



PORSCHE

**Dr. Ing. h.c. F. Porsche Aktiengesellschaft**  
**General Terms and Conditions of Purchase for Information Technology**  
Status 11/2018

**General Part**

**1. Standard conditions**

- 1.1 The legal relationship between the Contractor (hereinafter "Contractor") and Dr. Ing. h.c. F. Porsche Aktiengesellschaft (hereinafter "Client") shall be in accordance with these General Terms and Conditions of Purchase (hereinafter "General Terms and Conditions of Purchase for IT") and any other written agreements, including amendments and additions.  
The Contractor's General Terms and Conditions shall not apply, including as a click wrap/shrink wrap agreement or in any other form, even if they have not been expressly rejected in specific cases. If it has been agreed in writing in an individual case that the Contractor's licensing conditions or terms of use are to apply, the provisions covering the nature and scope of the rights of use shall apply solely. Provisions above and beyond that, in particular on rights relating to defects or questions of liability, shall not apply.
- 1.2 The following documents shall apply in the following order of precedence:
- The contract (order and acceptance) concluded with the Contractor, including the respective reference documents
  - The respective orders/call-offs, including the respective reference documents
  - The relevant section of the Special Part of these General Terms and Conditions of Purchase for IT
  - The General Part of these General Terms and Conditions of Purchase for IT
  - The technical specifications of the Contractor's tender (except for commercial and legal contents).
- 1.3 Contracts and call-offs as well as amendments and additions thereto must be concluded in writing. As well as the written form, the text form and transactions by means of an electronic system provided by the Client shall suffice.
- 1.4 IT systems are using information very quickly and on a large scale. In the development and operation of IT systems, special care must be taken with regard to information protection. IT systems that are not installed in the vehicle must be developed and documented in accordance with the "Porsche Vorgehensmodell" (PVM) or the Porsche IT Tool and Method Box (PITT).

**2. Ordering, Right to make changes**

- 2.1 If the Contractor does not accept the order within five working days of its receipt, the Client shall be entitled to revoke the order. Call-offs become binding if the Contractor does not object within five working days of receiving the order.
- 2.2 The Client shall be entitled to request changes to the contractual services to a reasonable extent. The Client must come to an agreement with the Contractor in this regard. The Contractor shall advise the effects of changes to contractual services on the remuneration and timeframe without delay. If there is any question of a change in remuneration or completion date, this must be jointly recorded in writing. Otherwise, remuneration and timescale shall remain unchanged.

**3. Invoicing and payment**

- 3.1 As a basic principle, the Client will settle invoices using the invoicing procedure. Invoices must be submitted by the Contractor exclusively in electronic form as follows:
- Direct submission of invoice via EDI in valid VDA format,
  - Free-of-charge entry of invoice via the group business platform [www.vwgroupsupply.com](http://www.vwgroupsupply.com) => Login => Information => Tools => Financial application (FIN),
  - Submission of invoice via a specified provider.
- Information on electronic invoicing and the current EDI guidelines can be obtained under [edi-rechnungswesen@porsche.de](mailto:edi-rechnungswesen@porsche.de) and under [www.vwgroupsupply.com](http://www.vwgroupsupply.com).
- 3.2 In justified exceptional cases, by agreement with the Client's creditor accounts department, the Contractor shall submit his invoices in paper form to the following address:  
Dr. Ing. h. c. F. Porsche AG, Kreditorenbuchhaltung, Porscheplatz 1, D-70435 Stuttgart
- 3.3 Invoices must be submitted in a form suitable for checking stating the Porsche supplier number, order number, delivery note number, Porsche material number, place of unloading and name of contact in the Client's organization. All necessary invoicing documents must be attached. Invoices must be produced in accordance with German sales tax law. Accounting vouchers in the form of credit notes, debit notes and payment advice notes will be made available to the Contractor electronically via EDI or email or as a download under [www.vwgroupsupply.com](http://www.vwgroupsupply.com) => Login => Information => Tools => Financial application (FIN). In exceptional cases, they will be sent by post or fax.
- 3.4 When invoicing is carried out on a time and material basis, the invoices to be submitted in accordance with the contract/call-off, or otherwise monthly in arrears, shall mandatorily include particulars of the number of employees that have carried out the invoiced services, the number of days worked by these employees, the daily rate for the employees whose services are the subject of the invoice, the originals of all signed timesheets which are to be produced, and a description of the expenses invoiced. Expenses shall only be reimbursed to the extent agreed in the order and, if an all-inclusive rate has not been agreed, only against proof of expenditure.
- 3.5 Payment will be made within 30 days strictly net unless otherwise expressly agreed. This period shall commence on the day on which the invoice is received but not, however, before the agreed delivery date or service date and not before the actual shipment of the goods or the provision of the service and, if appropriate, acceptance.
- 3.6 Payment shall be made by bank transfer.
- 3.7 If deliveries or services are faulty, the Client shall be entitled to withhold payment pro rata by value until orderly completion.
- 3.8 Unless prior written approval, which shall not be inequitably withheld, is granted by the Client, the Contractor shall not be entitled to assign his claims against the Client or to arrange for such

claims to be collected by third parties. If, contrary to Clause 1, the Contractor cedes his claim against the Client to a third party without the Client's consent, the cession shall nevertheless be valid. The Client may, however, make payment to the Contractor or the third party at his own discretion with the effect of discharging his obligations.

