Special Terms and Conditions for the procurement of IT products or IT services for BMW Group
(version 06/2026)

This is an English translation of the German STC and for convenience only.

1. Scope and definitions

By way of supplementation to Clause 1 of the GTC, the following shall apply:

1.1 The following Special Terms and Conditions ("**STC**") apply to the procurement of IT products (e.g. software, hardware) or the provision of IT services, in particular the development, adaptation, maintenance or operation of IT products as well as analysis and documentation services (hereinafter all "**performance**") for the BMW Group, insofar as these are not intended or designed for direct use in vehicles.

1.2 The company within the BMW Group which actually places the order shall, hereinafter, be known as "**BMW**". The other party to the contract shall hereinafter be known as the "**Contractor**".

1.3 The present STC shall supplement the "General Terms and Conditions for Indirect Purchasing" ("**GTC**"), as from time to time amended. The GTC shall apply, including its definitions, unless these STC otherwise provide for a separate rule or specify a different rule in derogation from the GTC.

1.4 Definitions:

Agile project step	Individually agreed performance component within the agile procedure (e.g. Sprint).
Agile Procedure	Iterative and incremental approach to self-organizing teams (e.g. SCRUM, Kanban).
Provided Third Party Services	Services arising from contracts between the BMW Group and third parties, provided within the contractual relationship between BMW and the Contractor.
Change of Control	Means the sale of all or substantially all of the Contractor's assets, the merger or consolidation of the Contractor with another entity, organization or person, the acquisition of the Contractor by another entity, organization or person, or any change in the ownership of more than fifty percent of the voting rights in the Contractor, in one or more related transactions.
Cloud Service	Private or public cloud, which can be provided as a service model in the form of either "Software as a Service", "Platform as a Service" or "Infrastructure as a Service".
Customized Software	Software modules, which are newly created especially for the BMW Group.
Infrastructure as a Service („IaaS")	Infrastructure (network, storage space and computing power) operated, maintained and licensed by the Contractor, and which allows the use for BMW Group purposes.
IT Application and Infrastructure Management Service	Operation and/or maintenance of software or IT hardware, as well as managed services

IT-Hardware	All or part of the equipment of electronic data processing equipment, in particular servers, personal computers, printers, network components and peripherals, including associated system software and related documentation (e.g. operating instructions and certificates). System software is the software required for operation, which is supplied with the IT hardware.
Emergency	Prolonged failure of processes or resources that causes or is likely to cause significant damage to BMW.
Platform as a Service („PaaS")	Platform/software environment and infrastructure (network, storage space and computing power) operated, maintained and licensed for the BMW Group in order to develop or operate application/software.
Private Cloud	Cloud Services where resources are used only by a predefined user group, whether the infrastructure is owned by the Contractor or provided by a third party.
Public Cloud	Cloud services where resources are not used for the BMW Group in a determinable way, but for a large number of unknown users.
Reporting Data	Data needed to evaluate the relevant performance, including, in particular, but not limited to, reports on the use and availability of the service.
Software as a Service („SaaS")	Application/software provided by the Contractor on a platform/software environment within an infrastructure (network, storage space and computing power), whereby the Contractor is responsible for operation, maintenance, troubleshooting and necessary licensing.
Modular and Third Party Software	Software that covers a clearly defined scope, is available as a product on the market or software which is or was created by the Contractor prior to the commencement of or outside the scope of the contractual relationship.
Default	Malfunctions, system or system component failures, and other problems that occur as part of service delivery.

2. Provision of Service

By way of supplementation to Clause 3 of the GTC, the following shall apply:

2.1 The services to be provided by the Contractor shall be specified in the BMW's Purchase Order.

2.2 The Contractor shall provide the service in the agreed quality on the agreed date in a ready-to-use condition including the required documentation and access data (in particular usernames, associated passwords and possible license keys). In particular, it must be ensured that the service is performed in accordance with the standards applied by BMW (e.g. AWM, ITIL, ITPM) or in compliance with BMW required certifications, but at least in accordance with the state of the art and in accordance with recognized quality standards and market standards.

