

**Volkswagen AG General Terms and Conditions of Purchase for  
services in the field of information technology (IT) and/or electronic information and communication (TC)**

**I. General Part**

**1. Scope and Systematics of IT-PT&Cs**

- 1.1. These IT-PT&Cs apply to CONTRACTS for services in the field of information technology (IT) and/or electronic information and communication (TC).
- 1.2. The provisions of the Special Part (Part II) take precedence over the provisions of the General Part (Part I) with respect to the following CONTRACTUAL SERVICES:
  - Provision of STANDARD SOFTWARE (sections 42 and 43),
  - Provision of INDIVIDUAL SOFTWARE (sections 44 and 45),
  - Provision Delivery of hardware (section 46),
  - CLOUD SERVICES (sections 47 and 48),
  - DEVELOPMENT SERVICES (sections 49 to 51),
  - AGILE DEVELOPMENT SERVICES (section 52),
  - MAINTENANCE AND SUPPORT SERVICES (section 53),
  - TC SERVICES (section 54),
  - VEHICLE-RELATED SERVICES (sections 55 to 60).
- 1.3. The IT-PT&Cs also apply to all future CONTRACTS concluded with companies and legal entities under public law.
- 1.4. The CONTRACTOR shall grant the same prices and conditions agreed with one company of the VOLKSWAGEN GROUP to every other company of the VOLKSWAGEN GROUP for the same or comparable CONTRACTUAL SERVICES, unless significant changes have occurred that justify an adjustment of the prices and/or conditions.
- 1.5. Contradictory or deviating terms and conditions of the CONTRACTOR shall only be binding for the PRINCIPAL insofar as the PRINCIPAL has expressly accepted these in WRITTEN FORM.
- 1.6. Should the PRINCIPAL accept license terms / terms of use of the CONTRACTOR or of third parties, only those provisions which regulate the type and scope of the rights of use shall apply. No other regulations shall apply, in particular those relating to warranty, liability, applicable law and/or jurisdiction.
- 1.7. Terms written in SMALL CAPITALS are defined in Part III.

**2. Contractual Basis**

- 2.1. The contractual bases are in the following order of precedence, whereby in the event of contradictions the former provision takes precedence over the latter and gaps in the former provisions are filled by the latter provisions,
  - the negotiation protocol (where existing);
  - the Special Part of these IT-PT&Cs to the extent its provisions are applicable to the CONTRACTUAL SERVICES;
  - the General Part of these IT-PT&Cs;
  - the CONTRACT (without the negotiation protocol);
  - the confidentiality declaration or agreement;
  - where their applicability has been agreed, the Volkswagen AG General Terms and Conditions of Purchase or other Volkswagen AG conditions such as the Terms of Purchase for Production Material;
  - the commercial and technical contents of the CONTRACTOR's offer.
- 2.2. Components of the CONTRACT are (where existing)
  - the negotiation protocol,
  - the order,
  - the supplementary agreement on the use of FREE AND OPEN SOURCE SOFTWARE,
  - the PRINCIPAL'S specifications sheet,
  - the PRINCIPAL'S technical, commercial and/or legal tender documentation,
  - the request for quotation,
  - Specifications on (quality) standards and working methods.
- 2.3. Additional provisions applicable within the scope of the CONTRACT, which the CONTRACTOR may view on [www.vwgroupsupply.com](http://www.vwgroupsupply.com) as well as save and print, are

- the VOLKSWAGEN GROUP requirements regarding sustainability in its relations with business partners (Code of Conduct for Business Partners);
- the Contractual Terms for Customs and Foreign Trade Law;
- the PRINCIPAL'S requirements regarding information security and IT security;
- where the CONTRACTOR has access to the PRINCIPAL's systems, the applicable security guidelines and concepts;
- if DELIVERABLES are production equipment, the PRINCIPAL's Specifications for Production Equipment (Betriebsmittelvorschriften);
- where the CONTRACTOR provides DELIVERABLES, the contractual conditions of the PRINCIPAL concerning security in the supply chain and proof of origin;
- the contractual provisions for project-related travel costs;
- to the extent CONTRACTUAL SERVICES are CLOUD SERVICES, the general requirements of Volkswagen AG for information security in relation to cloud services.

### **3. Contractual Services**

- 3.1. The CONTRACTOR shall provide the CONTRACTUAL SERVICES in the agreed or generally accepted quality and according to the current state of the art and shall continually check and document this.
- 3.2. The CONTRACTOR shall check software using an up-to-date anti-virus program before providing it to the PRINCIPAL and shall ensure that software does not contain malware (software with malicious functions), computer viruses or worms, Trojan horses, or similar. The CONTRACTOR shall use up-to-date software security tests before providing it to the PRINCIPAL to ensure that software does not contain critical vulnerabilities that could damage the integrity and confidentiality of the PRINCIPAL'S systems and data or those of connected third parties and shall prove this to the PRINCIPAL e.g. by submitting certificates.
- 3.3. CONTRACTUAL SERVICES must not contain functions that enable collection, transfer, storage or other form of PROCESSING of VW DATA by the CONTRACTOR or by third parties, unless this has been expressly agreed upon in the CONTRACT.
- 3.4. Where add-on software (e.g. Software Development Kit) enables or facilitates the contractual or intended use of the CONTRACTUAL SERVICES, the CONTRACTOR shall offer the PRINCIPAL such software under the conditions usually agreed with other customers. To this add-on software, these IT-PT&Cs shall apply exclusively. Should the PRINCIPAL, in regard to the add-on software by way of exception, expressly confirm the applicability of license terms /terms of use, section 1.6 applies accordingly.
- 3.5. Should the CONTRACTOR require access to the PRINCIPAL'S systems to provide the CONTRACTUAL SERVICES, this can only be done using the PRINCIPAL'S technology and requires the PRINCIPAL'S prior explicit consent in TEXT FORM. Any costs incurred for usage shall be borne by the CONTRACTOR.
- 3.6. CONTRACTUAL SERVICES provided on the PRINCIPAL'S premises or sites shall be provided by the CONTRACTOR as an independent and autonomous service of the CONTRACTOR, in compliance with the technical and organizational requirements of the PRINCIPAL under the supervision and sole authority of the responsible employees nominated by the CONTRACTOR.
- 3.7. The PRINCIPAL is only obligated to provide resources (hardware, software, premises etc.) if this has been explicitly agreed in WRITTEN FORM. The use of the premises, grounds or other facilities of the PRINCIPAL – especially for operation of systems – by the CONTRACTOR requires a special user agreement in WRITTEN FORM with the PRINCIPAL, in which the permitted period of use and usage fees to be paid by the CONTRACTOR are defined. An obligation on the part of the PRINCIPAL to provide resources does not arise from the fact alone that CONTRACTUAL SERVICES are provided on the premises or sites of the PRINCIPAL. Resources provided by the PRINCIPAL may be used by the CONTRACTOR and its employees and/or subcontractors exclusively for the purpose of fulfilling the CONTRACTUAL SERVICES. Passwords must not be saved or passed on to others and must be changed at the latest after ninety (90) days in each case.
- 3.8. If information or documents supplied by the PRINCIPAL that are required for provision of services by the CONTRACTOR are incomplete or inaccurate in the view of the CONTRACTOR, the CONTRACTOR shall inform the PRINCIPAL thereof in TEXT FORM without undue delay.

### **4. Free and Open Source Software**

- 4.1. FREE AND OPEN SOURCE SOFTWARE may only be contained in the DELIVERABLES if this has been agreed in advance

by the PRINCIPAL in TEXT FORM. This also applies if the relevant license terms for the FREE AND OPEN SOURCE SOFTWARE expressly permit this usage both in original and in modified or any other form. If the CONTRACTOR intends to use FREE AND OPEN SOURCE SOFTWARE in the DELIVERABLES, the CONTRACTOR undertakes as a material contractual obligation to inform the PRINCIPAL without any undue delay in TEXT FORM (i) which FREE AND OPEN SOURCE SOFTWARE components are to be used (ii) which copyright notices and license terms are relevant in this regard and to provide the PRINCIPAL with a copy of same and (iii) to confirm explicitly to the PRINCIPAL that no COPYLEFT EFFECT is triggered on the basis of which the DELIVERABLES would be classified in whole or in part as FREE AND OPEN SOURCE SOFTWARE. The CONTRACTOR shall in particular confirm that no proprietary software components are covered by the COPYLEFT EFFECT. Where the use of FREE AND OPEN SOURCE SOFTWARE is permitted pursuant to this section, the CONTRACTOR is obliged to ensure that the use of FREE AND OPEN SOURCE SOFTWARE does not restrict the contractual or intended use of the DELIVERABLES by the PRINCIPAL and companies in the VOLKSWAGEN GROUP. The CONTRACTOR shall provide the information on (i) and (ii) in a format specified by the PRINCIPAL.