**4. Provision of services**

- 4.1 The Contractor is obliged to provide the contractual services such that they have the characteristics described in the contract or call-off, including reference documents, and are not subject to defects which nullify or reduce the value or suitability for normal use or the use intended under the contract/call-off. The contractual services shall be provided based on the current state of the art in terms of technology, and with due observation of the degree of diligence usual in the industry, but at least with the diligence of a prudent businessman. The relevant statutory and official regulations must be observed. The status at the time of carrying out the respective services shall be definitive.
- 4.2 The hardware supplied must be CE-certified and comply with the valid VDE regulations and UVV accident prevention regulations. Software must be provided in compliance with the relevant quality standards (e.g. the Generally Accepted Principles of Orderly Data Processing (GoDV), the Generally Accepted Principles of Computer-Assisted Accounting Systems (GoBS), SPICE).
- 4.3 The Contractor shall provide its services at the place defined in the contract or call-off, including reference documents, or in a separate written agreement. Unless otherwise agreed in writing, delivery shall be made in accordance with DAP (Incoterms 2010) to the Client's registered office or a place of delivery specified in the contract or call-off, including reference documents.
- 4.4 In providing its services, the Contractor shall comply with all safety regulations and information security guidelines of the Client.
- 4.5 Partial performance shall require the prior written agreement of the Client.
- 4.6 Agreed dates and deadlines for the respective contracts and call-offs – including reference documents in each case – are binding. The time at which the goods are provided ready for unloading at the place of delivery, or the time the goods are installed and are technically ready for operation, shall determine whether the delivery date or delivery deadline has been met.
- 4.7 If the Parties have agreed in relation to software that the software's source code is also to be supplied, the source code must be supplied together with the complete development documentation and the development tools, including for updates, upgrades or other new versions of the software supplied as part of maintenance services. In addition, the Client can demand that the source code be deposited at reasonable terms and conditions if there is good cause for that (e.g. the software is important for essential business processes of the Client). If supply of the source code is not part of the contract, the Contractor shall ensure that the contract is fulfilled by means of suitable measures.

**5. Obligation to inspect and inform**

- 5.1 Deliveries and services of the Contractor, whether on data media or transferred electronically, must be comprehensively inspected and tested using up-to-date inspection and analysis processes before being provided to the Client or used and so as to ensure that they comply with the required properties and quality and are free of malware (e.g. trojans, viruses, spyware). If malware is detected, the Client shall be notified immediately and a solution that is free of malware shall be created in agreement with the Client.
- 5.2 If the Contractor has concerns regarding the intended manner of execution or the materials, studies, preparatory work or documents provided by the Client, these must be advised in writing to the Client without delay. The same shall apply if the Contractor is aware or ought to be aware that other information or requirements of the Client are in error, incomplete, not clear or not suitable for execution.
- 5.3 If, while the services are being provided, changes or improvements are seen to be expedient or necessary, the Contractor must immediately inform the Client of this in writing and obtain a decision regarding a possible change to the services.
- 5.4 If the Contractor believes that he cannot meet an agreed date or deadline, he shall notify the Client immediately, stating the main reasons for the delay. The agreed dates and deadlines shall remain unchanged unless a change to them is agreed in writing.
- 5.5 With justified cause (e.g. in the case of non-compliance with agreements, milestones etc. by the Contractor), the Client shall be entitled to check the provision of services by the Contractor during normal business hours and inspect the materials, documents and results of the services which are directly or indirectly associated with the services.

**6. Free and Open Source Software**

- 6.1 The Contractor shall not use any "free and open source software," i.e. software that can usually be obtained free of charge and open source (hereinafter referred to as "FOSS"), in deliveries and services for the Client, even if the FOSS's terms of use explicitly permit use of the FOSS.
- 6.2 The Contractor can apply to the Client to use FOSS on a case-by-case basis by
- Sending the complete and correct information on the specific FOSS, including, for example, its precise name and version, all associated terms of licensing and use, the source from which the FOSS is obtained, and copyright notices and author attributions
  - Specifying the reasons for using the FOSS
  - Confirming that a compatibility check on several different FOSS components/licences has been carried out successfully.
- 6.3 The FOSS which the Contractor has applied to use may only be used if the Client has given its prior written approval.

- 6.4 In cases of doubt, the approval shall be effective only for the specific work status of the Contractor's scope of services/deliveries and must be applied for again before new work statuses, versions, updates, upgrades or other deliveries and services are provided.
- 6.5 In using FOSS, the Contractor shall provide deliveries and services such that the contractual service to be provided to the Client or software and systems at the Client are not impaired, in particular by the "copyleft effect" or the "viral effect." FOSS shall also only be used if there is no conflict with the digital signature or the authenticated vehicle programming method of the Client and authentication information, cryptographic keys or other information relating to the software used in the vehicle remain unaffected and in particular do not have to be disclosed to third parties.
- 6.6 If subcontractors are used to fulfil the agreement, they must be obligated to comply with this Clause 6.
- 6.7 If the Contractor violates one of the obligations specified in this Clause 6 or infringes provisions of the terms of licensing or use of the FOSS used, it shall indemnify the Client and its affiliated companies against claims, damage, losses or costs caused by such violations/infringements and defend them against claims by third parties at the request of the Client. A violation of this Clause 6 shall constitute a breach of a cardinal contractual obligation.
- 6.8 The provisions in this Clause 6 shall apply accordingly to the use of "open content," i.e. content such as databases, fonts, media and photographs that is usually free of charge, but can be obtained subject to compliance with specific licensing terms.