2.3 The Contractor is responsible for providing all legally and economically suitable and necessary resources regarding equipment and personnel (including facilities, data services and software).

2.4 The signing of a delivery note or the receipt of the service provided by the Contractor by an authorized representative of BMW does not constitute a confirmation of the completeness or absence from the defect of the service.

2.5 Insofar as the Contractor is obliged by the nature of the service to collect, process or use personal data on behalf of BMW, this requires in particular:

(i) that the Contractor has concluded a formal agreement with BMW on behalf of BMW by way of supplementation to Clause 14.2 of the GTC, and

(ii) that BMW was satisfied with the technical and organizational measures taken by the Contractor before the start of data processing.

2.6 At BMW's request, the Contractor will offer introductory and training services as part of its commissioning, so that BMW will be able to make full and professional use of the service. In addition, at BMW's request, the Contractor will offer additional services related to the service (e.g. installation of software) in return for a reasonable market remuneration.

2.7 If required by the service, the Contractor shall obtain all necessary or commissioned by its subcontractors or third parties requested licences, releases, consents and permits required by the legal requirements required for performance.

2.8 The Contractor shall not be entitled to take over any equipment and assets (hardware, software and existing contractual claims and obligations to third parties) made available for the provision of the service. In addition, the Contractor is obliged to organize the provision of services in such way that, at the end of the contract term, his employees or the employees of a subcontractor do not pass on to BMW by way of the transfer of undertakings in accordance with Section 613a of the German Civil Code (BGB).

2.9 The Contractor agrees that, during the contract term, he will cooperate with third parties commissioned by BMW in order to coordinate the provision of the service with the services and systems of such a contracted third party.

2.10 If necessary and agreed for the service, the Contractor is responsible for implementing the IT systems used by him to provide services into the BMW Group's IT environment. In particular, BMW's internal and external IT systems must not be affected in their functionality, performance, reliability, availability, response time or similar parameters. The connection of the Contractor's IT systems to the BMW systems requires prior approval by BMW.

2.11 If applicable to the service, BMW will report to the Contractor defaults occurring within a defined process. The Contractor is obliged to locate, analyze and eliminate the default. If the removal of a default requires extensive maintenance work, the Contractor must provide BMW with a temporary replacement or bypass solution free of charge at BMW's request; agreed service levels must be fulfilled.

Insofar as the scope of services also includes the securing of BMW data by the Contractor, the Contractor must back up the data according to BMW specifications before the maintenance work and restore it afterwards.

2.12 In case of a separation of a unit from the corporate structure of the BMW Group, in particular through a partial sale of the company or a spin-off, the Contractor shall, at BMW's request, provide the services owed to the BMW Group for a term of at least six (6) months also to that entity on the same terms. At the request of the BMW Group, the Contractor will provide termination support for the transition to a new service provider in return for an appropriate remuneration, so that the new service provider is able to take over the agreed services.

3. Special regulations for certain services

3.1 If and to the extent that the service to be provided by the Contractor consists in the **licensing of modular and third party software** (purchase or rental), by way of supplementation to the GTC, the following shall apply:

a) The modular and third party software is provided by the Contractor with a version number and stock keeping units ("SKU"). If BMW is no longer available as a result of loss, accidental deletion or similar events, the Contractor is obliged to provide BMW with a copy of the licensed modular and third party software free of charge.

b) The Contractor owes a maintenance for rented or purchased modular and third party software. This maintenance includes in particular all new program levels such as bug fixes, updates, upgrades as well as all new releases of the modular and third party software.

(i) In case of **rented modular and third party software**, all maintenance services of the Contractor are compensated for the duration of the contract with the agreed remuneration.

