold.
- 2.2.4 AEB grants its customers the right to use AEB's software and services on a continuing obligation basis. The Customer is prohibited from transferring its right of use to third parties or sharing the use with another legal entity. This prohibition on transfers also applies specifically to cases in which AEB has a different legal entity as its contracting party due to a change in the Customer's legal identity (through legal transformation processes), not merely a change of company or legal structure.
- 2.2.5 If the Customer breaches these terms of use, AEB is entitled to (without liability to the Customer) immediately terminate or suspend any and/or all services and licences described in the Agreement.
- 2.3 Maintenance
- 2.3.1 As part of maintenance, AEB provides subsequent versions of a comparable functionality and price point, provided that these do not require a change in the underlying technology. When a new software product is introduced, AEB will offer the Customer a separate quotation to switch to the newer solution.
- 2.3.2 If any of the licensed software or services require official certification for their intended use, AEB shall provide a current certified version.
- 2.3.3 Any necessary details of the scope of maintenance of the software created by AEB are defined in the respective system description.
- 2.3.4 However, the maintenance obligation of AEB defined in this clause 2.3 do not apply to customer-specific elements such as adaptations, configurations, data models, GUI, apps, or other software. For such elements, maintenance services can be agreed

individually. This does not affect any other claims by the Customer regarding the removal of defects.

- 2.3.5 AEB is entitled to analyse Customer data, including any error messages that are generated, in order to improve and further develop the services, products, and the underlying algorithms. This is always done in compliance with applicable legal requirements such as the law against unfair competition or the law protecting business secrets. Any personal data that is affected is handled in accordance with clause 11 (Data Protection).
- 2.4 Support services
- The standard support services included in AEB's scope of services are defined in a separate document. The current description of support services can be found online at <https://www.aeb.com/media/docs/aeb-guides-certificates/en/aeb-generalsupport-and-services.pdf>.
- 2.5 System requirements
- 2.5.1 AEB's system requirements describe the minimum hardware and software requirements that the Customer must meet in order to use the services and/or software in accordance with these Terms. The applicable system requirements are either referenced in the quotation or appended thereto. The Customer is entitled to receive the system requirements and updates thereto by email upon request.
- 2.5.2 The Customer is responsible for checking whether the use of the software and/or services entails additional costs to the Customer, such as the costs of complying with the system requirements.
- 2.5.3 The system requirements do not constitute warranted characteristics of AEB's services, even if they are specified to the Customer. They evolve as technology evolves. AEB expressly reserves the right to change the system requirements as it maintains and develops the software. AEB shall provide the Customer with appropriate notification of especially important changes to the system requirements during development, such as when a new software version is released. Customers can find the current version of the applicable system requirements in the AEB Help Center at <https://www.aeb.com/systemrequirements>.
- 2.5.4 The rollout of a new software version can involve a change in the system requirements. AEB shall notify the Customer of any such rollout within a reasonable period of at least

sixty (60) days in advance. The Customer then has a temporary special right of termination if it cannot continue to comply with the system requirements in any material respect. The Customer may exercise this right until thirty (30) days before the announced rollout and cancel the Agreement as of the date the upcoming changes to the system requirements take effect.

### 3 Optional services

AEB offers the Customer additional services from the AEB service portfolio subject to a separate written contract, typically an SLA.

Examples:

- AEB Customs Management services;
- support of the Customer in the form of consulting, technical software configuration, software customizing, training, and help in implementing the AEB software;
- individualized support services with an expanded time frame or scope (such as extended hours of support);
- maintenance and further development of custom adaptations or programming; and
- provision of dedicated resources such as databases and virtual servers.

### 4 Obligations of Customer

- 4.1 The Customer is responsible for checking whether the use and/or interfacing of the AEB software (with any third-party software not provided and/or made available by AEB) gives rise to any third-party claims against the Customer (in particular due to a possible indirect use of SAP software). The Customer is solely responsible for bearing any associated costs or overhead. The Customer exempts AEB from any such third-party claims (potential costs for retroactive licenses, etc.) and gives the indemnity described in clause 4.9.
- 4.2 The Customer is responsible for providing accurate and up-to-date master data and transaction data or any other usage-related or customer-related data (such as a BIN and/or IIN) that may be required to use the software and services. The Customer shall also file any necessary requests with the relevant authorities.
- 4.3 The Customer is responsible for promptly reporting important changes to customs numbers, authorizations, and the like if such changes are relevant to the communication

with the customs authorities carried out through AEB. Any additional expenses incurred by AEB because of delayed notification will be charged to the Customer on a time and materials basis.

- 4.4 The Customer shall name a contact person to AEB at least in text form. This applies to changes as well. The contact person must possess the necessary technical and organisational skills. Verbal notification is not sufficient.
- 4.5 The Customer shall satisfy the requirements for its use (an adequate internet connection, software and hardware that meets the system requirements, etc.) at its own expense. The Customer shall take into account changes to the system requirements, such as for new software versions.
- 4.6 The Customer shall enable the use of the software only within the system requirements and take appropriate measures to limit the risk of any malfunctions. The following circumstances in particular can lead to or exacerbate the consequences of software malfunctions:
- the Customer's host systems deliver faulty data or no data;
  - support cases are not promptly reported to AEB; and
  - the Customer enters incorrect data or uses the system improperly.
- 4.7 The Customer shall carry out all necessary due diligence and conduct its business transactions (including when using the AEB software) in compliance with all applicable laws and regulations affecting the Customer, including in the areas of customs management and risk & compliance. AEB gives no warranty (express or implied) that the Customer's use of the software and/or services will guarantee (or otherwise, and in any way, ensure) the Customer's compliance with any laws and/or regulations applicable to its business or otherwise.
- 4.8 The Customer shall take all necessary and reasonable precautions to block unauthorised persons from accessing the software or using the software-associated services without authorisation; this applies specifically to the Customer's workflows and communications equipment. In this way, the Customer prevents any disruptions to the proper and intended function of the software and software-associated services that may originate in the Customer's sphere of responsibility.
- 4.9 The Customer hereby indemnifies AEB (and its affiliates, and its and their directors, shareholders, employees, contractors, agents and representatives) against all losses

(including liabilities, damages, costs, charges, and expenses (including reputational loss or damage, management time, legal fees on a solicitor and own client basis, other professional advisers' fees, and costs and disbursements of investigation, litigation, settlement, judgment, interest, fines, penalties and remedial actions) incurred or suffered by AEB arising out of, under, and/or in connection with any third-party and/or regulatory claims (including arising from a self-referral to a regulatory body) resulting from the Customer's (and/or its representatives) breach of clauses 4.2 and 4.7, 11 and/or 16.