## 7. Deployment of staff

- 7.1 The Contractor shall only employ staff who are qualified technically and on a personal level for carrying out the services and tasks specified in the order. The Contractor shall identify to the Client a contact responsible for the orders, with whom necessary agreements relating to the subject matter of the contract are to be concluded.
- 7.2 The Contractor is obliged to identify staff who are to be in direct contact with the Client (contact persons/representatives) to the Client in writing in advance. The Contractor is required to screen all persons that are deployed on the Client's factory premises to perform owed service before the start of contractual performance. Therefore, the last name, first name, date and place of birth are to be verified against sanctions lists pursuant to Council Regulations (EEC) No. 2580/2001, No. 881/2002 and No. 753/2011 as well as any amendment which has been or will be issued by the European Commission. The check has to be repeated periodically, but at a minimum once per year. The Client has the right to request proof from the Contractor that the appropriate verifications have been performed.
- 7.3 Changes to the Contractor's staff in accordance with Clause 7.2 must be notified to the Client in writing in advance. Clause 7.1 applies in a similar way to the replacement of Contractor's staff. The Contractor shall be responsible for the consequences in this respect, in particular all costs for replacing staff and the familiarization of replacement staff.
- 7.4 The services shall be provided under the responsible management of the Contractor. The Contractor shall retain sole technical, personal and disciplinary authority for the staff employed by the Contractor within the framework of the subject matter of the contract.
- 7.5 If foreign staff are employed, the Contractor shall undertake to ensure that they have a valid residence title which entitles them to engage in gainful employment. A valid work permit in accordance with the currently applicable regulations must be presented to the Client on request.

## 8. Subcontractors

- 8.1 The Contractor is not authorized to have the contractual services, or parts thereof, provided by subcontractors. Exceptions shall require the prior written agreement of the Client.
- 8.2 In all cases, when using subcontractors, the Contractor must observe the relevant laws and regulations, in particular the employment and social security laws. He shall indemnify the Client from all claims by third parties in connection with the use of subcontractors. The Contractor shall be liable for the actions and omissions of the subcontractors as well as for his own actions and omissions.

## 9. Minimum wage

- 9.1 The Contractor shall undertake to pay his employees at least the statutorily prescribed or contractually agreed minimum wage.
- 9.2 Further, the Contractor shall undertake only to employ such subcontractors that likewise contractually undertake to pay at least the statutorily prescribed or contractually agreed minimum wage to their employees.
- 9.3 The Contractor shall place the subcontractors instructed by him under obligation in accordance with Clause 9.2.
- 9.4 In the event of an infringement of the provisions of the Minimum Wage Act, the Contractor shall undertake to comprehensively indemnify the Client from all obligations associated with such an infringement and also to compensate the Client for any damages resulting from a culpable infringement.
- 9.5 The same obligation shall apply to the Contractor if a subcontractor instructed by him should infringe the provisions of the Minimum Wage Act.
- 9.6 If a claim should be made against the Client by an employee of the Contractor for payment of the statutory minimum wage, the Contractor shall undertake to the Client to provide all information necessary for the defence against the claim and any action for payment. This shall also apply following termination of the contractual relationship between the Contractor and the Client.
- 9.7 The Contractor shall guarantee to place subcontractors instructed by him under obligation in accordance with Clause 9.6 and to pass the necessary information to the Client without delay if an employee of the subcontractor lodges claims against the Client.

## 10. Late delivery, Penalties

- 10.1 The Contractor shall be obliged to compensate the Client for damages due to delay. The Contractor shall be deemed to be late if he should exceed the delivery date agreed in the contracts and call-offs – or in the respective reference documents thereto – unless he is not responsible for exceeding the agreed date.
- 10.2 If the Contractor is late in delivering devices or programs and materials or installing them and making them technically ready for operation, the Client shall have the right to revoke the contract for the devices or programs and materials which the Contractor is late in delivering or installing and making technically ready for operation. The Client shall also have the right, but not be obliged, to revoke the contract as a whole. The Client's right to claim for damages remains unaffected.
- 10.3 The statutory provisions relating to delay shall also apply.
- 10.4 If a penalty for delays which are the responsibility of the Contractor has been agreed in the

contracts and call-offs, the Client reserves the right to lodge a claim for damages. The right to demand payment of an agreed penalty shall not be forfeited by the fact that the penalty was not expressly reserved when accepting the delayed delivery. However, the reservation must be declared by the Client at the latest on payment for the delayed service. A penalty for default is to be allowed for in claims for damages which are based on the delay.

## 11. Force majeure

Force majeure, labour disputes, civil disturbances, action by official bodies and other unforeseeable, unavoidable and serious occurrences shall release the contracting parties for the duration of the problem and, to the extent affected by such occurrences, from their duties to perform. The contracting parties shall, wherever reasonably possible, be required to immediately provide the required information and adjust their obligations to suit the changed conditions in good faith.

## 12. Acceptance

- 12.1 Where services which are subject to acceptance are involved, the Contractor shall notify the Client in writing that his services are complete and hand over the contractual services or make them available for acceptance. If partial acceptances have been agreed, these shall take place exclusively under the reservation of final acceptance. If partial acceptances have taken place, the Contractor shall notify the Client in writing that the services are finally complete and request final acceptance.
- 12.2 The acceptance inspection by the Client shall not commence until the Contractor has demonstrated that the contractual service is complete and in working order by means of successful testing and trial operation. Otherwise, acceptance shall take place within four weeks of receipt of notification of completion to the Client and handover/availability of the contractual services, unless a different date for the acceptance inspection has been agreed. If verification of the Contractor's services necessitates commissioning or putting to use for test purposes, acceptance shall not take place until the tests have been successfully completed. Acceptance shall be carried out in writing, usually in the form of a report.
- 12.3 Payment by the Client shall not mean that the contractual services have been accepted or that acceptance has been waived.
- 12.4 The above provisions shall apply accordingly for staged acceptances.