(ii) In case of **purchased modular and third party software**, all maintenance services of the Contractor are compensated within the first 12 months after the delivery of the standard software with the agreed remuneration. At BMW's request, the Contractor provides the maintenance service for a further period of up to 4 years in return for payment of a market-standard, optionally reasonable remuneration, which

represents a market-standard, optionally reasonable percentage of the agreed purchase price.

c) As long as the Contractor is obliged to maintain services, the Contractor shall, at BMW's request, deliver an annual product catalogue free of charge in which all software products of the Contractor to be distinguished in the Software Asset Management ("**SAM**") of BMW are listed and in particular all versions and variants (e.g. editions), including the SKU of the modular and third party software, which are to be distinguished from the point of view of the Contractor.

d) The Contractor shall provide BMW with the inventory and quantity data of the delivered modular and third party software on the basis of the product catalogue free of charge every half year for the first time by delivery, as far as and as long as the Contractor is obliged to maintain it:

(i) broken down by the respective BMW Group company domestic and abroad, and

(ii) for contracts comprising hardware and software, broken down by hardware and software.

The transmission of this data must be carried out in machine-readable form in accordance with BMW's format specifications, which meets the purposes of the SAM in use in the BMW Group.

e) As long as the Contractor is obliged to maintain, the Contractor must ensure that BMW can automatically determine the extent of the use of the modular and third party software. To this end, the Contractor will provide BMW with signatures within the scope of his maintenance obligation, on the use of which the components of the product catalogue can be identified using market-standard tools and processes and shall ensure that:

(i) the versions and variants listed in the product catalogue (e.g. editions), including the SKU of the modular and third party software are automatically recognizable,

(ii) no tools specified by the Contractor need to be used, but the standard software asset management tools are sufficient, and

(iii) if additional information is required to determine the use, this is limited to established information, e.g. number of CPUs or number of CPU cores.

f) For **purchased modular and third party software** in derogation to clause 3.14 of the GTC, the following shall apply:

At BMW's request, the parties conclude a separate escrow agreement for the deposit of the modular and third party software, the associated source code and the associated documentation at an escrow point designated at its reasonable discretion by BMW. The Contractor is entitled to object to the determination of an escrow point for good cause if the escrow point appointed by BMW is not suitable for deposit. Unless otherwise agreed, BMW shall bear the costs of the escrow point. The Contractor shall otherwise bear the costs incurred by himself emerging out of the escrow.

g) Services provided by the Contractor for the fulfilment of the obligations according to this clause 3.1 shall be compensated by payment of the agreed remuneration to the Contractor.

3.2 Insofar as and to the extent that the service to be provided by the Contractor consists in the **provision of a cloud service**, the Contractor shall, in in addition to the GTC,

(i) ensure the uninterrupted availability of the Cloud Services during the contract term in such way that the BMW Group can use them at any time in accordance with the contract,

(ii) provide the information necessary for an uninterrupted continuation of the contractual use of the cloud services in a timely manner and in writing before the implementation of changes (e.g. interfaces) relevant to the BMW Group,

(iii) on request of BMW, transmit the inventory data, quantity data and number of receipts of the cloud services used by BMW by the respective companies of the BMW Group domestic and abroad, whereby this transmission of the reporting data has to be in machine-readable form in accordance with BMW's format specifications and the receipt of the reporting data does not constitute formal confirmation of the accuracy,

(iv) inform BMW immediately about planned new program developments such as updates, upgrades and new releases of the cloud services and make these available to BMW in the BMW environment for testing purposes and to disclose relevant interfaces,

(v) provide BMW with the access data and methods necessary for access to the protected area of the cloud services (e.g. any necessary access software), in particular the agreed number of licenses, usernames and the associated passwords, in timely manner

before commissioning and provide BMW upon request with a copy of these access data and methods free of charge at any time during the entire contract term, and

(vi) to cooperate with third parties commissioned by BMW during the contract term in order to coordinate the provision of the Cloud Service with the systems and services of such third parties (e.g. provision of information with regard to all systems, data, IT environments and technologies used in the provision of services, including interfaces, the provision of support and participation services to third parties commissioned by BMW).