4.2. If the CONTRACTOR provides DELIVERABLES to the PRINCIPAL, which contain FREE AND OPEN SOURCE SOFTWARE, without the PRINCIPAL's prior consent, or if the consent of the PRINCIPAL is based on culpably incomplete or inapplicable information provided within the meaning of the preceding paragraph, the PRINCIPAL shall be entitled, at its own discretion, to withdraw from the CONTRACT or to request that the CONTRACTOR replace the FREE AND OPEN SOURCE SOFTWARE with equivalent proprietary software; section 20.1 sentences 3 and 4 apply accordingly.

4.3. The CONTRACTOR shall indemnify the PRINCIPAL without limitation against all third party claims and associated costs arising from the use of FREE AND OPEN SOURCE SOFTWARE. Section 20.4 shall apply accordingly.

4.4. To the extent required under the respective terms and conditions of the FREE AND OPEN SOURCE SOFTWARE, the CONTRACTOR shall deliver the source code of the FREE AND OPEN SOURCE SOFTWARE to the Principal at the latest along with the DELIVERABLES.

## **5. Changes to CONTRACTUAL SERVICES**

5.1 Any changes to CONTRACTUAL SERVICES require explicit agreement in WRITTEN FORM.

5.2 The CONTRACTOR may demand higher compensation owing to the change to CONTRACTUAL GOODS AND SERVICES only if an increase in compensation is explicitly agreed with the change to the CONTRACTUAL GOODS AND SERVICES.

5.3 Any change in execution periods in relation to the change to CONTRACTUAL GOODS AND SERVICES must be agreed explicitly in WRITTEN FORM.

## **6. Delivery and/or execution deadlines, default consequences**

6.1 Agreed delivery and/or execution deadlines are binding. If any circumstances arise preventing the delivery and/or execution deadlines from being met, the CONTRACTOR shall notify the PRINCIPAL immediately in TEXT FORM. Any delay to delivery and/or execution deadlines shall only take effect following agreement with the PRINCIPAL in WRITTEN FORM.

6.2 For each case in which the CONTRACTOR is responsible for exceeding delivery and/or execution deadlines, a contractual penalty of 0,3% of the agreed net remuneration per deadline-exceeding working day shall be due for payment, provided that the contractual penalty does in its sum not exceed 5% of the agreed net remuneration; in the event that interim deadlines are exceeded, the percentages shall only relate to the net remuneration payable for the CONTRACTUAL SERVICES to be provided up to the interim deadline. If the limitation period has not expired, the contractual penalty can be claimed by the PRINCIPAL until the final payment is due.

6.3 If the CONTRACTOR defaults, the PRINCIPAL shall - in addition to the contractual penalty as set out in section 6.2 - be entitled to the statutory rights and claims. The contractual penalty shall be deducted from claims for damages due to default.

## **7. Impediments to the provision of CONTRACTUAL SERVICES**

If the CONTRACTOR considers itself to be unable for any reason to provide the CONTRACTUAL SERVICES or if it has reason to believe that it could be unable to do so, the CONTRACTOR shall notify the PRINCIPAL of this immediately in TEXT FORM and agree appropriate countermeasures with the PRINCIPAL.

## **8. Ownership**

The CONTRACTOR shall grant the PRINCIPAL ownership of physical DELIVERABLES to be transferred permanently

to the PRINCIPAL upon their creation and in their respective processing status. The CONTRACTOR is obliged to transfer ownership of the DELIVERABLES to the PRINCIPAL free from third party rights.

#### **9. Rights of use, patent applications and rights to VW DATA**

- 9.1 The CONTRACTOR grants the PRINCIPAL exclusive, transferable, irrevocable and sub-licensable rights to use the DELIVERABLES unlimited in time, territory and content in any type of use, including the right to edit, translate, duplicate, distribute broadcast and make available to the public.
- 9.2 The CONTRACTOR shall acquire the rights of use/licenses from the respective license holders at own expense as required for the contractual or intended use of the CONTRACTUAL SERVICES; this shall apply in particular to the acquisition of rights of use/licenses to standard essential patents (SEP).
- 9.3 The CONTRACTOR shall notify the PRINCIPAL of any DELIVERABLES eligible for protection under copyright or patent that arise in the provision of the CONTRACTUAL SERVICES. In the case of inventions, the PRINCIPAL shall check without undue delay if it is interested in registering the invention and shall inform the CONTRACTOR at the latest within six (6) weeks following the notification if it intends to register the invention. If this is the case, the CONTRACTOR shall do everything and omit nothing to enable the PRINCIPAL to protect the invention and to make the appropriate patent applications in the name of the PRINCIPAL. In this case, the PRINCIPAL is obliged to assume all rights and obligations relating to the claiming of the invention as well as the resulting costs. If the PRINCIPAL does not claim the invention in good time, it shall receive a free-of-charge, non-exclusive, non-transferable right of use which is unlimited in time, territory and content to the DELIVERABLE that is eligible for protection under patent.
- 9.4 The PRINCIPAL reserves all rights, especially ownership and copyrights, to the technical specifications, figures, drawings, calculations, samples and other documents made available to the CONTRACTOR by the PRINCIPAL; these may not be made available to third parties without the explicit consent of the PRINCIPAL in WRITTEN FORM. Such documents and information shall be used exclusively for the provision of the CONTRACTUAL SERVICES and shall be returned unprompted to the PRINCIPAL following completion of the CONTRACTUAL SERVICES; any copies shall be destroyed or deleted.
- 9.5 In relation to the CONTRACTOR, the PRINCIPAL shall be entitled to all VW DATA as a marketable asset in the sense that exclusive commercial rights of exploitation and disposal of that asset are assigned to the PRINCIPAL. The PRINCIPAL is in particular entitled, at its own discretion, to use the VW DATA, in particular to reproduce, process, transfer to third parties or exploit VW DATA, provided this is not prohibited by any mandatory legal provisions. The CONTRACTOR is entitled to use VW DATA to the extent necessary to perform the contract.
- 9.6 The PRINCIPAL carries out necessary SECURITY TEST MEASURES due to fulfill legal requirements, general IT security standards and/or due to the recognized state of the art. The CONTRACTOR grants the PRINCIPAL - to the extent necessary to carry out the SECURITY TEST MEASURES - the right to test, examine and edit the CONTRACTUAL SERVICES, especially to remove, cancel or avoid program protection measures. The CONTRACTOR will obtain all necessary consents of third parties (especially its suppliers) whose rights could be violated by SECURITY TEST MEASURES. The information obtained through SECURITY TEST MEASURES is used exclusively for purposes of IT, product and data security. In all other respects, modifications, translations and de-compilations may only be carried out to the extent necessary for the intended use of the CONTRACTUAL SERVICES, including correction of errors as well as for establishing interoperability with other systems and programs used by the PRINCIPAL.
- 9.7 All rights within the meaning of this section 9 and other rights granted within these IT-PT&Cs can be exercised by third parties engaged by the PRINCIPAL, provided the rights are only exercised for the purpose of fulfilling the PRINCIPAL's engagement. The PRINCIPAL can especially engage third parties for performing SECURITY TEST MEASURES; such third parties include, in particular, IT security companies, IT security experts, provider of platforms or initiatives to identify security vulnerabilities (Bug Bounty-Programs) and/or participants of Bug Bounty-Programs.

#### **10. Place of performance, transfer of risk**

- 10.1. The place of performance for all CONTRACTUAL SERVICES is the PRINCIPAL's operation site for which the CONTRACTUAL SERVICES are intended. If no such place has been specified, the place of performance shall be Berliner Ring 2, Wolfsburg, Germany. If the CONTRACTOR makes software available to the PRINCIPAL for downloading, its obligation is not fulfilled until the software has been successfully downloaded.

10.2. The risk of accidental destruction or accidental deterioration of the DELIVERABLES shall only transfer on hand-over or acceptance at the place of destination specified by the PRINCIPAL; for partial supplies of goods and services, this shall only occur when the CONTRACTUAL SERVICES have been conducted in full.

#### **11. Acceptance**

11.1. Is subject of the CONTRACTUAL SERVICES the creation of a work or result or is acceptance of the CONTRACTUAL SERVICES agreed, the Contractual Services are subject to formal acceptance which must be declared by the PRINCIPAL in WRITTEN FORM. The CONTRACTOR may only request partial acceptances insofar as these have been agreed in WRITTEN FORM.