## 13. Warranty and limitation period

- 13.1 The Client must notify the Contractor in writing within 14 days of receipt of delivery of any defects in the delivery of goods where these involve clearly recognisable defects and transport damage or identity and quantity deviations. In the case of all other defects of goods, notification of the defects shall be deemed to be timely if this takes place within 14 days of discovering the defect.
- 13.2 Claims arising from defect liability shall lapse on expiry of 36 months from the transfer of risk or acceptance unless a longer limitation period is provided by law.
- 13.3 In the case of defects, the Client shall have the option of requesting that the defect be rectified or the goods be replaced or remanufactured. If rectification of the defect is unacceptable to the Contractor, he must supply a defect-free replacement or manufacture a new item. The costs of rectification, including any installation and dismantling costs, shall be borne by the Contractor.
- 13.4 The Contractor shall rectify defects in software by supplying a version that is free of defects. If the Client cannot be reasonably expected to wait until a version free of defects is supplied, the Contractor shall swiftly provide an adequate replacement or workaround solution in order to minimise the effects of the defect until the replacement version free of defects is available.
- 13.5 If the Contractor refuses to carry out the rectification, if the rectification is unsuccessful, if the Client does not find it reasonable or if the Contractor does not meet the Client's requirement to carry out the rectification within a reasonable time in the individual case, the Client shall be entitled to make further claims based on defects according to statutory regulations and, in the case of work and labour services, including the right to remedy the defects himself.
- 13.6 Notification of a defect to the Contractor shall suspend the limitation period. If the Contractor is notified of a defect within the limitation period, the Contractor shall forego any defence under the statute of limitations.
- 13.7 The statutory provisions shall also apply.

## 14. Contractor's liability

The Contractor's liability for damages and product liability shall be based on the statutory provisions.

## 15. Third-party rights, Defects of title

- 15.1 Applying the standard of care customary in the sector, the Contractor must conduct appropriate research to ensure that the services he is to provide and their results do not infringe third-party rights. If, contrary to this obligation, the contractual service infringes the proprietary rights of third parties, the Contractor shall indemnify the Client from all claims by third parties based on conflicting rights to the contractual service except when the Contractor is not responsible for the defect of title.
- 15.2 If the rights of third parties would be infringed or if uninterrupted usage of the results would be impaired due to the intended form of the contractual service, the Contractor shall inform the Client without delay. The parties shall then cooperate to modify the contractual service. If the proprietary rights of third parties cannot be circumvented, the Client shall decide whether the proprietary right affected shall be used by way of a licence. The parties shall agree the distribution of the costs incurred thereby in the individual case.
- 15.3 If a third party asserts an encroachment upon a right when the contractual service is used in accordance with the contract, the Contractor shall undertake to clarify the situation with the third party so that the third party asserts no further rights against the use of the contractual service and the Client is able to use it without interruption, unless the assertion of the rights by a third party is clearly unjustified.
- 15.4 In addition, the Client shall be entitled to the statutory claims on account of defective title, wherein the limitation period shall be 36 months from the transfer of risk unless a longer limitation period is provided by law.

## 16. Free-issue items

All concrete or non-concrete resources provided by the Client, such as documents, information,

data media, access to systems, hardware or other objects, shall be used solely to perform the contractual services. The Client shall retain sole ownership of them. Access authorisations, in particular to IT and other systems, provided to the Contractor by the Client and the authorisation to use infrastructure, computers or licences shall end when the contract ends. At the same time, the Contractor shall return all ID cards and other objects he has received from the Client in connection with the contract. Electronic documents, information or means of access shall be destroyed, deleted or overwritten in such a way that they can no longer be restored.

## 17. Termination and end of contract

- 17.1 If the Contractor is providing a work and labour service, the Client may terminate the entire contract or parts thereof at any time or, in the case of continuous service, only by giving reasonable notice. If the Contractor is not responsible for the termination, his entitlement to remuneration shall be based on the statutory provisions with the proviso that the assumption according to § 649 sent. 3 of the German Civil Code is limited to 2.5% unless the Contractor provides evidence of a higher amount. If termination occurs for good reason without notice, the Contractor shall only be entitled to remuneration for the services which have been completed and demonstrated up to the time of termination if the use of these services is acceptable to the Client and the services are usable. Otherwise, there shall be no entitlement to remuneration.
- 17.2 If the Contractor is providing a service, the Client may terminate the contract or parts thereof at any time. If the termination is based on an action by the Contractor which contravenes the contract and which is the responsibility of the Contractor, or if he himself terminates the contract without being prompted to do so by an action on the part of the Client which contravenes the contract, only those services which have been provided up to then in accordance with the contract and which have been completed and demonstrated shall be remunerated as long as these can be used by the Client. The Client's right to claim for damages remains unaffected. If the reasons for the termination are not the responsibility of the Contractor, the Client shall reimburse the expenses which can be shown to have been incurred and which result directly from the contract, including the costs arising from commitments which cannot accordingly be resolved. The Contractor shall not be entitled to further claims for performance or for damages in the event of termination.
- 17.3 The rights to the results achieved up to the point of termination shall transfer to the Client as contractually provided.
- 17.4 On completion of the service agreed in the purchase order, the Contractor must hand over without prompting all results of the services as well as the documents including parts, samples and digital data media loaned to him by the Client. A right of retention to these documents shall only apply on account of undisputed or legally binding claims arising from the same legal relationship.
- 17.5 Any notice of termination must be given in writing.