3.3 If and to the extent that the service to be provided by the Contractor consists of or includes the **supply of rental- or purchase- IT hardware**, by way of supplementation to the GTC, the following shall apply:

a) The Contractor shall install, integrate and configure the IT hardware for the use at the BMW Group, unless otherwise agreed. Any necessary cooperation (e.g. network connections, charging aids, premises) must be requested in writing to BMW.

b) The Contractor must maintain rented IT hardware during the contract term in a condition suitable for the contractual use and to carry out the necessary maintenance and repair work. If necessary, the Contractor may carry out the work in his workshops. The Contractor must notify BMW in advance of the relocation of the IT hardware and this may only take place after he has deleted any BMW data. Alternatively, the Contractor may only relocate IT hardware if the data carrier remains at BMW Group premises.

c) BMW may, without the consent of the Contractor, connect parts of the rented IT hardware with other equipment, elements or additional equipment (such as memory) or install such equipment, elements or additional equipment onto the rented IT hardware.. Before the end of the contract term, BMW will reset the rented IT hardware into its original delivery state, unless otherwise agreed. BMW has no claim against the Contractor for compensation for a possible increase in the value of the IT hardware.

d) The Contractor shall completely destroy replaced wear parts and system components of the IT hardware, as well as any BMW data on them, so that a reconstruction of this data can be excluded. The Contractor must confirm the destruction in text form upon request. System components that have been marked as "Non Returnable" are excluded from the disposal. The Contractor will transfer these system components, which are marked as "Non Returnable", to BMW for appropriate remuneration, taking into account the remuneration previously paid by BMW.

e) The Contractor must coordinate maintenance work on the IT hardware in advance with BMW and plan in such a way that the use of the IT hardware by the BMW Group is not affected. The Contractor must agree maintenance windows with BMW in a timely manner before the maintenance is carried out.

4. Place of Performance

4.1 Unless otherwise agreed, the place of performance is with the Contractor, with the exception of the installation and integration of software. The Contractor shall provide the service at the locations designated for this purpose and equipped accordingly in terms of technology and organization.

4.2 The Contractor may only relocate the place of performance in full or in part after written prior consent by BMW.

5. Data Center Locations and Location of BMW Data

5.1 For service provision, the Contractor may only use Data Centers located at the contractually agreed locations. This also applies to external backup servers and outage data centers that are used in the event of a failure of processes or resources or an emergency.

5.2 The Contractor may transfer BMW data or Data Centers in full or in part only with the prior written consent of BMW.

5.3 The Contractor is obliged to disclose not only the exact address but also information on the safety certifications of the Data Center to BMW and must inform BMW whether he is the operator of the data center or whether a subcontractor operates the Data Center.

6. Contributions and Assistance Efforts

6.1 If and to the extent that this is necessary for the service performance by the Contractor, BMW shall provide contributions and assistance efforts as agreed in the BMW Purchase Order.

6.2 BMW may provide the Contractor with access to BMW systems and/or premises to the extent this is required to the performance of the Services. The Contractor must comply with BMW's house rules, safety regulations and other general provisions applicable to external users.

6.3 BMW shall furnish all contributions and assistance efforts to the Contractor solely for the purposes of the performance of the Services. The Contractor shall utilize such contributions and assistance efforts with all due care and shall comply with the terms of use thereof.

6.4 BMW's obligation to provide contributions and assistance efforts shall end upon the expiry of the contract term. BMW may terminate provision of any contributions and assistance efforts with immediate effect if

(i) the Contractor breaches essential contract obligations with respect to the contributions and assistance efforts; or

(ii) the Contractor utilizes the contributions and assistance efforts in a manner in breach of the contract, and in particular, provides them to third parties without authorization.

6.5 The Contractor shall, notwithstanding any failure by BMW to comply with its duties of contributions and assistance efforts, undertake all reasonable efforts to render the respective Services in line with the contract

6.6 By way of supplementation to Clause 3.6 of the GTC, the following shall apply:

Where BMW does not perform duties of cooperation or does not fully perform them or performs them only belatedly, the Contractor shall promptly alert BMW upon learning thereof. The Contractor shall inform BMW wherever delays arise based on BMW's failure to cooperate, or failure to do so in line with the contract, or where there is a risk of respective delays.