- 4.10 The Customer is responsible for ensuring that its users have the necessary skills and expertise to use the software functionalities. Any training sessions that may be needed are available from AEB for a separate fee.
- 4.11 The Customer is solely responsible for final qualified evaluation of the results it produces.
- 4.12 The Customer alone is responsible for the codification of its goods by customs tariff and their classification using export control lists (for example: texts or excerpts from product lists that appear in the AEB software are intended solely to help the Customer check its entries).

## 5 Terms and conditions for open-source software and proprietary third-party software

- 5.1 The software that AEB provides for download or otherwise makes available for use may contain open-source software components ("**OSS Components**") and/or proprietary software components from third-party providers ("**Third-Party Components**").
- 5.2 Although the licensing terms for the use of OSS Components or Third-Party Components may be subject to its own laws, warranties, and liability terms, AEB warrants and is liable for all contractually defined services under these Terms.
- 5.3 The Customer may use OSS Components and Third-Party Components under the licensing terms relevant to the component in question (hereinafter referred to together simply as "**Licensing Terms**"). OSS Components and Third-Party Components may only be used within the scope outlined in these Terms, in conjunction with AEB software, and in compliance with the relevant Licensing Terms.
- 5.4 The Customer can view the list of OSS Components and Third-Party Components, together with the relevant Licensing Terms and any additional information, at any time at <https://www.aeb.com/licenses>. The relevant Licensing Terms named there for each

software program apply.

- 5.5 Licensing Terms, including additional information for the use of OSS Components or Third-Party Components, are subject to change by their respective licensors. AEB shall duly notify the Customer about new, modified, or additional Licensing Terms at <https://www.aeb.com/licenses>, with reference to the affected software. AEB will notify the Customer separately of especially important changes to Licensing Terms.

## 6 Terms for "Data Service" functionality

- 6.1 The software licensed by the Customer may, as its primary or secondary function, enable the screening of the Customer's data content against third-party data content ("**Data Service**"). Where this is the case, this part of the AEB services is subject to the following more specific terms:
  - 6.1.1 The essential prerequisite for any use of third-party data in AEB's software by the Customer is always the Customer's own knowledge and expertise. The Customer itself is responsible for evaluating the results generated using the AEB software with such data.
  - 6.1.2 The data content provided by AEB to the Customer for use in the software is obtained through the technical conversion of either publicly accessible, previously consolidated content (such as lists created and maintained by UN, EU, US or other authorities) or of content consolidated and offered by third parties.
  - 6.1.3 AEB has no influence on the sources or on the creation and availability of consolidated data content. The complete recognition of all regional linguistic variants during data synchronization is not the current state of the art. Specifically, international spelling variants are not always possible. AEB offers no guarantee, warranty, representation or other assurance for the editorial quality or the correctness, completeness, or accuracy of the data content it converts and makes available.
  - 6.1.4 The service to be provided by AEB is limited to technically converting the ordered data content and making it accessible in the AEB software. It does not include editing or reviewing the data content.
  - 6.1.5 At no time does AEB take editorial ownership of the third-party data except where AEB offers an editorial service (content consolidation), either purchased or performed in house, that is explicitly designated as such. For this reason, AEB rules out any liability for poor editorial quality or other defects in the data content unless AEB is at fault in

causing such defects.

- 6.1.6 For the duration of the period of use, the Customer must have a current and valid user license for the data content it selects and AEB provides. The data content used by the Customer is generally licensed and made available through AEB. In the event that data content used by the Customer is licensed directly between the content provider (such as a publisher) and the Customer, the Customer must provide AEB with proof of its right to use the content during the term of the Agreement with AEB before the content is made available. Contractual claims arising from the licensing relationship between the content provider and Customer can only be asserted vis-à-vis the content provider.
- 6.1.7 AEB advises the Customer that the Customer is always responsible for performing due diligence and complying with all laws and regulations applying to its business transactions, including when using the AEB software to support export control processes. This may require further independent research – when a sanctions list screening yields a positive match, for example – and even immediate consultation with the appropriate authorities.
- 6.1.8 AEB may offer the option, at no additional cost, to automatically incorporate third-party content such as non-customer-specific master data (package types from a packaging service provider, routing tables, foreign currency rates, addresses of customs offices, etc.) on behalf of the Customer. The Customer may also incorporate such data itself, however, depending on the functionality of its solution and the scope of its project.

## 7 Liability

- 7.1 Nothing in these Terms or in the Agreement shall limit or exclude AEB's liability to the Customer (to a greater extent than is permissible under English law) for losses resulting from:
- 7.1.1 death or personal injury arising from AEB's negligence or that of its personnel;
- 7.1.2 breach of any term as to title, quiet possession or freedom from encumbrance implied by section 12 of the Sale of Goods Act 1979;
- 7.1.3 fraud or fraudulent misrepresentation; and/or
- 7.1.4 any other matter for which AEB may seek to limit and/or exclude its liability under English law.

- 7.2 Subject to clause 7.1, liability for services provided free of charge is excluded.
- 7.3 In the event data is lost or corrupted due to any act and/or omission of AEB in breach of these Terms, AEB's liability is limited to reconstituting and/or restoring such data to the last available backup and, in any event, shall be subject to clause 7.4.
- 7.4 Subject to clause 7.1, clause 7.5, and clause 7.6, AEB's total liability to the Customer for losses arising under and/or in connection with the Agreement (whether arising in contract, tort (including negligence), under an indemnity or warranty, for breach of statutory duty, or otherwise) in each period of twelve (12) months from and including the Effective Date (an "**Agreement Year**") and in respect of all causes of action arising in that Agreement Year (as determined at the date when the liability giving rise to the relevant cause of action arose) shall not exceed the total annual fees paid by the Customer under the Agreement in that Agreement Year.
- 7.5 Subject to clause 7.1, under no circumstances shall AEB have any liability to the Customer (whether in contract, tort (including negligence), under an indemnity or warranty, for breach of statutory duty, or otherwise arising under and/or in connection with an Agreement) for:
- 7.5.1 indirect losses or consequential losses of any kind whatsoever and however caused, whether or not reasonably foreseeable, reasonably contemplatable, or actually foreseen or actually contemplated, by AEB at the time of entering into the Agreement; and/or
- 7.5.2 lost revenue, lost profits, lost entitlements or discounts, loss of anticipated savings, unnecessary expenses, or unrealized savings, subject to clause 7.3 loss, destruction, or corruption of data, loss of contract or business opportunity, or loss of goodwill.
- 7.6 Subject to clause 7.1, AEB is not liable for:
- 7.6.1 any losses caused by defects, including malfunctions or the provision of incorrect data, in third-party software used by the Customer or a third party and not licensed by AEB. This includes host systems, auxiliary systems, and operating systems. This applies accordingly to files needed for product functionality that are transmitted or updated by the Customer or a third party. It also applies to unmonitored changes to any third-party software such as the automatic installation of untested updates;
- 7.6.2 losses ultimately attributable to defects in the equipment of third parties or the Customer (hardware, data lines, electrical boxes, etc.); or
- 7.6.3 losses arising from improper operation of the software by the Customer or the

Customer's failure to comply with its obligations under the Agreement.