## 18. Confidentiality, Information security

- 18.1 The Contractor shall treat all commercial and technical details which are not common knowledge and to which he becomes party in the context of the business relationship as trade secrets.
- 18.2 Drawings, models, templates, samples and other similar items which are the property of the Client may neither be supplied nor in any other way made accessible to unauthorized third parties. Such items may only be reproduced where such reproduction is essential to meet operational requirements and if permitted by the applicable copyright provisions.
- 18.3 Subcontractors shall be placed under a corresponding obligation.
- 18.4 The Contractor may only refer to the business relationship in advertising with the prior written consent of the Client.
- 18.5 The Contractor undertakes to take the current state-of-the-art measures to protect with immediate effect all of the Client's information and data against unauthorised access, manipulation, destruction or loss, prohibited transmission or any other prohibited processing or other misuse. The full range of current recognized state-of-the-art precautions and measures must be taken to back up Client data and to ensure that data stocks are at all times archived and can be restored in compliance with the law and at no risk of loss. On request of the Client, the Contractor is obliged to have a TISAX assessment ([www.tisax.de](http://www.tisax.de)) carried out with the TISAX assessment scope specified by the Client. Also, the Contractor should make the result available to the Client within a reasonable period of time.

## 19. Data Protection, Attribution of data

- 19.1 In case the Contractor has access to personal data while performing the contract, the Contractor shall observe all applicable laws and regulations on data protection and privacy. In particular, the Contractor shall only process personal data as required by the contractual obligations (specification of purpose), shall make sure that the Contractor's employees only have access to personal data to the extent strictly required, and shall commit the Contractor's employees to data secrecy in writing as well as instruct the Contractor's employees on applicable laws and regulations on data protection and privacy and submit proof to the Client upon request. In case of commissioned data processing by the Contractor on the Client's behalf, the parties shall – before the Contractor receives access to the personal data from the Client – execute the required data

protection agreement that the Client provides in the respective context (particularly an agreement on commissioned data processing). The Contractor warrants that the processing of personal data that are allocated to the Client or the Client's customers is only conducted in the territory of the Federal Republic of Germany, a Member State of the European Union or a Member State of the Agreement on the European Economic Area. Derogations from this provision shall be agreed upon by the Client and the Contractor in writing.

- 19.2 The Contractor acknowledges that all data created at the Client, the Contractor, the end customer or another third party from or in connection with use of the subject matter of the agreement shall be attributed to the Client, if the end customer or another third party is not entitled to it under prevailing law. The Contractor shall not claim ownership of or any other rights to this data and shall not use the data in particular for big data purposes, such as for collecting data, creating databases or conducting data analyses. The right of the Contractor to use the data for fulfilling this agreement, where it is required for that purpose, shall remain unaffected.

## 20. Licence audit

If the Contractor gives the Client written notification that there are reasonable grounds for suspecting that rights granted by the Contractor to the Client to use software provided to him for a limited period of time are being exceeded, the Client shall conduct a licence audit (review of compliance with the rights of use) for the software in question and shall inform the Contractor about the result of the licence audit in writing.

## 21. Compliance and sustainability

- 21.1 The Contractor shall take all necessary and appropriate measures to combat corruption and avoid other infringements of the law, in particular infringements of the provisions of antitrust law, competition law, environmental protection and of employees' rights. The Contractor shall take the organizational measures which can be reasonably expected of him to prevent his legal representatives, employees or other third parties acting in his name from becoming liable to prosecution for committing or failing to act in light of, for example, bribery, corruption, granting of undue benefits, acceptance of undue benefits, money laundering, fraud or embezzlement.
- 21.2 In the event of an infringement of these obligations, or if sufficient reason exists to suspect such an infringement, the Contractor must inform the Client without delay and tell him which measures he is taking to remedy the infringement and prevent future violations. If the Contractor fails to inform the Client without delay or to take appropriate remedial measures within 60 days of learning of the situation, the Client shall be entitled to terminate the relevant contract without notice or to end the entire business relationship with immediate effect, depending on the seriousness of the infringement.
- 21.3 The "Requirements of the Volkswagen Group regarding sustainability in its relationships with business partners (Code of Conduct for Business Partners)" available at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) also apply.
- 21.4 If the Client or the public authorities require access to the production process and/or the service provision process and to the Contractor's documents and processes related to an order for the purpose of verifying certain requirements, the Contractor shall undertake to allow such a verification and/or audit in his domain and to provide all reasonable support.

## 22. Final provisions

- 22.1 If one of the contracting parties suspends payments or if application is made to instigate insolvency proceedings against its assets or for out-of-court settlement proceedings, the other contracting party will be entitled to revoke the portion of the contract not yet executed. This shall also apply accordingly if the economic position of a contracting party deteriorates in such a way as to seriously affect fulfilment of the contract.
- 22.2 If one of the provisions of these terms and of additional agreements are or become ineffective, this shall not affect the validity of the remaining provisions. The contracting parties are obliged to negotiate in good faith a rule which replaces the ineffective provision.
- 22.3 The law of the Federal Republic of Germany shall apply exclusively. The application of the terms of UN Trade Law (United Nations Convention on Contracts for the International Sale of Goods) of April 11, 1980 shall be excluded.
- 22.4 The place of performance is the Client's registered office. Alternative provisions may be agreed for the delivery itself.
- 22.5 The exclusive court of jurisdiction shall be Stuttgart; however, the Client retains the option of lodging claims with the court at the location of the Contractor's registered office.
- 22.6 These General Terms and Conditions are produced in German and English. In the event of contradictions and discrepancies between the German and the English version the German version shall prevail.

## Special Part

### First Section: Purchase and leasing of hardware and standard software

#### 23. Scope

The provisions in this section apply to hardware or standard software that is provided to the Client for a limited period of time or permanently.