11.2. The CONTRACTOR can only precipitate notional acceptance, if (i) either the parties agree on the completion of the CONTRACTUAL SERVICES or the CONTRACTOR may - in good faith and taking the circumstances of the individual case into account - well suppose that the PRINCIPAL assumes finalization of the CONTRACTUAL SERVICES, (ii) the CONTRACTOR has requested the PRINCIPAL in TEXT FORM to set a deadline of at least four (4) weeks for acceptance and (iii) the CONTRACTOR has informed the PRINCIPAL with the request for acceptance of the consequences of not declaring acceptance or refusing acceptance without identifying defects.

#### **12. Handover**

If the CONTRACTUAL SERVICES are services performed under a sales contract and/or if handover is agreed, the CONTRACTOR reports the handover of the CONTRACTUAL SERVICES at least ten (10) working days prior to the intended handover in TEXT FORM and agrees the handover location and time with the PRINCIPAL.

#### **13. Duty of examination, notification of defects**

To the extent that the PRINCIPAL has a legal obligation to inspect for and notify of defects, such notice is timely if given within two (2) weeks of delivery/handover in the case of manifest defects and within two (2) weeks of discovery in the case of other defects.

#### **14. Remuneration**

14.1. The remuneration stated in the CONTRACT is binding. The prices apply to deliveries free of charge to the delivery address, including packaging, unless expressly agreed otherwise in WRITTEN FORM. All CONTRACTUAL SERVICES are deemed settled by the remuneration indicated in the CONTRACT.

14.2. If remuneration based on time required is agreed in the CONTRACT, the CONTRACTOR performs its proof of performance by means of time sheets; a sample time sheet indicating the required details can be found on [www.vwgroupsupply.com](http://www.vwgroupsupply.com).

#### **15. Travel and accommodation expenses**

Travel and accommodation expenses shall only be reimbursed to the extent that the respective CONTRACT provides for this explicitly and the PRINCIPAL approves the related expenses in advance in WRITTEN FORM.

#### **16. Invoicing**

16.1. Invoicing is performed in principle in electronic form via [www.vwgroupsupply.com](http://www.vwgroupsupply.com).

16.2. In justified cases cleared in advance with Volkswagen AG Supplier Accounting Dep. (e-invoice@volkswagen.de), the CONTRACTOR may by way of exception send paper invoices to the following address: Volkswagen AG, Kreditoren, Brieffach 1852, 38436 Wolfsburg, Germany

16.3. Invoices must be submitted to the PRINCIPAL in an auditable form, stating the supplier number, purchase order number, request number, BM number and the account assignment and name of the PRINCIPAL. All required invoicing documents must be enclosed.

16.4. Invoices are to be issued in accordance with German sales tax law. Booking documents in the form of credit notes, direct debits and payment advice notes will be made available to the CONTRACTOR by the PRINCIPAL exclusively electronically via EDI or as a download under [www.vwgroupsupply.com](http://www.vwgroupsupply.com).

#### **17. Terms of payment, taxes**

17.1. Remuneration shall be due for payment within thirty (30) days after receipt by the competent office referred to in section 16 of an invoice from the CONTRACTOR that separately indicates any applicable statutory value added tax, unless a longer payment period is agreed in the CONTRACT. However, the invoice is due and payable only, if the CONTRACTUAL SERVICES are provided fully by the CONTRACTOR and accepted by the PRINCIPAL and/or transferred fully to the PRINCIPAL.

17.2. Remuneration is understood on a net basis and shall be paid in addition to any statutory value added tax that may apply.

17.3. All direct taxes (e.g. withholding tax), levied or deducted in Germany on the basis of the remuneration paid to the CONTRACTOR, shall be borne by the CONTRACTOR. If the PRINCIPAL is required by law to withhold tax at source (e.g. withholding tax) from at least part of the remuneration, only the differential amount shall be paid. Any applicable tax deducted at source shall be paid to the tax office responsible for the PRINCIPAL on a quarterly basis. If a double taxation agreement that applies to CONTRACTUAL SERVICES provides for a reduction in or exemption from taxes paid at source, the resulting higher remuneration shall only be paid if a valid certificate is provided, at the latest on the date of payment, which entitles the PRINCIPAL to deduct a lower tax amount if so prescribed under the applicable law in the relevant case. The PRINCIPAL shall issue the CONTRACTOR with a corresponding original tax certificate for any taxes that have been deducted at source. Delayed payment pursuant to section 18 shall not apply to any taxes withheld at source.

17.4. The PRINCIPAL may declare set-off and retention to the extent provided by law.

#### **18. Delayed payment**

18.1. In the case of delayed payment, the CONTRACTOR may demand interest on any overdue amounts at a rate of 5% points per annum above the base rate of the European Central Bank, as well as compensation for any additional loss. The PRINCIPAL is at liberty to provide proof that the loss has not been incurred or only to a lesser extent. The PRINCIPAL shall only be in delay of payment after the due date has come into effect and a notice from the CONTRACTOR in WRITTEN FORM has been received.

18.2. The CONTRACTOR shall only have the right to withhold the CONTRACTUAL SERVICES in the event of delayed payment by the PRINCIPAL, if the PRINCIPAL delays on payment with a more than insignificant amount and fails to make payment despite a warning that the right to withhold the CONTRACTUAL SERVICES will be asserted, a reminder and the setting of a reasonable period for payment of at least four (4) weeks (WRITTEN FORM in each case).

#### **19. Claims for defects, warranty**

19.1. In the case of defects in the CONTRACTUAL SERVICES, the PRINCIPAL may set a reasonable deadline for substitute performance by the CONTRACTOR, within which it shall, at the PRINCIPAL's discretion, either remedy the defect or render new CONTRACTUAL SERVICES. All costs arising in connection with the substitute performance shall be borne by the CONTRACTOR. If the CONTRACTOR fails to comply with the request for substitute performance or does not do so within the set deadline or if the substitute performance fails a second time, the PRINCIPAL is entitled to:

- Remedy the defect itself or have it remedied by a third party and request payment of the related expenses by the CONTRACTOR or
- Reduce the agreed remuneration reasonably or
- Withdraw from the CONTRACT and request that any remuneration already paid be returned and
- Request compensation for loss or damage incurred by the PRINCIPAL owing to the defect as well as reimbursement of expenses incurred by the PRINCIPAL in reliance on receiving defect-free CONTRACTUAL SERVICES.

19.2. In the event of partial withdrawal or termination, the CONTRACTOR shall receive remuneration only for the CONTRACTUAL SERVICES accepted as free of defects and not affected by the partial withdrawal or termination, provided that these are economically useful for the PRINCIPAL. The right to claim damages or reimbursement of expenses shall be reserved.

#### **20. Infringements of intellectual property rights**

20.1. In the event of INFRINGEMENTS OF INTELLECTUAL PROPERTY RIGHTS, the CONTRACTOR shall make every reasonable effort within the context of substitute performance to ensure compliance with the CONTRACT, in particular through the acquisition of rights. If this does not succeed, the CONTRACTOR shall provide the PRINCIPAL with CONTRACTUAL SERVICES that are of equal value to the PRINCIPAL but do not infringe third party rights (workaround solution). The workaround solution shall only be deemed of equal value if it does not restrict or only insignificantly restricts the agreed or intended usability of the CONTRACTUAL SERVICES for the PRINCIPAL. The CONTRACTOR shall bear the costs of the workaround solution and any required modification of the environment of the CONTRACTUAL SERVICES, unless the CONTRACTOR is not responsible for the violation of third party rights.

20.2. If the CONTRACTOR becomes aware of circumstances which could result in an INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, the CONTRACTOR shall inform the PRINCIPAL immediately and comprehensively in TEXT FORM about this and about any further progress in the matter. This applies especially in the case of existing or

threatened judicial or extrajudicial disputes, even if the CONTRACTOR is not involved in such disputes.

- 20.3. In the case of TC SERVICES or VEHICLE COMPONENTS or if CONTRACTUAL SERVICES are contractually or properly installed or integrated in production systems, the CONTRACTOR shall conduct a research for patents, patent applications and utility models and designs, which could oppose the agreed or intended usage of the CONTRACTUAL SERVICES. The CONTRACTOR shall document the research and provide the PRINCIPAL with the documentation upon request in TEXT FORM.
- 20.4. The CONTRACTOR shall indemnify the PRINCIPAL against all third party claims and any related expenses without limitation as a result of INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, unless the CONTRACTOR is not responsible for such infringements, for example because the INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS is based exclusively on usage of the CONTRACTUAL SERVICES by the PRINCIPAL that is prohibited by the respective agreed terms of use (e.g. unauthorized integration of software containing third party software).
- 20.5. In the event that claims are asserted against the PRINCIPAL due to INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, the CONTRACTOR is obliged to independently conduct the legal defense for the PRINCIPAL at its own expense. To the extent necessary and at the CONTRACTOR'S expense, the PRINCIPAL shall assist the CONTRACTOR to a reasonable extent in its defense against third party claims. The PRINCIPAL is entitled to undertake the legal defense itself, but shall do so in consultation with the CONTRACTOR. In this case too, the CONTRACTOR shall be obliged to bear the necessary costs.