7. Changes and additions

By way of supplementation to Clause 4 of the GTC, the following shall apply:

If and to the extent that the parties have agreed on an agile approach, a single step within an agile project step proposed by one of the parties, and implemented after mutual decision of the parties (e.g. for sprint reviews, planning meetings, backlog additions) is not a change order within the meaning of Clause 4.1 of the GTC, unless the step is expressly referred to as such. An additional remuneration may only be required by the Contractor under the conditions of clause 4.2 of the GTC.

8. Formal Acceptance

By way of supplementation to Clause 5 of the GTC, the following shall apply:

If and to the extent that an agile approach has been agreed for the provision of services by the Contractor, BMW can formally accept agile project steps in accordance with clause 5.1 sentence 1 of the GTC, if the Contractor has reached the criteria for this agile project step and the result is usable for BMW. In addition to these formal acceptances for each agile project step, the overall performance shall be formally accepted at the end of the project period. In particular, all approved performances of the agile project steps are assembled as a complete system and tested for fulfilment of the agreed performance and functionality.

9. Contract term, Termination of Contract

By way of supplementation to Clause 6 of the GTC, the following shall apply:

9.1 If a term is agreed for the provision of the service, the term results from the BMW's Purchase Order. Insofar as the parties are entitled to terminate the contract according to the law governing contracts for works and services ("Werkverträge"), these are neither excluded nor restricted. The right of both parties to extraordinary termination shall also remain unaffected.

9.2 An extension of any agreed contract term is only effective with the prior consent of BMW.

9.3 If and to the extent that the use of Service Levels has been agreed for the service to be provided by the Contractor (e.g. reaction and/or recovery times within the service hours), an important reason within the meaning of clause 6.5 of the GTC is given in the event of repeated breach by the Contractor.

9.4 If and to the extent that the service to be provided by the Contractor consists of **the provision of a cloud service**, the Contractor shall, at BMW's request, continue to provide the service for the conditions applicable at the time of termination of the contract for a maximum of twelve (12) months beyond the end of the contract term in order to enable BMW to carry out the migration to a follow-up service provider.

9.5 If the contract term for the **provision of a cloud service** ends for reasons not to be held by BMW, the Contractor shall

(i) provide BMW with the necessary termination support, in particular the migration of the cloud services to a follow-up service provider, no later than six (6) months before the end of the contract term or – if, at the time of the declaration of termination of

the contract, the remaining term of the contract is limited to less than six (6) months - shall be served immediately and

(ii) transmit a list of the data available in the cloud services to BMW, without request and immediately after the end of the service provision.

9.6 If the contract term of a **rental contract for modular and third party software** ends, by way of supplementation to the GTC, the following shall apply:

a) BMW may purchase the modular and third party software on the basis of the remuneration paid so far. For this purpose, the Contractor will offer BMW the rented modular and third party software in compliance with clauses 9.1 and 9.2 and crediting the already paid fee and will adhere to this offer until the expiry of four weeks after the end of the lease. The purchase contract for the modular and third party software is concluded with the timely acceptance of this offer by BMW. BMW can also accept the offer before the termination of the rent.

b) Irrespective of this, BMW has the right to continue the use of the rented modular and third party software on the same terms beyond the end of the contract term for a maximum of twelve (12) months each month, in particular in order to obtain the rented modular and third party software by means of an alternative software product or to modify the services for which BMW uses the modular and third party software so that BMW no longer relies on the rented modular and third party software. In order to continue the rent by the end of the contract term, BMW must declare it to the Contractor.

9.7 If the contract term of a **SaaS service model** ends for reasons not to be held by BMW, the Contractor shall, at BMW's request, in addition to the obligations in clause 9.6

a) provide BMW with the installation-ready software included in the Cloud Services and the associated source code including the documentation (in particular interface documentation and documentation of the organizational operating interfaces) on a readable data carrier if the Contractor is entitled to the corresponding rights to this Software, and

b) grant BMW the originally agreed contract term limited, non-exclusive right to use the software and the source code in all kinds of use, which right shall be worldwide, irrevocable and unlimited in terms of content.

c) Unless otherwise agreed, the release of the software including the source code and documentation in accordance with 9.7 a) and the granting of the right of use in accordance with 9.7 b) is remunerated by BMW at market prices less the payments for the use of the respective cloud services made by BMW upon the termination of the contract.