#### 24. Scope of services, Subject matter of the contract

- 24.1 Hardware is always supplied with system and operating software pre-installed (hereinafter "hardware"). The associated system and operating software is additionally provided to the Client on a commercially available data medium. The hardware must be set up, installed, integrated and configured by the Contractor, it must be handed over to the Client in a state that is ready for operation, and ownership of it must be transferred to the Client.
- If the Parties have agreed that the hardware is to be provided for a limited period of time, the Contractor shall perform the maintenance and repair services required to keep the hardware in its contractual condition during the lease period. The provisions in the Second Section "Maintenance

of hardware and software" shall apply accordingly.

- 24.2 Standard software shall be provided to the Client for use to the contractually defined extent. If agreed, standard software must be installed, configured and handed over by the Contractor to the Client in a state that is ready for operation.
- If the Parties have agreed that the standard software is to be provided for a limited period of time, the Contractor shall perform the maintenance and repair services required to keep the standard software in its contractual condition during the lease period. The provisions in the Second Section "Maintenance of hardware and software" shall apply accordingly.
- In principle, the Contractor shall provide the software in object code on commercially available data media in such a way that it can be executed. If the software is lost, inadvertently deleted or the like by the Client, the Contractor shall replace it free of charge.
- 24.3 Hardware and standard software shall be supplied with generally understandable documentation, in particular on how to install, use, operate or maintain them, in German or at least in English. This

shall be a cardinal contractual obligation.

- 24.4 The Contractor shall provide the Client with instruction on how to use the hardware or standard software.
- 24.5 The purchase price or rent for the hardware and standard software shall cover all the services of the Contractor specified in this Clause 24, as well as granting of the rights of use defined in Clause 25.

## 25. Rights of use

- 25.1 If the Parties have agreed that hardware or standard software is to be purchased, the Contractor shall grant the Client upon provision of the subject matter of the contract a non-exclusive, irrevocable and permanent right to use the subject matter of the contract without restriction as to location and content, including for types of use which are unknown at the time the contract is concluded. The Parties shall agree on adequate compensation if the rights of use are exercised for types of use which are unknown at the time the contract is concluded. Use of the subject matter shall comprise in particular reproduction of the provided software for its contractual use, storage including any necessary installation on IT systems, and the loading, execution and processing of data. The right of use shall include in particular the right of third parties to adapt and develop programs that run together with the software on behalf of the Client, including for the purpose of enabling interoperability with neighbouring systems and programs.
- 25.2 If the Parties have agreed that hardware or standard software is to be leased, the Contractor shall grant the Client upon provision of the subject matter of the contract a non-exclusive right to use the subject matter of the contract for the term of the contract and, unless explicitly agreed otherwise, without restriction as to location and content. The Client may make copies for archiving and backup purposes.
- 25.3 If, as part of rectification of defects or the maintenance services to be performed under the lease, the Contractor provides the Client with corrections, patches, updates, upgrades or new versions of the software contained in the subject matter of the contract or updated documentation (hereinafter referred to jointly as "updates"), all provisions agreed by the Parties for the previously provided software shall likewise apply to them, including the granted rights of use.
- 25.4 All work results, in particular data or documents, in whatever form, that are created as part of or in connection with use of the subject matter of the contract shall be the property of the Client. The Client shall be entitled to all current or future rights to use and exploit them. The Contractor shall not be entitled to use these work results above and beyond the extent required to perform the contractual service.
- 25.5 If special access tools, devices or specific licences are required to use the subject matter of the contract, the Contractor shall provide them in adequate number.
- 25.6 The Client shall have the right to adapt the subject matter of the contract in order, in particular, to carry out changes to, extensions to or other reworking of the software, provided it has given the Contractor two prior attempts to rectify defects. The Client shall not have any rights of his own to use and exploit these adaptations above and beyond the contract. The Client shall also have the right to decompile the software contained in the subject matter of the contract within the bounds of section 69e of the German Copyright Act (UrhG). Upon written request, the Contractor shall

provide the Client with all the data and information required to enable interoperability with other hardware and software.

- 25.7 The Client may create and use copies of the software provided to him for backup and archiving purposes. If the Client has obtained software by downloading it online, he may copy it onto data media. The rights to the software shall then be confined to those for purchase of it on a data medium.
- 25.8 Licence terms of third-party vendors that apply in connection with the subject matter of the contract must be supplied in full to the Client along with the offer for the software before the contract is concluded, otherwise the provisions of these General Terms and Conditions of Purchase for IT shall apply solely. Clause 1.2 shall remain unaffected.
- 25.9 Unless explicitly agreed otherwise, the companies of the Volkswagen Group as defined by § 15 of the German Stock Corporation Act (AktG) and the holding companies FAW Automotive Company Ltd., Changchun, People's Republic of China, and Shanghai Volkswagen Automotive Company Ltd., Shanghai, People's Republic of China, shall also be entitled to the above rights.

## 26. Manufacturer's warranty

If manufacturer's warranties for the subject matter of the contract exist, the Contractor shall pass these on to the Client so that the Client can assert warranty claims directly against the manufacturer or through the Contractor. The Contractor shall provide such warranty statements together with the subject matter of the contract.

## 27. Testing and trial operation

- 27.1 Before the subject matter of the contract is handed over, the Contractor shall first test it himself to determine that it meets the contractual requirements and complies with the product description and specifications. The Contractor shall then assist the Client in carrying out testing and trial operation upon request. The risk relating to price and performance shall pass to the Client only after confirmation that testing and trial operation has been completed successfully.
- 27.2 Testing and trial operation must be recorded in writing upon completion, together with any defects that have arisen in the contractual service. This record must be signed by both Parties. The Client shall confirm a successful demonstration immediately in writing. If requirements have not been met, the Client can refuse to give such confirmation. The Contractor shall immediately rectify defects that have arisen and present the contractual service again for testing and trial operation within the agreed dates and deadlines. When the result of testing and trial operation is successful, the contractual service shall be regarded as having been provided for acceptance by the Contractor and acceptance testing at the Client shall commence; the Contractor shall assist this acceptance testing to the necessary extent.