- 7.7 Each party's defense of contributory negligence by the counterparty remains unrestricted.
- 7.8 Any action against AEB (including its affiliates) must be brought within twelve (12) months of the date on which such cause of action arose.
- 7.9 The Customer agrees that AEB's express obligations and warranties in these Terms are (to the fullest extent permitted by law) in lieu of and to the exclusion of any other warranty, condition, term or undertaking of any kind (including those implied by law), statutory or otherwise, as to quality, condition, description, compliance with sample, or fitness for purpose or otherwise relating to anything to be done under or in connection with the Agreement, the software, the services, and any products.
- 7.10 The parties agree that the limitations and exclusions of liability contained in this clause 7 have been subject to commercial negotiation and are considered by them to be reasonable in all the circumstances, having taken into account section 11 and the guidelines in schedule 2 of the Unfair Contract Terms Act 1977.

## 8 Force majeure

- 8.1 Neither party is obligated to perform the contractual obligations in the event of and for the duration of force majeure. The following circumstances in particular are to be regarded as force majeure within this meaning:
- fire/explosion/flood for which the party is not responsible;
  - war, mutiny, blockade, embargo;
  - labour disputes lasting more than six weeks and not brought about by the contracting party through any fault of its own; and
  - technical problems in communication and power supply grids out of the control of the respective party.
- 8.2 Each party must promptly notify the other party in text form if a case of force majeure event occurs.
- 8.3 The parties are not liable for the effects of a force majeure event, especially strikes.

## 9 Third-party rights / Intellectual property

- 9.1 AEB warrants that no third-party rights limit or exclude the Customer's legitimate use of the software licensed for use under an Agreement and services provided by AEB

under an Agreement.

- 9.2 Should third parties nonetheless assert claims against the Customer based on the infringement of intellectual property rights such as commercial trademark rights, copyrights, or other related rights deriving from the use of the AEB software and services, and should this impair the ability of the Customer to use the software and services, the following terms apply:
- 9.2.1 the Customer shall promptly report such third-party claims to AEB, notify AEB of all information in the Customer's possession needed to clarify the situation, and provide AEB with any other support that is appropriate and reasonable for the Customer;
- 9.2.2 the Customer shall not acknowledge the alleged infringement of rights. AEB shall handle the extrajudicial and judicial clarification of such claims at its own expense. AEB reserves the right to opt for a settlement. Clarification may require AEB to issue instructions to the Customer to immediately clarify such claims. In the absence of such instructions, the Customer must clarify the claims at its own discretion and to the best of its abilities; and
- 9.2.3 AEB shall, subject to clause 9.3, indemnify the Customer against all losses (which have been awarded to a third party claimant by a court having competent jurisdiction or which have been paid out in settlement of a claim) arising in connection with a substantiated claim made by a third party which alleges that such third party's intellectual property rights have been infringed as a result of the Customer's use of software provided and/or made available by AEB and used in accordance with the Terms.
- 9.3 The indemnity given in clause 9.3 shall not apply to the extent a third-party claim has been made as a consequence of:
- 9.3.1 AEB complying with the Customer's specifications;
- 9.3.2 AEB's use of any materials provided or made available by the Customer for use in connection with the Agreement;
- 9.3.3 a failure by the Customer to comply with clause 4.1 and/or clause 6.1.6;
- 9.3.4 modification (other than by, or on behalf of AEB) of the software;
- 9.3.5 use of the software with other materials or software not provided by AEB; or
- 9.3.6 the Customer's breach of the Terms, negligence, or misconduct.
- 9.4 If the Customer is wholly or partially unable to use the contractually agreed services



due to intellectual property right claims, AEB has the option to:

- 9.4.1 replace affected software components with other software components;
- 9.4.2 modify its services such that an equivalent scope of services is offered without the infringement of any rights; and/or
- 9.4.3 procure a license from the third party at its own expense.
- 9.5 If AEB (following a reasonable cure period of not less than ten (10) Business Days) is unable to either grant the necessary user rights or modify the contractually defined services within the scope outlined above (through an equivalent exchange, for example), both parties are entitled to terminate the Agreement on written notice (which may be by e-mail) having immediate effect and AEB shall be under no obligation to continue delivery of the Services and/or provide access to the software.

## 10 Confidentiality

- 10.1 The parties commit to using the same degree of care to protect the other party's confidential information as it uses to protect its own confidential information (which degree of care shall (at least) be such as would reasonably and ordinarily be expected from a skilled, professional, and experienced entity engaged in providing and/or receiving (as the case may be) services which are the same and/or similar to those provided under the Agreement) to preserve the secrecy of all confidential information that is disclosed or made known by chance in the course of their collaboration and not to disclose or make available such information to third parties. The sole exception from the obligation of confidentiality is if the receiving party is obligated to disclose information to government entities such as criminal or fiscal authorities. In such cases, however, the party so obligated must notify the other party of this circumstance without delay unless it is unlawful to do so.
- 10.2 Information that is made available by the disclosing party to the receiving party verbally, in writing, or in other forms is considered confidential if either:
  - it is marked, described, or otherwise made recognizable as confidential material by the disclosing party; or
  - its content can be presumed confidential according to standard business practices (business strategies, licenses, quotations, prices, costs, documentation, and data or know-how relating to sales or product developments); or