#### **21. Author's further participation**

The CONTRACTOR shall indemnify the PRINCIPAL from all claims asserted against the PRINCIPAL by authors involved in the creation of the DELIVERABLES within the period of limitation for defects in accordance with section 24.1.

#### **22. Rights to information, presentation and inspection**

The CONTRACTOR is entitled to rights to information, presentation and inspection solely as provided in Sections 101 to 101b of the German Copyright Act (UrhG) and only after making an advance payment by the PRINCIPAL in the amount of the reasonable internal and external costs expected to incur and after posting security by the PRINCIPAL in a reasonable amount to cover the risk and potential damages as a result of the measure by depositing money or providing a directly enforceable bank guarantee. Costs within the meaning of this section are in particular expenses for verifying the legality of the requested measure, expenses for the proportionate, in particular data protection and confidentiality compliant planning and design of the requested measure as well as expenses for the implementation of the requested measure including the disadvantages arising from a restriction and/or withdrawal of use due to the requested measure; such costs are reimbursable in accordance with Section 101a para. 5 UrhG. The amount of the advance cost, the amount of a security as well as the location where the information, presentation and inspection shall be performed, is determined by the PRINCIPAL at reasonable discretion. The agreed determination shall be in the form of a declaration to the CONTRACTOR and shall only be binding for the PRINCIPAL if equitable. If equity is not established, then the determination shall be made by a court judgment; the same shall apply if the determination is unreasonably delayed.

#### **23. Liability**

The PRINCIPAL may demand compensation from the CONTRACTOR for all damages caused by the CONTRACTOR and/or its organs, employees and other personnel, representatives, agents and other third parties engaged by the CONTRACTOR, provided that such damage is due to the breach of a guarantee or a warranty or a breach of duty by the CONTRACTOR (including but not limited to damage and consequential damage caused by a defect, financial loss and consequential financial loss and expenditure incurred in vain). If the damages are based on a breach of duty, the CONTRACTOR shall not be liable if it can prove that it is not responsible for such breach of duty.

#### **24. Limitation period**

- 24.1. The limitation period for any claims arising from defects (warranty period) shall be two (2) years in the case of material defects and three (3) years in the case of defects of title; if the statutory limitation period for claims arising from defects is longer, the longer limitation period shall apply instead. For CONTRACTUAL SERVICES subject to acceptance, the limitation period shall commence upon acceptance; for CONTRACTUAL SERVICES subject to handover, it shall commence upon confirmation of handover by the PRINCIPAL; in all other cases, it shall

commence in accordance with statutory provisions. This shall also apply to software components delivered to the PRINCIPAL as part of MAINTENANCE AND SUPPORT SERVICES.

24.2. For liability and other claims, the statutory limitation periods apply.

## **25. Data protection and information security**

25.1. To the extent that the CONTRACTOR processes personal data in the provision of the CONTRACTUAL SERVICES, it shall comply with the applicable data protection regulations. The CONTRACTOR shall process personal data exclusively for the provision of the CONTRACTUAL SERVICES and ensure that its employees only have access to the personal data to the extent necessary for this purpose.

25.2. Where PROCESSING of personal data is carried out by the CONTRACTOR on behalf of the PRINCIPAL, a data processing agreement (Data Processing Agreement) must be concluded – before processing of personal data commences – based on a model agreement to be provided by the PRINCIPAL. In the case of joint responsibility between the contractual parties, the CONTRACTOR undertakes to conclude an agreement with the PRINCIPAL based on a model agreement to be provided by the PRINCIPAL (Joint Controllership Agreement).

25.3. CONTRACTUAL SERVICES must be designed and configured in accordance with the principles of Privacy by Design and Privacy by Default. CONTRACTUAL SERVICES must in particular not contain functions that enable PROCESSING of personal data by the CONTRACTOR or by third parties (including so called calling home functions), unless this is explicitly agreed in the CONTRACT.

25.4. CONTRACTUAL SERVICES have to be designed and configured in such a way that the PRINCIPAL can fully comply with its data protection obligations in their use.

25.5. CONTRACTUAL SERVICES must provide an IT security level consistent with the state-of-the-art as a minimum. The CONTRACTOR shall regularly perform SECURITY TEST MEASURES before and – in the case of CONTINUING OBLIGATIONS – during the provision of CONTRACTUAL SERVICES and shall document the results. If the CONTRACTOR becomes aware of risks to information security, it shall inform the PRINCIPAL thereof in TEXT FORM without undue delay and – in close consultation with the PRINCIPAL and at its own expense – promptly initiate effective counter-measures, which do not restrict the provision of the CONTRACTUAL SERVICES.

25.6. The CONTRACTOR shall consult with the PRINCIPAL before publicly disclosing IT security vulnerabilities, which could affect products and/or services of the PRINCIPAL.

25.7. All precautions and measures in accordance with the current state-of-the-art shall be observed when backing up VW DATA in order to ensure that the data can be archived and restored at all times in compliance with legal requirements and without any risk of loss.

## **26. Confidentiality**

The CONTRACTOR agrees to maintain strict confidentiality regarding the business relationship with the PRINCIPAL as well as all information exchanged in the context of this business relationship. The CONTRACTOR is not entitled to extract any information from, for example and without limitation, the PRINCIPAL'S prototypes, models, patterns, vehicles, or components or from its other products or property by surveying, analyzing, deconstructing, or testing (i.e. reverse engineering). The confidentiality obligation continues to apply for a period of five (5) years after the end or completion of the performance of the respective CONTRACT. Otherwise, the provisions of a separate confidentiality obligation or agreement shall apply.

## **27. Subcontractors**

The transfer of the provision of CONTRACTUAL SERVICES to third parties by the CONTRACTOR requires prior notification by the CONTRACTOR in TEXT FORM. The PRINCIPAL may object to the provision of CONTRACTUAL SERVICES by the third party if there are justified reasons. The CONTRACTOR must pass on the obligations imposed on it to the engaged third parties in WRITTEN FORM and shall provide proof thereof to the PRINCIPAL on request. The CONTRACTOR is not permitted to transfer the provision of CONTRACTUAL SERVICES to independently employed individuals (freelancers). The CONTRACTOR indemnifies the PRINCIPAL against all claims asserted against it by third parties arising as a result of the CONTRACTOR failing to comply with this prohibition, unless the CONTRACTOR is not responsible for this. Third parties within the meaning of this section especially also include companies affiliated with the CONTRACTOR within the meaning of Section 15 et seq. of the German Stock Corporation Act.



**28. Referencing, advertising**

The CONTRACTOR may only refer to the business relationship with the PRINCIPAL in advertising or other documents with the PRINCIPAL's prior consent in TEXT FORM. The same shall apply to the use of trademarks, trade names and other brands of the PRINCIPAL.

**29. Business liability insurance**

The CONTRACTOR undertakes to conclude and maintain business liability insurance in an amount appropriate to the risks posed by the respective CONTRACT and to provide the PRINCIPAL with proof of this on request.

**30. Audits**

The CONTRACTOR shall grant the PRINCIPAL the right, subject to prior announcement, to inspect and review all data relating to all business transactions between the PRINCIPAL and CONTRACTOR at the Contractor's premises as well as to audit information security measures; the PRINCIPAL or third parties engaged by it may enter the CONTRACTOR'S premises for this purpose during normal business hours. The cost of such audits shall be borne by the CONTRACTOR if violations of the CONTRACT are discovered, unless such violations are not due to fault on the CONTRACTOR'S part.

**31. Change of control**

If the direct or indirect controlling influence over the CONTRACTOR should change during the term of a CONTRACT, the CONTRACTOR shall notify the PRINCIPAL of this change without undue delay and unprompted in TEXT FORM. If the change is likely to significantly impact the legitimate interests of the PRINCIPAL adversely, the PRINCIPAL is entitled to terminate the CONTRACT for good cause.

**32. Termination**

32.1. The PRINCIPAL is entitled to exercise full legal rights to proper termination.

32.2. Each party may terminate the Contract for good cause. Material grounds for termination shall exist, in particular, if the CONTRACTOR repeatedly fails to provide the CONTRACTUAL SERVICES at the agreed time, in the agreed scope or in the agreed quality and, despite receiving a warning in TEXT FORM with a reasonable deadline, fails to comply with the contractual conditions.