## Second Section: Maintenance of hardware and software

### 28. Scope

The provisions in this section apply to the provision of maintenance services for hardware and software.

### 29. Scope of services, Subject matter of the contract

- 29.1 The Contractor undertakes to maintain and service the hardware. He shall keep the hardware in a condition suitable for the Client's purposes and perform the maintenance and repair services required for that. If the Contractor is to assume maintenance for an existing system of the Client, he shall record any defects in a takeover record. He shall rectify the defects as part of the maintenance services, unless that significantly exceeds the scope of the customary maintenance services and he has pointed this out in the takeover record. As part of maintenance, the Contractor shall ensure that the hardware remains in permanent working order. This shall also include replacing hardware components that are defective, no longer state-of-the-art or unsafe. The Client shall obtain ownership of new hardware components upon their delivery. The Contractor shall dispose of the replaced hardware components and delete the data on them irrevocably.
- 29.2 The Contractor undertakes to maintain software (standard software or customised software), including the documentation for it. As part of his maintenance services, he shall permanently keep the software in a working condition suitable for the purposes of the Client. The Contractor shall ensure continuous further development of the software and shall provide the Client with upgrades and new versions regularly, but at least once a year.
- 29.3 The Contractor shall plan maintenance work so that the Client's use of the hardware and software is not impaired. If maintenance work during the system's regular operating times is unavoidable, the Contractor shall inform the Client of the reasons for that and agree a maintenance window in good time (at least 2 weeks beforehand). Updates that may impact the software's productivity at the Client must be installed within a maintenance window to be agreed with the Client. Existing system requirements must be taken into consideration. Updates shall not necessitate any significantly different system requirements.
- 29.4 The Contractor shall comply with agreed service levels in rectifying problems.
- 29.5 All the Contractor's services defined in this Clause 29, as well as granting of the rights of use

defined in Clause 30, are covered by the maintenance fee.

### 31. Rights of use

- 31.1 The Contractor shall grant the Client the rights to use the maintenance services in accordance with the contract governing the provision of hardware or software.
- 31.2 If the Contractor is tasked with the isolated maintenance of hardware or software to which the Client has the exclusive rights, and the Client has notified the Contractor thereof, the Contractor shall grant the Client rights to the updates in accordance with Clause 35.
- 31.3 In all other cases of isolated maintenance of hardware or software, the Contractor shall grant the Client rights to the updates in accordance with Clause 25.

### 31. Defects and performance problems

- 31.1 In addition to Clause 13, a service is defective if problems are not rectified, are not rectified to the required extent, or are not rectified in an agreed time or otherwise in a reasonable time. The Contractor can rectify insignificant defects as part of the next regular maintenance service.
- 31.2 The Client hereby assigns his warranty claims from the contractual relationships governing the contractual services with equipment manufacturers and suppliers to the Contractor, who hereby accepts such assignment. The contracts in question shall be disclosed to the Contractor to the required extent. The Contractor shall then take them into account in providing its services. Irrespective thereof, the Client himself shall still be authorised to assert the assigned claims himself after notifying the Contractor.
- 31.3 If the contract is terminated prematurely, on whatever grounds, and the Client is not able to transfer the maintenance services to a third party or continue them himself without impairment, the Client can demand that the Contractor continue the contract after it ends, where this is necessary to maintain the business operations of the division affected. This shall apply for as long as full continuation of the Client's business operations or by a third party is ensured, but no later than 6 months after the end of the contract.

## Third Section: Development of customised software

### 32. Scope

The provisions in this section apply to the provision of concept design services for software, development of customised software or tailoring of software for the Client.

### 33. Scope of services, Subject matter of the contract

- 33.1 The Contractor shall provide the Client with customised services in the field of the concept

design, development and tailoring of software, including the creation of software and process specifications as part of a rough, detailed or test concept, creation and implementation of software or application designs, and development or parameterisation of software (hereinafter referred to jointly as "customised software").

- 33.2 If the Contractor is also to maintain the customised software, the relevant terms and conditions of Second Section "Maintenance of Hardware and software" shall apply.
- 33.3 The Client shall be supplied with the customised software in full, along with the documentation

and all documents required to use it, in a condition such that it is ready or suitable for use. This shall also include the source code, the documentation on the development history, quality assurance processes and results, and the quality management systems and development tools used.

- 33.4 The customised software shall be supplied with generally understandable documentation in German or at least in English. This shall be a cardinal contractual obligation. All documents and information that relate to its development and enable an IT expert to install, operate, maintain and further develop the customised software shall also be provided with it.
- 33.5 The customised software must be installed, integrated and configured by the Contractor, it must be handed over to the Client in a state that is ready for operation, and ownership of it must be transferred to the Client.
- 33.6 As part of the testing and trial operation to be carried out in accordance with Clause 36, the Contractor shall assist the Client in becoming familiarised with the functions of the customised software and shall provide the Client with instruction to the necessary extent.
- 33.7 All the Contractor's services defined in this Clause 33, as well as granting of the rights of use defined in Clause 35, are covered by the compensation for the work on the customised software.

#### **34. Responsibility and obligations of the Contractor**

- 34.1 If performance of the service involves standard software that neither originates from the Contractor nor is provided by the Client, the Contractor shall procure the standard software and make it available to the Client, unless otherwise agreed.
- 34.2 If the Client incurs costs due to defective services and these costs can be claimed only if the Contractor is culpable, the Contractor shall be liable for any culpability on the part of third parties in the same way as for culpability of his own.
- 34.3 The Contractor shall inform the Client regularly about the progress in performance of the service.
- 34.4 The Contractor and the personnel he uses shall be particularly qualified for providing the contractual service and shall have sufficient experience in similar services. The Client can demand proof of that and, if such proof is not furnished, demand that the project manager or employees used be replaced.