- it is derived from disclosed confidential information.
- 10.3 Information is not considered confidential if it was known to the parties before the Agreement was signed, if it is publicly available, or if it was legitimately made available to the parties by a third party. Such circumstances must be proven by the party that claims them.
- 10.4 The receiving party must protect all confidential information, documents, and materials that it receives from the disclosing party against theft and unauthorised access.
- 10.5 The parties also commit to protect the data stored in their data processing systems through the possible technical measures recognised and proven as state of the art in order to prevent access by unauthorised third parties.
- 10.6 Third parties within the meaning of these confidentiality provisions do not include the affiliates of AEB.
- 10.7 The parties also commit to reproduce data or information they receive only to the extent absolutely necessary, primarily for data backup purposes. The provisions of this "Confidentiality" section apply accordingly to such reproductions as well.
- 10.8 Disclosure of confidential information is not a transfer of rights. The parties reserve all rights, especially copyrights and rights of use, and the right to register industrial property rights of any type.
- 10.9 Any data storage media that are provided and all copies thereof remain the property of the disclosing party. Data and data storage media must be surrendered, deleted in accordance with the latest technology, or put beyond use in accordance with the guidelines issued by the UK Information Commissioner's Office by the receiving party by the end of the term of the Agreement if so requested. This does not apply to information that is stored in automated backup systems and regularly overwritten. The parties may comply with their legal obligations to preserve records. Insofar as not already prohibited by copyright or other laws, the Customer is not permitted to obtain trade secrets by observing, examining, reverse-engineering, or testing the products or objects provided.

## 11 Data protection

- 11.1 In this clause 11:
  - "data privacy laws" means all applicable laws relating to data protection and privacy

including (without limitation) the EU Data Protection Directive (95/46/EC) as implemented in each jurisdiction, the EU General Data Protection Regulation (2016/679), the EU Privacy and Electronic Communications Directive 2002/58/EC as implemented in each jurisdiction, and any amending or replacement legislation from time to time; and

- “**data controller**”; “**data processor**”; and “**personal data**” shall all have the meanings given in the data privacy laws.

11.2 The parties acknowledge that the Customer is the data controller in respect of the Customer’s data which comprises personal data (as defined in the data privacy laws) and AEB may (if necessary in connection with an Agreement) process such Customer personal data as a processor on behalf of the Customer in accordance with the Agreement On Processing as detailed in clause 11.5.

11.3 The parties agree to comply with the applicable rules of data privacy laws.

11.4 The Customer understands that use of the AEB software and services involves storing business and personal data on AEB computer systems. Proper processing, checking, and billing also requires that additional information be analysed, stored, and backed up on data storage media.

11.5 This in turn requires an Agreement on Processing. The Agreement on Processing is based on the template provided by AEB. It applies to all AEB services relating to data protection and is a complete and accurate reflection of the actual situation in the AEB data centre, including the participating subcontractors and the technical and organisational measures taken by AEB. For this reason, no other template is to be used. The AEB template can be accessed on the AEB website at any time. The current link is <https://service.aeb.de/en/open/dataprotection/processing/agreements/>. The Agreement on Processing may be signed electronically.

11.6 If the processing of personal data transmitted by the Customer requires consents, approvals or permits (in order to permit AEB to lawfully process the Customer’s personal data), then the Customer hereby warrants, represents and undertakes that the appropriate persons and institutions have been notified and any necessary consent, approval and/or permits have been obtained. AEB is not liable in the event of the Customer’s non-compliance. The customer hereby indemnifies AEB from any third-party claims arising from such non-compliance or a breach of clause 11.7.

11.7 The Customer warrants, represents and undertakes that it shall generally comply with data privacy laws and give only lawful instructions to AEB with respect to its processing activities.

## 12 System measurement

12.1 System measurements are one method, but not the only method, of determining the parameters on which billing is based.

12.2 AEB needs to be able to notify both its customers and its suppliers of the volume of services used. For this reason, the Customer is obligated to offer any necessary cooperation to enable system measurements. If the Customer fails to comply with such a request without undue delay, AEB is entitled to:

- demand partial payments based on estimates of typical levels of usage equal to the previously invoiced amounts plus a surcharge of 50%, whereby the Customer is free to prove that the actual fees owed to AEB are lower; or
- immediately set up a technical block against further use of the part of the service in question; or
- immediately terminate the license of the part of the service in question.

12.3 AEB conducts system measurements in the AEB Cloud at least monthly. AEB currently conducts system measurements of On-Premise installations annually but reserves the right to conduct them monthly.

12.4 AEB invoices the Customer for any usage exceeding the quantity of the quoted and ordered services.

## 13 Fees

13.1 General provisions

13.1.1 All fees and any relevant countable, billing-related units and the details for their billing derive from the corresponding accepted quotation confirmed by AEB.

13.1.2 Every quotation can contain one-time and/or usage-based and regularly recurring fees.

13.2 Payments

13.2.1 All the fees described in the quotation are exclusive of applicable sales taxes (including VAT). Sales taxes shall be added to AEB’s invoices at the applicable rate and in the manner from time to time prescribed by applicable law.

- 13.2.2 If the Customer is required by applicable law to make any deduction or withholding from any payment to AEB then the sum due in respect of such payment shall be increased so that, after the making of such deduction or withholding, AEB receives a net sum equal to the sum it would have received had no such deduction or withholding been made.
- 13.3 Billing intervals
- 13.3.1 Fees are billed as quoted, then invoiced by AEB, whether or not the software and services are actually used by the Customer.
- 13.3.2 AEB invoices billable services monthly unless otherwise agreed. Further details on invoicing are described in the quotation.
- 13.4 Fee for exceeding the ordered scope of services
- 13.4.1 If the quotation does not name an individual price for each countable unit exceeding the ordered scope of services, then a pro-rated price based on the agreed price is calculated.
- 13.4.2 The Customer has the option to move to a smaller price plan than what it originally ordered (service downgrade) through a regular partial termination. If a continuation with a reduced transaction volume is desired after the partial termination takes effect, AEB shall issue a new quotation for the desired scope of services.
- 13.5 Fee when a new version is released
- 13.5.1 If compulsory laws or regulations require changes to the product functionality so that a new version (release) of the standard software must be developed and certified by AEB and used by the Customer, then AEB is entitled to charge the Customer a lump sum to help cover the costs incurred. Any such lump sum that is charged must not exceed £200 per installed client to be adapted and per release.
- 13.5.2 If the required new release also affects customer-specific adaptations:
- that must also be updated to preserve the permissibility of use or the desired functionality, and
  - that AEB is assigned with implementing, then AEB shall provide the Customer with a quotation for these necessary updates upon request.
- 13.6 Unilateral fee adjustments by AEB
- 13.6.1 AEB reserves the right to adjust its fees and any price scales based on these fees. Such adjustments cannot be retroactive.