32.3. Any notice of termination must be in WRITTEN FORM.

**33. Migration support**

33.1. As soon as the CONTRACTOR has provided CONTRACTUAL SERVICES (especially CLOUD SERVICES) for a continuous period of at least six (6) months, the CONTRACTOR shall support the PRINCIPAL to the appropriate extent at any time at the PRINCIPAL'S request and subject to separate remuneration at usual market rates, to migrate to a different technical solution or to a different provider, while ensuring uninterrupted availability of the affected services and/or systems (migration support). That does not apply if the performance of migration support services is not reasonable for the CONTRACTOR due to the specific circumstances under which the CONTRACT is terminated.

33.2. Within the scope of migration support, the CONTRACTOR shall continue to provide CONTRACTUAL SERVICES affected by the termination at the PRINCIPAL'S request and under the previous conditions. If the CONTRACTOR can prove to have higher expenses in providing the CONTRACTUAL SERVICES, the CONTRACTOR may demand an appropriate adjustment of the remuneration. Within the scope of migration support, the CONTRACTOR shall offer the PRINCIPAL upon its request and against separate remuneration at usual market rates further migration services, in particular prepare or assist in the preparation of a migration concept with detailed planning of the individual migration steps and offer the PRINCIPAL hardware and software belonging to the infrastructure as well as other objects and rights necessary for the operation of the CONTRACTUAL SERVICES.

**34. Deletion and handover of data**

After termination of the CONTRACTUAL SERVICES or at the request of the PRINCIPAL, all VW DATA, especially the VW DATA stored in CLOUD SERVICES, shall be handed over to the PRINCIPAL or to a third party nominated by the PRINCIPAL in the agreed format, or if not agreed, in a common electronic format, insofar as this is permissible under the applicable law or the PRINCIPAL shall be provided with access to the VW DATA in such a way that the PRINCIPAL is able to fully adopt the VW DATA. Upon termination of the CONTRACTUAL SERVICES, the CONTRACTOR may only delete the VW DATA with the explicit consent of the PRINCIPAL in WRITTEN FORM or following complete handover of the VW DATA and acceptance in accordance with section 11. The CONTRACTOR shall have no right of retention with respect to VW DATA.

**35. Feedback**

The PRINCIPAL may voluntarily provide FEEDBACK to the CONTRACTOR. With respect to this FEEDBACK, the Contractor receives free of charge a non-exclusive, perpetual, and world-wide right to use the FEEDBACK for purposes of improving the CONTRACTUAL SERVICES or its own products. In the event the FEEDBACK contains elements that are patentable or otherwise protectable under intellectual property law, the CONTRACTOR shall receive no rights to these. The CONTRACTOR is not permitted to reveal the source of the FEEDBACK. This section 35 shall be without prejudice to sections 26 and 28. All rights and claims by reason of defects as to quality or as to title regarding the FEEDBACK are excluded unless the PRINCIPAL has acted fraudulently. The PRINCIPAL gives no warranty or guarantee with regard to the FEEDBACK and is liable only for its intentional misconduct or gross negligence.

**36. Prohibition on assignment**

The CONTRACTOR may only assign its contractual rights and obligations with the PRINCIPAL's prior consent in WRITTEN FORM. The CONTRACTOR may not assign its claims against the PRINCIPAL nor have these collected by a third party without the PRINCIPAL's prior consent in WRITTEN FORM, which however shall not be unreasonably withheld. Assignment by the CONTRACTOR of its claims against the PRINCIPAL without the PRINCIPAL's consent is nonetheless effective; however, the PRINCIPAL may, at its own discretion, make payment to the CONTRACTOR or to the third party with discharging effect.

**37. Conduct in compliance with the applicable law**

37.1. The CONTRACTOR acts in compliance with the applicable law and has taken appropriate organizational measures to ensure that its legal representatives, employees, sub-contractors, consultants or other third parties commissioned by it act in compliance with the applicable law.

37.2. The PRINCIPAL may terminate the CONTRACT for good cause if the continuation of the CONTRACT becomes unreasonable due to the CONTRACTOR's breach of the obligations under section 37.1.

**38. Support in evidence proceedings**

The CONTRACTOR shall support the PRINCIPAL to an appropriate extent by securing, compiling and surrendering information and data, insofar as this is necessary within the scope of formal evidence proceedings and is not contrary to compelling reasons of data or information protection.

**39. Place of jurisdiction**

The place of jurisdiction shall be the competent court for the PRINCIPAL. In addition, the PRINCIPAL has the right to bring action to any other competent court.

**40. Applicable law**

The laws of the Federal Republic of Germany shall apply. The applicability of the provisions of UN sales law (United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980) shall be excluded.

**41. Binding text version**

These IT-PT&Cs are available in the original German version and English language version, whereby the German original version shall prevail in case of contradictions.

**II. Special Part**

The regulations set out below apply to specific CONTRACTUAL SERVICES. Insofar as no special provision is defined in the Special Part, the provisions of the General Part shall also apply to these CONTRACTUAL SERVICES.

**Provision of STANDARD SOFTWARE**

The following applies with respect to the transfer of STANDARD SOFTWARE:

**42. Contractual Services**

42.1. The CONTRACTOR provides standard software together with associated documentation to the PRINCIPAL.

42.2. The documentation is made available to the PRINCIPAL in German (for German-speaking work locations) or in English in printed or printable form. The provision of the documentation is a main contractual obligation. The documentation must be sufficient to enable an average user to use the software without the CONTRACTOR's support. Supplied operating manuals shall enable an IT specialist to perform the installation, operation and maintenance of the software.

42.3. The CONTRACTOR shall, upon request, offer the PRINCIPAL MAINTENANCE AND SUPPORT SERVICES at usual market rates.

#### **43. License / Rights of use**

43.1. The CONTRACTOR grants the PRINCIPAL non-exclusive, irrevocable rights of use to the STANDARD SOFTWARE, unlimited in territory or type of use; such rights may be transferred and (also in different levels) sub-licensed within the VOLKSWAGEN GROUP. Unless time-limited transfer of the STANDARD SOFTWARE has been expressly agreed, the rights of use are granted for an unlimited time. The granting of rights of use does not entail a transfer of ownership.

43.2. Restrictions as regards the contents of the PRINCIPAL's rights of use to the STANDARD SOFTWARE, especially in relation to the number of installations or the (named or concurrently accessing) users shall only apply to the direct use of the STANDARD SOFTWARE, but not to the indirect use of the STANDARD SOFTWARE by users who access other systems and/or programs used by the PRINCIPAL, which interoperate with the software.

### **Provision of INDIVIDUAL SOFTWARE**

The following applies with respect to the transfer of INDIVIDUAL SOFTWARE:

#### **44. Contractual services**

44.1. The CONTRACTOR transfers INDIVIDUAL SOFTWARE to the PRINCIPAL in object and source code together with user documentation, programming documentation and the development tools required for processing the INDIVIDUAL SOFTWARE.

44.2. The CONTRACTOR shall use code scanning tools to document the quality of the INDIVIDUAL SOFTWARE and the current state-of-the-art. The detailed code scanning documentation (result reports of the scans agreed with the PRINCIPAL) is to be handed over with the respective CONTRACTUAL SERVICES.

44.3. The user and programming documentation shall be made available to the PRINCIPAL in German (for German-speaking work locations) or in English in printed or printable form. The delivery of the documentation and development tools is a main contractual obligation. The user documentation must be sufficient to allow the average user to use the software without the CONTRACTOR's support. Supplied operating manuals must be sufficient to enable an IT specialist to perform the installation, operation and maintenance of the software.

44.4. The CONTRACTOR shall, at the request of the PRINCIPAL, offer the PRINCIPAL MAINTENANCE AND SUPPORT SERVICES at usual market rates.

#### **45. Ownership and License / Rights of Use**

The CONTRACTOR grants the PRINCIPAL full ownership and title or – if that is not possible under the applicable law – exclusive, transferable and sub-licensable rights of use the INDIVIDUAL SOFTWARE, unlimited in time, territory or content in any type of use, including the right to edit, translate, decompile, other ways if modifying, duplicate, distribute, broadcast and make available to the public.