#### **35. Rights of use**

- 35.1 Ownership of all the Contractor's results and intermediate results created as part of the development of customised software, including source code, test and development reports, suggestions, ideas, drafts, designs, proposals, samples, models, drawings, CAD data records, service descriptions, documentation, programs, software including aids created for it, customising services for existing standard software and other results of the services (hereinafter referred to jointly as "work results") shall pass to the Client at the time of their creation and, if they are physical objects, when the objects are handed over.
- 35.2 In addition, the Client shall obtain the exclusive, already discharged, irrevocable, transferable and sub-licensable right, unlimited in time, location and subject matter, to use these work results as soon as they are created, but no later as of when they are handed over. This right of use shall comprise all types of use, in particular storage, loading, execution, processing of data, adaptation (also by third parties), including permanent combination with services of the Contractor, the right to reproduce and disseminate the work results, the right to present and demonstrate them (also in public), the right to remarket them, and the right to make changes, rework, translate, make additions to and develop them further, even without indication of who is the originator.
- 35.3 If innovations should be produced in conjunction with the provision of the contractual services (these include, in particular, inventions, suggestions for technical improvement, know-how, and also other individual intellectual and creative services), the Contractor is obliged to notify the Client of this and to provide all documentation necessary for evaluating the innovations. Only the Client shall be entitled to submit applications for proprietary rights. The Contractor shall claim innovations of this kind in relation to his staff without restriction in a timely manner, and support the Client in obtaining proprietary rights, in particular issuing the necessary declarations therefor. If the Client should decline in writing to apply vis-à-vis the Contractor and grants the Contractor permission to submit an application, the Contractor shall then be entitled to apply for appropriate proprietary rights at his own expense. The Client shall be entitled to non-exclusive, free-of-charge and transferable usage rights which are unlimited in time, location and content, to the proprietary rights subsequently granted to the Contractor. The Client and the Contractor shall only bear the commission for employee's inventions for their own employees in each case.

35.4 If, on conclusion of the contract, the Contractor's existing proprietary rights are required for the production or use of the contractual services, the Client shall irrevocably be granted non-exclusive, free-of-charge, transferable and sub-licensable usage rights which are unlimited in time and location thereto, for the use of the contractual services by the Client or authorised third parties. Before commencing work, the Contractor shall advise which of his proprietary rights may be important for the contractual services.

35.5 If the Contractor involves subcontractors, he shall ensure by means of appropriate contractual agreements that the subcontractors also provide the Client with the said results and usage rights. Use of the contractual services by the Contractor or third parties requires the prior written agreement of the Client.

35.6 The companies of the Volkswagen Group as defined by § 15 of the German Stock Corporation Act (AktG) and the holding companies FAW Automotive Company Ltd., Changchun, People's Republic of China, and Shanghai Volkswagen Automotive Company Ltd., Shanghai, People's Republic of China, shall also be entitled to the above rights.

35.7 Sub-licences or rights of use that have been granted shall not be affected if the contract is rescinded or terminated.

#### **36. Testing and trial operation**

36.1 Before the subject matter of the contract is handed over, the Contractor shall first test it himself to determine that it meets the contractual requirements and complies with the product description and specifications.

The Contractor shall then assist the Client in carrying out testing and trial operation upon request. The risk relating to price and performance shall pass to the Client only after confirmation that testing and trial operation has been completed successfully.

36.2 Testing and trial operation must be recorded in writing upon completion, together with any defects that have arisen in the contractual service. This record must be signed by both Parties. The Client shall confirm a successful demonstration immediately in writing. If requirements have not been met, the Client can refuse to give such confirmation. The Contractor shall immediately rectify defects that have arisen and present the contractual service again for testing and trial operation within the agreed dates and deadlines. When the result of testing and trial operation is successful, the contractual service shall be regarded as having been provided for acceptance by the Contractor and acceptance testing at the Client shall commence; the Contractor shall assist this acceptance testing to the necessary extent.

#### **37. Special acceptance requirements**

37.1 The Client shall be required to conduct acceptance testing only after proper testing and trial operation has been carried out successfully.

37.2 Defects in the contractual services discovered in acceptance testing shall be assigned by the Client to the following classes:

- a) Class 1: Defects that mean that the Client cannot use the subject matter of the contract or an important part of it economically.
- b) Class 2: Defects that result in significant restrictions to use of important functions of the subject matter of the contract and these restrictions cannot be circumvented for a period of time that is reasonable for the Client.
- c) Class 3: Other defects.

If defects in classes 1 or 2 are discovered, the Client shall have the right to refuse acceptance of the subject matter of the contract and discontinue the acceptance test. If defects in class 3 are discovered, the Client can refuse to accept the service if, taken as a whole, the contractual service does not have merely insignificant defects, for example smooth, uninterrupted work with it is impeded not merely to an insignificant extent. In that case, the Contractor shall rectify the defects immediately and submit his services again for acceptance testing. The Contractor shall bear all the costs incurred by the Client as a result of testing and trial operation being repeated. The Client's rights if time limits or deadlines are overrun as a result shall remain unaffected.

37.3 If the Client accepts the contractual service despite the fact that defects that are not merely insignificant have been discovered, these defects shall be recorded in the acceptance report and rectified by the Contractor immediately.

37.4 The Contractor has the right to prove that a defect should be assigned to a different class or that no defects exist.