- 13.6.2 AEB may adjust its fees only once per calendar year. An adjustment may take effect at the start of any calendar month, even during a year of usage. The amount of adjustments is limited to 3% of the previous amount per full year of use. Unused options to adjust fees do not expire.
- 13.6.3 Unilateral adjustments by AEB take effective as announced, but no earlier than eight (8) weeks after they are communicated to the Customer in written or text form. No further explanation or consent of the Customer is required. Each such adjustment triggers a special right of termination for the Customer that the Customer may exercise within eight (8) weeks after receiving notification of a fee adjustment by giving written notice to terminate the Agreement at the time the fee adjustment takes effect.

## 14 Amendments and adjustments to the terms and conditions

### 14.1 Changes to AEB's paid services

#### 14.1.1 Right to make changes

- AEB reserves the right to amend these Terms as they relate to the paid services AEB provides under its continuing obligations. Changes take effect on the date specified in each instance. AEB will provide the Customer with detailed notification of the changes in written or text form in a timely manner – that is, at least eight (8) weeks before the changes take effect – and refer again to the binding effect of the changes on the announced date in the notification of the changes.
- This right to make changes (described above) does not extend to changes that have a material and adverse impact on the: (i) functionality and/or performance of the software; and/or (ii) performance of the services – for example, by significantly disrupting the contractually defined balance between the parties.
- Changes that are reasonable, either in the interests of the Customer or with regard to the performance of the contractually defined exchange of services, may take place if there are compelling reasons or other equivalent reasons that require such changes.

Examples of compelling reasons include:

- changes to underlying law or legislation (for example: tax or customs law, changes to the applicability or impact of comprehensive trade agreements that affect the service relationship);

- technical changes or refinements (for example: relating to the industry standard for operating systems, database systems, storage systems, or communications networks);
  - significant changes to the economic circumstances (for example: procurement prices for hardware and software, increases in the cost of essential elements of the overall services provided by third parties, the taxation thereof, or the wage trends in the relevant sector);
  - new organisational requirements of mass transport;
  - loopholes in the Terms; and
  - Regulations to adjust the functionalities defined in the guaranteed services.
- 14.1.2 Customer's special right of termination  
If these Terms are amended with regard to paid services provided by AEB, the Customer has a temporary special right of termination. The Customer may exercise this right until the announced changes take effect and cancel the Agreement as of the date the changes take effect.
- 14.2 Termination of free services of AEB  
AEB has the right to terminate any free services it provides with eight (8) weeks' notice. Termination takes effect on the date indicated in the notice. AEB will provide the Customer with detailed notification of the termination in written or text form in a timely manner – that is, at least eight (8) weeks before the termination takes effect – and refer again to this stipulation when announcing the termination.
- 14.3 Other amendments or additions to the Terms
- 14.3.1 Quotation of AEB
- Changes to the Terms or newly introduced terms are presented to the Customer at least eight (8) weeks before their proposed effective date.
- 14.3.2 Consent to changes
- The Customer is considered to have accepted AEB's quotation unless the Customer registers its rejection before the proposed effective date of the changes. After the effective date, AEB bases the ongoing business relationship on the modified Terms or newly introduced terms.

## 15 Agreement term and termination

### 15.1 Start of term and minimum term

The Agreement begins on the third business day after the Order Confirmation has been sent to the Customer in written or text form. The Agreement can also begin by the mutually agreed provision of services to the Customer. Unless otherwise agreed, the Agreement is entered into for a period of twelve (12) months (minimum term). The Agreement is then extended for an indefinite period. If the Customer substantially changes the scope of services – for example, by ordering additional software or services from AEB from a Solution Area not yet used by the Customer – this part is also subject to a minimum term.

### 15.2 Ordinary termination

Termination must be in either text or written form. Terminations by email should be directed to: [cancellation@aeb.com](mailto:cancellation@aeb.com). The period of notice is calculated based on the date on which the termination notice is received. Taking into consideration the minimum term, either party may terminate the Agreement at the end of any month falling outside of the minimum term on not less than ninety (90) days' notice unless otherwise agreed when the order was placed. Ordinary partial terminations are possible under these same rules.

### 15.3 Special rights of termination

The provisions on ordinary termination notwithstanding, termination of the Agreement may be effected at any time under the following rules:

#### 15.3.1 Material breach of the Agreement

Either party may terminate the Agreement with immediate effect by giving written notice to the other party if the other party commits a material breach (or persistent breaches that together amount to a material breach) of any term or condition of the Agreement that is: (a) irremediable; or (b) remediable, but not so remedied within thirty (30) days from written notice requiring remedy of the material breach. This does not affect other rights of the parties, such as rights of retention.

In the event of an irremediable material breach of the Agreement by the Customer (which shall include any breach of clauses 4.8, 9 and/or 10), AEB is entitled to terminate the Agreement in whole or in part without notice, even without prior warning. If the AEB Cloud is used, AEB is entitled to block the Customer's system access. Provided there

is no danger to the functioning of the AEB Cloud, any block must be announced at least 48 hours in advance. If there is a concrete danger to AEB's data centre, AEB may immediately block system access without notice and shall inform the Customer thereof without delay.

AEB may also terminate the Agreement if the Customer fails to pay an amount due under the Agreement before the due date for payment and, following notification of such failure, fails to make payment within ten (10) days of the notification.

#### 15.3.2 Cancellation for cause

Common examples of cause include:

- if the Customer is already late in paying the costs of the audit and analysis and customisation, or
- if the Customer is repeatedly late in paying the annual software license fee, or
- if AEB ends maintenance of a software version used by the Customer and offers the Customer a subsequent version comparable in functionality and price, but the Customer refuses to use the subsequent version offered. Should AEB be entitled to terminate the Agreement after the maintenance of the software version used by the Customer has been discontinued, AEB shall not exercise this right if the software is used by the Customer in an On-Premise model and the parties have agreed on the Customer's continued use of the software without AEB's maintenance and support obligations.

#### 15.3.3 Prohibition of use and impossibility

The Agreement as it relates to the scope of services in question terminates at the end of any month in which it is determined that the use of the AEB software is prohibited by law or similarly binding provisions or is otherwise impossible, or if AEB is prevented from rendering its contractual obligations due to a legally binding title. AEB shall announce any changes as early as possible.

AEB has a special right of (partial) termination under the law for individual services such as separate Solution Areas or parts of such Solution Areas or services that can be reasonably separated when continued use of necessary third-party software becomes impossible for technical or legal reasons. AEB shall notify the Customer of any changes as early as possible.