### **Provision of hardware**

The following applies with respect to the transfer of hardware:

#### **46. Contractual services**

46.1. The CONTRACTOR transfers hardware with EMBEDDED SOFTWARE and/or OPERATING SOFTWARE with associated documentation to the PRINCIPAL. Regarding EMBEDDED SOFTWARE and the OPERATING SOFTWARE, sections 42 and 43 apply accordingly; insofar as the EMBEDDED SOFTWARE and/or OPERATING SOFTWARE are INDIVIDUAL SOFTWARE, sections 44 and 45 shall apply instead. These IT-PT&Cs apply exclusively to EMBEDDED SOFTWARE and OPERATING SOFTWARE; should the PRINCIPAL confirm its acceptance of license terms or terms of use of the EMBEDDED SOFTWARE and OPERATING SOFTWARE, section 1.6 applies accordingly.

46.2. Every delivery must be accompanied by a delivery note, which must contain the PRINCIPAL's order information (especially the number and date of the order, cost center).

46.3. The PRINCIPAL is not obliged to return any packaging to the CONTRACTOR. Upon the PRINCIPAL's request, the CONTRACTOR shall take back the packaging at own expense at the place of performance specified in section 10.1 of these IT-PT&Cs.

46.4. The CONTRACTOR shall, upon request, offer the PRINCIPAL MAINTENANCE AND SUPPORT SERVICES at usual market rates.

<b>CLOUD SERVICES</b>
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The following applies with respect to CLOUD SERVICES:

**47. Contractual services**

- 47.1. The CONTRACTOR shall provide the PRINCIPAL with the necessary information and tools (e.g. user name, passwords, access codes or access software) required to use the CLOUD SERVICES in good time prior to startup and on request at any time during the CONTRACT period at no cost.
- 47.2. The provisions set out in section 4 apply accordingly to CLOUD SERVICES, insofar as the provision of the CONTRACTUAL SERVICES involves (i) FREE AND OPEN SOURCE SOFTWARE or parts thereof being stored on systems and/or in products of the PRINCIPAL or third parties, whereby only temporary storage is sufficient (e.g. loading a copy into the memory), or (ii) a COPYLEFT EFFECT (e.g. with remote access) is triggered.
- 47.3. CLOUD SERVICES are subject to approval by the PRINCIPAL prior to their startup. Remuneration agreed for the creation shall not be due prior to approval, nor shall the period (rental period) commence.
- 47.4. Unless agreed otherwise in the CONTRACT, the availability of the CLOUD SERVICES shall be 99.98% based on the calendar month.
- 47.5. The CONTRACTOR shall provide MAINTENANCE SERVICES on an ongoing basis for the cloud services for no additional remuneration and adapt the CLOUD SERVICES to the current state-of-the-art.
- 47.6. The CONTRACTOR shall, upon request, offer SUPPORT SERVICES at usual market rates.
- 47.7. The CONTRACTOR shall perform or facilitate data backups on a regular basis. The data backups are to be performed or facilitated in reasonable proportion to the risk of loss and damage, but at least on a daily basis. The backup copies shall be handed over at the request of the PRINCIPAL.
- 47.8. The CONTRACTOR is not entitled to make changes to the file format of VW DATA without the prior consent of the PRINCIPAL, unless this is absolutely essential in order to provide the CONTRACTUAL SERVICES; the CONTRACTOR must inform the PRINCIPAL thereof without undue delay in TEXT FORM.
- 47.9. Before the CONTRACTOR implements changes (e.g. interfaces) to the CLOUD SERVICES that are of relevance to the PRINCIPAL, the CONTRACTOR shall provide the PRINCIPAL in good time with the information in TEXT FORM that is required for uninterrupted continuation of the contractual use of the CLOUD SERVICES.
- 47.10. In providing the CLOUD SERVICES, the CONTRACTOR shall comply as a minimum with the requirements and standards of the German Federal Office for Information Security's basic IT protection standard (BSI).
- 47.11. The CONTRACTOR shall only process VW DATA at the contractually agreed locations and shall not change the location of PROCESSING without the consent of the PRINCIPAL in WRITTEN FORM. This shall also apply to external backup servers as well as the disaster data centers used in the event of failure of applications, software and/or infrastructure or in case of a contractually described emergency.

**48. License / Rights of use**

The CONTRACTOR grants the PRINCIPAL non-exclusive, irrevocable rights to properly and contractually use the software provided via the CLOUD SERVICES, unlimited in territory or content; such rights can be transferred and (also in different levels) sub-licensed within the VOLKSWAGEN GROUP.

<b>DEVELOPMENT SERVICES</b>
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The following applies with respect to DEVELOPMENT SERVICES:

**49. Contractual services**

- 49.1. The CONTRACTOR shall provide the DEVELOPMENT SERVICES properly and in accordance with the state-of-the-art and current programming standards. The CONTRACTOR shall comply with the PRINCIPAL's applicable (quality) standards and working practices as brought to its attention.
- 49.2. The CONTRACTOR ensures through careful selection of the employees deployed that they have the personal aptitude and expertise to perform the tasks entrusted to them in order to provide the DEVELOPMENT SERVICES in the agreed quality.
- 49.3. As a main contractual obligation, the CONTRACTOR undertakes to document the DEVELOPMENT SERVICES in a technically verifiable manner and, upon request, to inform the PRINCIPAL about the status of the DEVELOPMENT SERVICES in an appropriate level of detail. The PRINCIPAL can request presentation of work products at any time in draft form and as an interim status without releasing the CONTRACTOR from the obligations set out in this section.

49.4. For all information to be exchanged, the CONTRACTOR and the PRINCIPAL shall name contact persons. Consultation discussions shall take place regularly between the contractual parties in relation to the content and implementation of the DEVELOPMENT SERVICES and the exchange of all information required to execute the CONTRACT. The contact nominated by the CONTRACTOR has final responsibility for planning, coordinating and monitoring the provision of DEVELOPMENT SERVICES.

## 50. Acceptance

50.1. The CONTRACTOR notifies the PRINCIPAL in TEXT FORM that the DEVELOPMENT SERVICES are ready for acceptance. The contractual parties then agree on the time and place for acceptance of the DEVELOPMENT SERVICES. Unless waived by the PRINCIPAL in WRITTEN FORM in individual cases, acceptance testing shall be performed over a period of at least ten (10) consecutive working days under simulated and/or real operating conditions. The PRINCIPAL shall define precise details and especially the time period for this acceptance testing in consultation with the CONTRACTOR. In addition, the PRINCIPAL can perform the acceptance testing itself, but may also require the CONTRACTOR to perform the acceptance testing in the presence of the PRINCIPAL. The PRINCIPAL is entitled in this respect to check the fulfillment of the contractual requirements with code scanning tools or to have the CONTRACTOR carry out this check. Any defects occurring during acceptance testing will be noted by the PRINCIPAL.

50.2. If no defects are noted or if the defects noted are insignificant, the PRINCIPAL declares the acceptance in WRITTEN FORM within ten (10) working days following receipt of the DEVELOPMENT SERVICES in the case of acceptance without an acceptance test and within fifteen (15) working days following conclusion of the acceptance test in the case of acceptance with an acceptance test, unless a longer period has been mutually agreed. Acceptance of partial performances does not restrict the PRINCIPAL at the time of overall acceptance from asserting rights based on defects in partial performances that have already been accepted, if such defects only become evident through the interaction of system parts.

50.3. The CONTRACTOR shall promptly remedy any defects that prevent acceptance and shall resubmit its DEVELOPMENT SERVICES for acceptance. The provisions in the above sections shall apply accordingly to such resubmission.

## 51. Rescission, termination

Rights of use that have been granted remain unaffected by rescission or termination. In the event of rescission, the CONTRACTOR is entitled to reasonable remuneration for the usage rights remaining with the PRINCIPAL to DEVELOPMENT SERVICES already created, insofar as the PRINCIPAL does not waive the use of these rights. The same shall apply in the case of termination, insofar as the CONTRACTOR has not yet received a corresponding pro rata remuneration.

### AGILE DEVELOPMENT SERVICES

The following applies with respect to AGILE DEVELOPMENT SERVICES:

## 52. Contractual services

52.1. AGILE DEVELOPMENT SERVICES are always subject to overall acceptance (final acceptance). Confirmation of parts of the performance, concepts, developments, specifications or milestones shall not be deemed to constitute either acceptance or partial acceptance, rather simply comprises approval of the relevant performance phase, following which the CONTRACTOR is to continue to provide the service in the agreed scope.

52.2. The CONTRACTOR has to prove as part of the final acceptance test that the full performance fulfills all requirements defined in the Product Backlog and – if agreed – described in the Definition of Done under similar conditions to production operation. The functions that can only be tested following full integration of the CONTRACTUAL GOODS AND SERVICES as well as the performance of the overall system shall be tested here in particular. Acceptance tests do not constitute productive use of the CONTRACTUAL GOOD AND SERVICES.