## 16 **Reproduction**

16.1 The services and the software made available for use, the names of the software and system components, and all related system descriptions and documentation are subject to copyright and other intellectual property rights and may constitute or contain confidential information of AEB. In relation to the scope of use, except as expressly stated in the Agreement, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the software in whole or in part except to the extent that any reduction of the software to human readable form (whether by reverse engineering, de-compilation or disassembly) is necessary for the purposes of integrating the operation of the software with the operation of other software or systems used by the Customer, unless AEB is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request AEB to carry out such action or to provide such information (and shall meet AEB's reasonable costs in providing that information) before undertaking any such reduction.

16.2 The Customer is permitted in the context of its use to make copies of the documentation of software and services for its own data backup. Additional reproductions or any sharing with unauthorised and/or third persons are not permitted. The contents must be treated with confidentiality, and all documentation remains the property of AEB. The Customer shall return the documentation upon expiry and/or termination of the Agreement and destroy or irretrievably delete any copies.

16.3 Downloading or copying AEB software or parts thereof outside the contractually intended use is not permitted. The same applies to the copying of software or data of any type or portions thereof. The Customer is liable for any losses sustained by AEB as a result of violations of this clause 16.3.

16.4 The Customer is allowed to copy its own data and the results derived from its use of the contractually defined services onto its own computer systems if the user rights and the application offer this option to the user.

## 17 Completeness

- 17.1 Unless otherwise agreed in writing, all contractual relations in which AEB grants the Customer the right of use of the AEB software shall be subject exclusively to these Terms supplemented by the price conditions of the AEB quotation applicable when the Agreement is formed and including the “**General Payment Terms**” attached thereto or integrated therein. The Agreement constitutes the entire agreement between the parties in respect of an order and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that, in entering into the Agreement, it does not rely on, and shall have no remedies in respect of, any statement, promises, assurances, warranties, representations or understandings (whether oral or written, and whether made innocently or negligently) made by or on behalf of the other party (or any of its representatives) that are not set out in the Agreement.
- 17.2 Opposing or supplemental terms, including the Customer’s business terms and conditions, are not part of this contractual relationship, nor will they become part of the contractual relationship even if AEB does not explicitly oppose their inclusion. The provision of contractually defined services by AEB does not imply the acceptance of such terms.

## 18 Miscellaneous

- 18.1 Third Party Rights
- 18.1.1 Except as provided in clause 18.1.2, the Agreement is entered into between the contract parties alone and the parties explicitly state that, in the absence of an explicit written provision to the contrary, they do not intend to give or promise any rights, claims, or other benefits to any third parties pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 18.1.2 In addition to AEB, each member of AEB’s affiliates may enforce the following rights and/or benefits of AEB under the Agreement (subject to the terms of the Agreement) against the Customer: (i) any limitation or exclusion of liability in favour of AEB; (ii) the right of AEB to keep information confidential under clause 10 (Confidentiality) insofar as such information relates to such member of AEB’s affiliates; and (iii) any warranty or indemnity in favour of AEB.

## 19 Assignment

- 19.1 AEB is entitled to:
- 19.1.1 assign, sub-contract and/or transfer any and/or all of its rights and/or obligations under the Agreement:
- to any affiliate; or
  - in connection with and/or as a result of a change of control of all or substantially all of its assets; and/or
- 19.1.2 sub-contract any and/or all of its rights and/or obligations under the Agreement to any third party sub-contractor:
- named in the Agreement (including in a statement of work and/or order confirmation); and/or
  - who is notified to the Customer in writing (which may include e-mail) provided that (without prejudice to the bullet below), prior to the appointment of such sub-contractor, AEB has first given the Customer reasonable notice of its intention to appoint such sub-contractor and the Customer has, following such notice, either: (i) given its consent to such appointment (which consent the Customer shall not unreasonably withhold or delay); or (ii) failed to respond to the notice within a reasonable period (not exceeding five (5) days); and/or
  - if and to the extent reasonably necessary to do so in connection with the prevention and/or resolution of an emergency (which shall include a reasonably likely or actually incurred: material breach of the Agreement, loss and/or destruction of customer data, and/or breach of applicable laws (an “Emergency Appointment”). AEB shall notify the Customer of an Emergency Appointment as soon as is reasonably possible following the same and shall use its reasonable endeavours to bring such Emergency Appointment to an end as soon as is practicably and technically possible (unless agreed otherwise by the parties), and
  - in connection with the foregoing, AEB acknowledges and agrees that it is, and shall remain, liable to the Customer for the acts and omissions of each sub-contractor appointed by it.

**20 No partnership**

Nothing in the Agreement shall be construed as constituting a partnership between the parties nor, except as expressly provided herein, shall it constitute (or be deemed to constitute) a party to be the agent of the other party for any purpose or authorise a party to enter into any commitments for or on behalf of the other party.

**21 No waiver**

A waiver of any right or remedy under the Agreement or at law is only effective if given by notice. No failure or delay by a party to exercise any right or remedy provided under the Agreement or at law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**22 Accumulation of remedies**

Except as otherwise specifically provided for in the Agreement, no right, power, privilege or remedy conferred by any provision of the Agreement is intended to be exclusive of any other right, power, privilege or remedy (whether under any other provision of the Agreement, at law, equity, under statute or otherwise).

**23 Further assurances**

At its own expense (unless otherwise specified in the Agreement), each party shall, at the request of the other party, do all acts and execute all documents which may be reasonably necessary to give full effect to the Agreement.

**24 Interpretation**

In these Terms, unless the context requires otherwise:

- 24.1 headings are inserted for convenience only and do not affect the interpretation of these Terms;
- 24.2 words importing the singular include the plural and vice versa, and words importing a gender include every gender;

- 24.3 references to a person include an individual, corporation, partnership, any unincorporated body of persons and any government entity;
- 24.4 the rule known as the ejusdem generis rule shall not apply, and accordingly words introduced by words and phrases such as include, including, other and in particular shall not be given a restrictive meaning or limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;
- 24.5 references in the Agreement to the termination of the Agreement, to the Agreement terminating, and to similar references, include termination of the Agreement by expiry;
- 24.6 any reference in the Agreement to any applicable law which is a Regulation or Directive of the EU or which is an EU Treaty (as such expression is defined in the ECA) and which is given effect in the United Kingdom under the ECA includes a reference to any other applicable law in force in the United Kingdom at any time after the repeal of the ECA which is intended to give effect in full or in part to the provisions of such Regulation, Directive or EU Treaty;
- 24.7 “affiliate” means, in relation to AEB, any subsidiary or holding company of that company or any subsidiary of any such holding company (and their respective representatives and employees) and “holding company” means a holding company (as defined by section 1159 CA 2006) or a parent undertaking (as defined by section 1162 CA 2006) and “subsidiary” means a subsidiary undertaking (as defined by section 1162 CA 2006) or a subsidiary (as defined by section 1159 CA 2006) and “CA 2006” means the Companies Act 2006; and
- 24.8 in the Agreement and the recitals, unless the context requires otherwise, a reference to any statute or statutory provision (whether of the United Kingdom or elsewhere) includes: any subordinate legislation (as defined by section 21(1) Interpretation Act 1978) made under it; and any provision which it has superseded or re-enacted (with or without modification), and any provision superseding it or re-enacting it (with or without modification), before or on the date of the Agreement, or after the date of the Agreement except to the extent that the liability of a party is thereby increased or extended, and any such statute, statutory provision or subordinate legislation as is in force at the date of the Agreement shall be interpreted as it is interpreted at the date of the Agreement (and no account shall be taken of any change in the interpretation of

any of the foregoing by any court of law or tribunal made after the date of the Agreement).