52.3. The remuneration stated in the CONTRACT shall apply as a binding upper remuneration limit.

52.4. The provisions of sections 49 to 51 shall apply accordingly to AGILE DEVELOPMENT SERVICES.

## MAINTENANCE AND SUPPORT

The following applies with respect to MAINTENANCE AND SUPPORT SERVICES:

### 53. Contractual services

- 53.1. Within the scope of SUPPORT SERVICES, the CONTRACTOR resolves defects and malfunctions within the agreed time periods, but in any case within an appropriate period with respect to the risks and effects of the defects and malfunctions.
- 53.2. Insofar as MAINTENANCE SERVICES have been agreed, the CONTRACTOR shall continue to develop the DELIVERABLES and provide the PRINCIPAL with patches, updates, upgrades and new program versions.
- 53.3. Sections 42 and 43 shall apply accordingly to all patches, updates, upgrades or new program versions; insofar as these are INDIVIDUAL SOFTWARE, sections 44 and 45 shall apply instead.

## TC SERVICES

The following applies with respect to TC SERVICES:

### 54. CONTRACTUAL SERVICES

- 54.1. In the context of providing TC SERVICES, the CONTRACTOR shall comply with the relevant regulations under telecommunications law and, in particular, shall observe telecommunications secrecy. The CONTRACTOR shall commit its employees and vicarious agents deployed in the provision of TC SERVICES to comply with telecommunications secrecy.
- 54.2. If, from a perspective of telecommunications law, the PRINCIPAL is deemed to be a telecommunications provider or a responsible party in some other respect, the CONTRACTOR shall deliver its TC SERVICES in such a manner that the PRINCIPAL can fulfill all its obligations under telecommunications law. The CONTRACTOR shall, in particular, take account of any notification and emergency call obligations as well as customer and data protection obligations of the PRINCIPAL in this respect.

## VEHICLE-RELATED SERVICES

The following applies with respect to VEHICLE-RELATED SERVICES:

### 55. Contractual basis for VEHICLE COMPONENTS

- 55.1. For the procurement of VEHICLE COMPONENTS, the following documents shall constitute a part of the CONTRACT in addition to the documents listed in section 2.2:
- Specifications (especially component and cross-sectional specifications), including the documents referenced in the specifications
  - If available, the quality management agreements between the PRINCIPAL or a company in the Volkswagen Group and the CONTRACTOR ("Q konkret" formula), quality capability of suppliers (Q capability formula), the qualification program for new integral parts in "QPN" (Q new integral parts formula)
  - If available, the agreements from the QTR meeting on technical plausibility verification of offers (Quality Technical Requirement)
  - Insofar as its validity is agreed, Group standard VW 99000
  - the general cyber security requirements.
- 55.2. In relation to procurement of VEHICLE COMPONENTS, applicable provisions under the CONTRACT include (in addition to those listed in section 2.3):
- Basic Group requirements for software
  - Proof of quality in the pre-production phase (sampling guidelines)
  - The QM standards in the automotive industry, VDA publication series/ISO 9001
  - The supplier requirements of IATF 16949, provided they apply to software development (available for inspection via VDA for a fee)
  - Insofar as the VEHICLE COMPONENTS refer to engine or gearbox control units with EMBEDDED SOFTWARE or software for engine or gearbox control units, specifications "LAH.893.909.C – Special characteristics"

### 56. Contractual services

- 56.1. In relation to VEHICLE-RELATED SERVICES, the CONTRACTOR shall assure the PRINCIPAL a standard of quality that is known to it to be higher than the usual standard of quality (especially in terms of functionality and appearance).

- 56.2. VEHICLE-RELATED SERVICES must comply with the approval regulations, (IT) security requirements, test (including, emissions and certification regulations and statutory disclosure obligations) and labeling requirements as applicable to contractual or intended use. Insofar as the PRINCIPAL is solely responsible for establishing conformity with these provisions, the CONTRACTOR shall support the PRINCIPAL to an appropriate extent at no additional remuneration.
- 56.3. In relation to VEHICLE-RELATED SERVICES, optimizations and adjustments that are necessary to implement the technical and professional requirements and achieve the common goals up to the SOP (Start of Production) shall form part of the CONTRACTUAL SERVICES.
- 56.4. The CONTRACTOR is obliged to use processes and tools that are suitable to develop VEHICLE COMPONENTS in such a way that they are free from defects (zero defects strategy).
- 56.5. If the contractual and intended use of the VEHICLE COMPONENTS is planned as a DIRECTED PART, the CONTRACTOR is obliged (i) to conclude a separate agreement with a third party nominated by the PRINCIPAL (system/assembly supplier) in accordance with the CONTRACT (third party agreement) and (ii) to supply the VEHICLE COMPONENTS (as well as any development versions) to the system/assembly suppliers on time. The third party agreement shall be the basis for the scheduling, supply and payment as well as assertion of defect rights; the system/assembly supplier shall be the contractual partner of the CONTRACTOR in this respect.
- 56.6. Insofar as the VEHICLE COMPONENT contains a DIRECTED PART, the CONTRACTOR is responsible for any culpable conduct of the DIRECTED PART supplier to the same extent as if it was the CONTRACTOR's own culpable conduct. The CONTRACTOR may not assert any claims by the PRINCIPAL's fault for selection, nor may it refer the PRINCIPAL to the contract between the PRINCIPAL and the DIRECTED PART supplier. The PRINCIPAL enters into agreements with the DIRECTED PART supplier, which are substantially equivalent to those the PRINCIPAL also agrees with the CONTRACTOR.
- 56.7. Insofar as the VEHICLE COMPONENT is integrated in one of the PRINCIPAL's components or other components are integrated into the VEHICLE COMPONENT, the CONTRACTOR declares its willingness to take part in integration workshops with possible competitors. Integration means the insertion of software in another components (software, hardware/systems) so that the component functions as intended. The integration workshops shall be conducted on the basis of an additional agreement.
- 56.8. Insofar as the CONTRACTUAL SERVICES are the integration of VEHICLE COMPONENTS, the CONTRACTOR remains responsible for the integration (including safeguarding of the overall functionality of the VEHICLE COMPONENTS) even if the PRINCIPAL provides software or other items for executing the CONTRACTUAL SERVICES.
- 56.9. In the event of officially ordered recalls or (covert) recall actions deemed necessary by the PRINCIPAL, which can be traced back to the VEHICLE COMPONENTS, the CONTRACTOR shall support the PRINCIPAL to an appropriate extent and without additional remuneration; in particular, the CONTRACTOR shall, upon request and in accordance with the requirements of the PRINCIPAL, provide necessary software updates, patches and bug fixes.
- 56.10. The CONTRACTOR shall (continue to) provide VEHICLE-RELATED SERVICES over the entire product life cycle of vehicles (usually 15 years) to an appropriate extent and at usual market remuneration; this applies in particular to the provision of MAINTENANCE and SUPPORT SERVICES, CLOUD SERVICES and elimination of incompatibilities that arise in the VEHICLE-RELATED SERVICES with outdated hardware.
- 56.11. The CONTRACTOR shall support the PRINCIPAL to an appropriate extent and without additional remuneration in loading and maintaining databases for supplier management and management of VEHICLE-RELATED SERVICES (especially the software used in vehicles).
- 57. Acceptance**  
Insofar as the documents listed in section 55 contain regulations on acceptance, these provisions take precedence over section 50.
- 58. Notification obligations**
- 58.1. The CONTRACTOR shall, without undue delay, notify the PRINCIPAL, the California Air Resources Board (CARB) and the California Attorney General as soon as the CONTRACTOR has reason to believe that VEHICLE COMPONENTS contain a defeat device in engine control units within the meaning of 40 C.F.R. Sections 86.1803-01 and 42 U.S.C. § 7522(a)(3)(B).
- 58.2. Where VEHICLE-RELATED SERVICES include the creation or modification of engine control unit software, which for its part is likely to be the subject of a document to be submitted to CARB, the CONTRACTOR undertakes the

following with regard to any feature, of which it is known or should reasonably be known, that it can detect exhaust emissions tests or can function as an AECD (Auxiliary Emission Control Device) within the meaning of 40 C.F.R. § 86.1803-01: (a) to disclose the feature in the software documentation accordingly and (b) to keep record of changes.

**59. Limitation period**

Notwithstanding section 24.1, claims for material defects of VEHICLE COMPONENTS become statute-barred twenty-four (24) months after the initial registration of the vehicle or the installation of spare parts, but in any event not later than thirty (30) months following delivery to the PRINCIPAL. For liability and other claims, the statutory limitation periods apply.