## 25 Severability

25.1 Should any provision of these Terms be found to be invalid in whole or in part, this shall not affect the validity of the remaining provisions and such provisions shall be deemed deleted to the minimum extent necessary.

## 26 Applicable law, jurisdiction

26.1 The Agreement (and the construal of these Terms) and any non-contractual obligations connected with it shall be governed by English law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The parties irrevocably agree that all disputes arising under and/or in connection with the Agreement or in connection with the negotiation, existence, legal validity, enforceability or termination of the Agreement, regardless of whether the same shall be regarded as contractual claims or not, shall be exclusively governed by and determined only in accordance with English law. The parties irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction to determine any claim, dispute or difference arising under or in connection with the Agreement, any non-contractual obligations connected with it, or in connection with the negotiation, existence, legal validity, enforceability or termination of the Agreement.

## B Special terms for using the AEB Cloud

### 1 AEB Cloud service description

AEB services in the AEB Cloud are described in the separate AEB Cloud service description. The applicable version of the service description is available at <https://service.aeb.com/en>. AEB software and services can include communication with customs authorities and the archiving of customs-related messages. Details (retention periods, archiving, etc.) can be found in the corresponding service descriptions.

### 2 Use of the AEB Cloud

#### 2.1 Customer obligations when using the AEB Cloud

The Customer shall prevent any impairments to the function of AEB's software and services that stem from the Customer's sphere of responsibility. The Customer shall take all necessary and reasonable precautions – especially as it relates to workflows, instructions, and communications equipment – to ensure that unauthorised employees or third parties are prevented from accessing the software or using services without authorisation. The Customer shall keep secret and protect the usage and access authorisations that were agreed or assigned to the Customer or users as well as any agreed identification and authentication safeguards. The Customer shall inform AEB immediately if there is any suspicion that the access data and/or passwords may have become known to unauthorised persons.

2.1.2 The Customer expressly warrants and represents that neither the Customer nor its employees or subcontractors will use the contractual software and services for purposes that are racist, discriminatory, pornographic, harmful to minors, politically extreme, or otherwise illegal or in violation of official regulations or requirements, and that the aforementioned parties will not create and/or store such data in the AEB Cloud. In the event of a violation of this rule, AEB is entitled after notifying the Customer in text form to block access to the AEB Cloud and delete the data in question.

### 3 Surrender of Customer data on users and usage after end of usage

3.1 After the Agreement term ends or a partial termination of individual Solution Areas takes effect, AEB shall, upon the request of and in consultation with the Customer, give



the Customer access to its data in a conventional download format (.zip, .rar, etc.) chosen at AEB's discretion or on a conventional data storage medium (DVD, USB stick, SD card, etc.).

- 3.2 Once AEB provides the Customer with its data in this manner, it no longer has any responsibility to set up or maintain read-only access and retain the Customer's data. AEB is entitled to delete or block the Customer's data in accordance with data protection requirements if the Customer fails to take delivery of the data within three months after it is made available. Should the Customer neither accept the deletion nor wish to take delivery of the data on its own, it has the option to request and order a fee-based service from AEB for continued storage.

## C Special terms for On-Premise model

### 1 Scope of services

#### 1.1 General provisions

1.1.1 AEB's service for software provided under the On-Premise model consists of granting the right to use the software, maintaining and developing the standard software, and providing standard support services.

1.1.2 Software provided for download is delivered to the Customer only in executable program code in electronic form. No source code is provided. If the relevant opensource licensing terms stipulate that the Customer is to be provided with source code, AEB shall provide the source code to the Customer.

1.1.3 The installation, configuration, and adaptation of software by AEB are not included. The nature and scope of this are agreed upon jointly, quoted, and ordered, typically using an IT project contract. Also not included in the scope of services is the administration of systems not installed in the AEB data centre. Customer-specific adaptations and programming – including the support, maintenance, and development thereof – are also to be ordered separately.

1.1.4 The Customer may not carry out any modifications to the AEB software on its own. Should a modification be needed, AEB will either offer and perform the modification itself in exchange for appropriate, market-rate compensation or work with the Customer to coordinate the modification by the Customer or a third party.

1.1.5 If unsanctioned modifications by the Customer or a third party result in impairments of the contractually defined use, however, AEB is exempted from any and all warranty and liability obligations to the Customer as they relate to such impairments.

#### 1.2 Maintenance and development

##### 1.2.1 Current version

In the current version, AEB fixes bugs and makes improvements. Fixing bugs means that AEB remedies errors in the software, including the documentation, that prevent or substantially impair the value or usability of the software for the usage specified in the system description. Making improvements means that AEB makes minor enhancements or improvements to the functionality – to better reflect standard industry processes, for example, or to improve performance.

### 1.2.2 Maintenance of previous version

AEB commits to maintain not only the current version but also the immediately preceding version of the software. AEB does not maintain earlier versions. AEB commits to give the Customer at least six (6) months' notice before ceasing to maintain any given version.

The obligation to make improvements and further develop the software applies only to the current version, however. For the preceding version, AEB undertakes only to respond appropriately to fix identified bugs or user interface problems.

AEB shall provide the Customer with regular updates for the software used under the On-Premise model in the form of service and feature packs for download. It is the Customer's responsibility to install these packs and to ensure the backup of data unless an order for this service has been placed with AEB. Using a system that is no longer maintained is prohibited. The Customer may ask AEB for an exception to allow continued use, which AEB shall deny only when there is a good reason for doing so. In such a case, all of AEB's standard services are reduced solely to the right of use.

### 1.2.3 Remote maintenance

Customers using the On-Premise model are required under these Terms to provide AEB Support with anonymized access to the software or relevant system component installed outside AEB's data centre through a protected internet connection (remote maintenance). AEB shall fulfil its contractual obligations through this access. Access is essential for AEB to fulfil its contractual obligations.

Mandatory pre-requisites are:

- access by AEB to all software or relevant parts of the system to be maintained where required to perform the services;
- access permission for all authorised support personnel of AEB to the software required to perform the services. The response time, quick troubleshooting in the case of an incident, and thus smooth operation rely to a large extent on the availability and stability of the remote connection. AEB gains access using AEB's standard applications (TeamViewer, Citrix, etc.) and methods and with standard authentication (token, password, etc.). Any deviation from this – such as using applications and methods requested by the Customer or providing a list of the names of the relevant support agents – is subject to a fee and done only upon

request. Additional personal data of the support staff will only be provided with due regard for their rights and only in particularly justified exceptions (such as when legally required); and

- any supplements to or special arrangements of the aforementioned services (such as the administration and use of personalized logins) are offered separately upon request and agreed to in a separate written contract (such as a Support SLA).

### 1.2.4 Modifications of data structures and program code

Maintenance and development may at any time cause changes to the internal data structures and internal program code of the software provided by AEB. For this reason, it is not possible for the Customer to make continued direct use of functionalities of internal programming (in SAP® object code, for example), such as through the Customer's own programming, and such use is not in any way the subject of the Agreement. Should the Customer nevertheless access functionalities of internal programming of AEB software, then the Customer alone bears responsibility for any technical consequences or licensing violations that result. This does not apply to software functionalities documented by AEB and approved for use by the Customer, such as the interfaces documented by AEB.

## 2 Obligations of Customer

### 2.1 Obligations during use

2.1.1 The Customer must take appropriate precautions to limit any losses in the event that all or part of the software does not perform as contractually stipulated.

2.1.2 To make it possible for AEB to support and maintain the supported systems, the Customer may only use the software on hardware deemed suitable by AEB for the respective release.

2.1.3 The Customer is obligated to fully inform AEB at least four (4) weeks in advance of any changes to the Customer's relevant hardware and software components, including changes to their accessibility and the installation site of the AEB software. Any costs or overhead that AEB incurs due to Customer changes will be billed to the Customer. If the Customer fails to comply with its obligation to duly notify AEB, the resulting costs and overhead incurred by AEB will also be billed to the Customer.

Such charges will be billed at the standard per diems in effect at that time.

2.1.4 To limit risk, the Customer shall avoid the following circumstances within its sphere of responsibility, as they can lead to or exacerbate the consequences of software malfunctions:

- a new version of the operating system or database is installed without consulting AEB;
- a service pack installation for which the Customer is responsible is not run or not run on time;
- the Customer's host systems deliver faulty data or no data;
- disruptions are not promptly reported to AEB; and
- tables, parameter settings, or authorizations for which the Customer is responsible are incorrect.

2.2 Obligations at end of use

When the user agreement terminates, irrespective of the reason, the Customer shall without undue delay at the end of the Agreement term:

- cease all use of the software;
- delete the software, including all associated documents, documentation, and copies thereof; and
- provide AEB with written confirmation of both actions.

The Customer is not required to delete the data and work results generated using the software.

### 3 Additional installations

3.1 Each additional installation must be jointly coordinated with AEB in advance and is documented by AEB. This also applies to systems running parallel to the productive system.

3.2 An additional installation is defined as any new installation that requires the duplication of any magnetic, optical, or other data storage media for the system. The creation of system backup files as part of data backup operations is not considered to be an additional installation.

3.3 The use of additional system installations in the production environment is subject to a fee and permitted only if the Customer complies with the current pricing and licensing model, including the most recent terms and conditions. Only installations used for testing and development purposes are free.

## D Special terms for project services

### 1 General provisions

Customer-specific implementation, configuration, adaptation, extension, or development of software is handled through IT projects. The scope of services and obligations of cooperation of the Customer in the IT project shall be determined in one or more workshops, unless expressly agreed otherwise. The consensus reached will be documented by the parties in a manner appropriate to the project methodology (such as reports and/or functional specifications and/or backlog lists). Provisions on compensation and compensation models (milestones, bonuses, price per story point, per diems, etc.) are also defined when the project methodology is established. AEB shall treat the Customer's test data with confidentiality and protect it against unauthorized access. The test data is to be stored only for the purposes of fulfilling the Agreement and used only to render the AEB services (project, operational testing, etc.).

### 2 Obligations of Customer

2.1 Notification, cooperation, coordination

The Customer must promptly provide all resources (personnel, information, documents, records, hardware, test data, etc.) that are required for its cooperation and formal acceptance of the services. The Customer shall notify AEB about all relevant system environments and workflows. The Customer shall provide AEB with access to the parts of its systems relevant to the performance of the Agreement to the extent necessary using AEB's standard applications and methods (remote access). The Customer shall coordinate other suppliers and services for the project. The Customer shall conduct structured tests of an appropriate scope on the subject of the order. These obligations of cooperation by the Customer are to be specified in reports, functional specifications, or similar documents with reference to the selected project method. They continue to apply accordingly during the operational phase.

2.2 Formal acceptance

The Customer is obligated to promptly accept the service provided for acceptance by AEB within the period and in the manner agreed to with AEB (project method).

The formal acceptance of services – including on a partial or interim basis – follows the

applicable terms set forth by law. The use of all or some of the AEB services in a production environment is regarded as formal acceptance (or partial or interim acceptance, where applicable) of the services. The parties may jointly agree on another approval process on a case-by-case basis.

### 3 Timeline

The project timeline shall be determined jointly by the Customer and AEB and set forth in an Order Confirmation. Changes such as the suspension of a project may only be decided jointly.

## E Special terms for hardware

- 1 If the Customer purchases hardware through AEB, the law governing then except to the extent the parties agree otherwise (including as described below), the Sale of Goods Act 1979 shall apply. For the purpose of section 35(4) of the Sale of Goods Act 1979, the parties agree that the customer shall accept or reject the hardware within a reasonable period of time, without undue delay, and in any event, within ten (10) days from (and including) the time of delivery.
- 2 Any agreement on the delivery of hardware by AEB is subject to AEB's own receipt of delivery.
- 3 The delivery of hardware is free carrier (FCA Incoterms® 2020).
- 4 Should material defects occur, AEB may choose between replacing or repairing the defect item.
- 5 Any claims of material defects by the Customer expire one year following delivery of the hardware. This restriction does not apply to claims based on injury to life, limb, and health or to damage attributable to wilful misconduct or gross negligence on the part of AEB.