**60. Right to audit the CONTRACTOR**

In the case of VEHICLE-RELATED SERVICES, the conducting of audits in accordance with section 30 is also possible by reason of the review of the quality standard.

### III. Definitions

The terms used in this IT-PT&Cs have the following meaning:

**AGILE DEVELOPMENT SERVICES** are DEVELOPMENT SERVICES, which are provided by means of an iterative and incremental approach and whose principles are based on the Agile Manifesto.

**CLOUD SERVICES** are CONTRACTUAL SERVICES, where the CONTRACTOR provides various services (e.g. SaaS, PaaS and/or IaaS) via a network environment (e.g. the Internet). SaaS (Software as a Service) refers to CLOUD SERVICES where the CONTRACTOR provides the PRINCIPAL with application programs. PaaS (Platform as a Service) refers to CLOUD SERVICES where the CONTRACTOR provides the PRINCIPAL with a platform (e.g. a development environment). IaaS refers to CLOUD SERVICES where the CONTRACTOR provides the PRINCIPAL with IT resources, such as computing power, storage capacity or communication resources.

**CONTINUING OBLIGATIONS** are CONTRACTS, whose typical CONTRACTUAL SERVICES are to be provided continuously or recurrently during the contract period.

**CONTRACT** denotes (i) a purchase order or framework purchase order issued by the PRINCIPAL with respect to an offer by the CONTRACTOR or with respect to a negotiation protocol, (ii) a call-off order issued by the PRINCIPAL under a framework purchase, or (iii) an (individual) contract concluded between the PRINCIPAL and CONTRACTOR.

**CONTRACTOR** denotes the supplier / contractual partner of the PRINCIPAL.

**CONTRACTUAL SERVICES** mean services to be provided by the CONTRACTOR under the CONTRACT, including DELIVERABLES.

**COPYLEFT EFFECT** means the use of FREE AND OPEN SOURCE SOFTWARE, which is under a COPYLEFT LICENSE and as a result of which any modification of the software ("any derivative work") must likewise be classified as FREE AND OPEN SOURCE SOFTWARE under a COPYLEFT LICENSE.

**COPYLEFT LICENSE** is a form of licensing and usage provisions for FREE AND OPEN SOURCE SOFTWARE, which can result in software components that are integrated into or connected with the respective FREE AND OPEN SOURCE SOFTWARE likewise having to be distributed under the respective terms of use and license conditions for FREE AND OPEN SOURCE SOFTWARE.

**DELIVERABLES** are all physical or intangible goods, which the CONTRACTOR transfers to the PRINCIPAL for an unlimited or a limited period of time as well as all work products, which are the subject or result of CONTRACTUAL SERVICES; including software, hardware, know-how, data carriers, training and other documents, documentation, information, materials and other contents (e.g. graphics, films, photographs), concepts and access numbers, domains, sub-domains, phone numbers, other identification numbers and tokens that the CONTRACTOR creates or registers for the PRINCIPAL or transfers to the PRINCIPAL as part of the provision of CONTRACTUAL SERVICES.

**DEVELOPMENT SERVICES** are CONTRACTUAL SERVICES, where the CONTRACTOR is obliged to develop certain DELIVERABLES (e.g. software, services and app development, customizing). DELIVERABLES of DEVELOPMENT SERVICES are generally INDIVIDUAL SOFTWARE.

**DIRECTED PART** is a VEHICLE COMPONENT, which is to be installed in a system or assembly (ZSB).

**EMBEDDED SOFTWARE** is software that is integrated in hardware. EMBEDDED SOFTWARE can be STANDARD SOFTWARE or INDIVIDUAL SOFTWARE.

**FEEDBACK** refers to suggestions, comments, or proposals that are conveyed by the PRINCIPAL during the term of the



CONTRACT and pertain to a possible development, modification, correction, improvement, or expansion of the CONTRACTUAL SERVICES, to the extent these are not DELIVERABLES.

**FREE AND OPEN SOURCE SOFTWARE** is subject to license terms, the essential obligation of which is to include the transfer or disclosure of the source code of the software upon its distribution.

**INDIVIDUAL SOFTWARE** is software, which has been programmed or developed specially for the PRINCIPAL or for companies of the VOLKSWAGEN GROUP. INDIVIDUAL SOFTWARE also includes software components of STANDARD SOFTWARE, which were programmed or developed for the PRINCIPAL or for companies in the VOLKSWAGEN GROUP, for example as part of DEVELOPMENT SERVICES, customizing or MAINTENANCE AND SUPPORT SERVICES.

**INFRINGEMENTS OF INTELLECTUAL PROPERTY RIGHTS** are violations of third party rights including industrial property rights (e.g. patents) and corresponding applications, copyrights and legally protected trade secrets by the CONTRACTUAL SERVICES or their contractual or intended use.

**IT-PT&Cs** are these Volkswagen AG General Terms and Conditions of Purchase for services in the field of information technology (IT) and/or electronic information and communication (TC).

**MAINTENANCE SERVICES** are CONTRACTUAL SERVICES, where the CONTRACTOR is obliged to maintain and update software. MAINTENANCE SERVICES include, in particular, the provision of updates, upgrades and new program versions.

**OPERATING SOFTWARE** denotes software, which is required for the proper use of hardware (e.g. operating systems), regardless of whether this is already installed on the hardware when transferred to the PRINCIPAL or has to be installed subsequently.

**PRINCIPAL** denotes the company in the VOLKSWAGEN GROUP, which concludes the CONTRACT.

**PROCESSING** denotes any operation or series of operations, whether accomplished with or without the aid of automated processes, which are performed in connection with personal and/or non-personal data, such as the collecting, recording, organizing, ordering, storing, adapting or modifying, reading, accessing, using, disclosing through transmission, distributing or otherwise making available, comparing or linking, restricting, deleting or destroying such data.

**SECURITY TEST MEASURES** are measures to detect IT security relevant errors, weaknesses or security vulnerabilities. In particular, these include explorative, offensive test procedures or investigations (especially performance tests, stress tests, penetration tests, analysis of hardware and software components used, decompiling/reverse engineering of software), which aim at penetrating computer or network systems or analyzing, testing or adapting hardware and software.

**STANDARD SOFTWARE** is software, which was not developed especially for the PRINCIPAL.

**SUPPORT SERVICES** are CONTRACTUAL SERVICES for which the CONTRACTOR is obliged to provide user support. The CONTRACTOR shall accept and respond to user requests, e.g. via call center or help desk and respond and resolve any defects or errors.

**TC SERVICES** are CONTRACTUAL SERVICES in the field of electronic information and communication.

**TEXT FORM** requires a human-readable declaration in which the person making the declaration is named and which can be stored on a data carrier; this is especially fulfilled by using e-mail. Verbal or implied declarations are not sufficient to protect the TEXT FORM.

**VEHICLE COMPONENTS** are DELIVERABLES, which are installed in vehicles in the context of contractual or intended use (e.g. control units) or which have to be integrated in a vehicle (e.g. software, interfaces).

**VEHICLE-RELATED SERVICES** are VEHICLE COMPONENTS and CONTRACTUAL SERVICES, which directly interact functionally with vehicles via interfaces (e.g. backend, transmission paths).

**VOLKSWAGEN GROUP** refers to Volkswagen AG and companies affiliated with Volkswagen AG within the meaning of Section 15 et seq. of the German Stock Corporation Act, especially all companies in the Volkswagen AG Group structure including companies with a (possibly) majority interest in Volkswagen AG (parent companies), as well as those companies in which such parent companies hold a majority interest (sister companies). If a company ceases to be part of the VOLKSWAGEN GROUP, the company continues to be regarded as a company of the VOLKSWAGEN GROUP as regards the rights arising from the CONTRACT for a period of six (6) months.

**VW DATA** refers to personal and non-personal data, which (i) the PRINCIPAL transfers or makes accessible to the CONTRACTOR itself or via a commissioned third party, (ii) the CONTRACTOR creates, saves or processes in some other way on behalf of the PRINCIPAL or (iii) the CONTRACTOR lawfully creates, collects, saves or processes in some other way in relation to the provision of service but without being ordered to do so by the PRINCIPAL, and saves on media

(or parts thereof) that are associated solely with the PRINCIPAL at the time of saving or that are created by vehicles, systems or devices which the PRINCIPAL has produced or placed on the market or which it uses, especially in connection with production.

**WRITTEN FORM** requires a personal signature. Electronic transmission of the declaration(s) in WRITTEN FORM, for example by fax or as an email attachment (scan), is permitted. The term WRITTEN FORM within the meaning of this IT-PT&Cs can be replaced by the electronic form; a qualified electronic signature is required in this case instead of the written signature.