9.8 In the event of a change of control by the Contractor, BMW may terminate the contract, if BMW

(i) has legitimate reason to believe that the Contractor is controlled by a competitor of the BMW Group after the change of control,

(ii) has reasonable doubts that the capacity or financial stability to provide services in accordance with the contract after the Change of Control no longer exists, or

(iii) has reasonable doubts that confidentiality obligations after the Change of Control will not be complied with.

9.9 If the contract term of a **Rental Agreement for IT hardware** ends, BMW has the right to

(i) continue the rental period of all or part of the IT hardware beyond the end of the contract term on unchanged terms or to buy parts of the IT hardware, in particular data carriers marked as "non returnable", at a fair market value less the remuneration paid so far by BMW. To this end, the Contractor draws up an offer at BMW's request,

(ii) terminate the rent of parts of the IT hardware before the end of the rental period by means of a one-time final payment.

9.10 In the event of termination, BMW is not obliged to pay an indemnity payment. The Contractor shall not be entitled to any claims for retention, performance or compensation on the occasion of such termination.

10. Compensation

By way of supplementation to Clause 9 of the GTC, the following shall apply:

10.1 Unless otherwise agreed and applicable to the service, the agreed remuneration shall not be due before a successful formal acceptance or functional check.

10.2 If the remuneration of the service is determined according to time periods, the Contractor shall invoice its performance in accordance with the agreed periods.

10.3 If, in accordance with the agreement of the parties, the remuneration for software (e.g. purchase, rental or SaaS) depends in full or in part on the fact that the software is usable for the BMW Group or that there are other requirements (e.g. formal acceptance of a provision of services of the Contractor), the agreed remuneration is not due as long as the software is not usable for the BMW Group or the agreed conditions are not met.

10.4 If and to the extent that the provision of services is provided within the framework of an agile approach, the Contractor will disclose the basis of calculation relevant to the remuneration to BMW, so that BMW has transparency regarding the actual provision of the service.

10.5 The provision of legally, economically appropriate and necessary resources of a material and human nature (including facilities, equipment, data services and software) required for the provision of services shall be compensated with the remuneration.

10.6 BMW may withhold contractual penalties (if agreed), damages for delay, additional expenses or any agreed collateral from the remuneration of the Contractor to an appropriate extent.

10.7 If BMW withholds payment of the remuneration, the Contractor shall not refuse to provide its services (e.g. withhold or discontinue the service),

(i) if the Contractor has not contacted BMW with a refusal in writing and expressly with a reasonable deadline, and

(ii) if the refusal would be contrary to good faith in the circumstances, in particular with regards to the relative inferiority of the part that is overdue.

BMW may avert the exercise of the right to refuse performance by providing security. The guarantee by guarantors is excluded.

10.8 If the scope of use or functionality in accordance with clause 2.1 is reduced in the case of rented modular and third party software and maintenance services of purchased modular and third party software for BMW during the contract term, BMW has the right to adjust the remuneration to the changed range of uses or functions. Further legal or contractual rights of BMW are not restricted or excluded.

11. Termination Support

The Contractor will take care that, with the agreed, or in case necessary with an appropriate remuneration, the service provided by the Contractor can be taken over by another Contractor on behalf of BMW, in the event of full or partial termination, regardless of the reason for the termination. In addition, the provisions of the termination support regulations defined in the BMW's Purchase Order apply.

12. Warranty/Default in Service

By way of supplementation to Clause 12 of the GTC, the following shall apply:

12.1 A deficient service exists in particular if the service does not meet the contractually agreed requirements (e.g. service levels) or is not suitable for the contractually intended purpose or customary use.

12.2 The parties inform each other immediately in writing as soon as they find or suspect a defect in relation to the service. Within his area of responsibility, the Contractor will independently and at his own expense determine the causes of the defect and take all necessary measures to prevent a recurrence of the defect in the future. The Contractor will inform BMW at regular intervals about the current status and success of these measures without being requested.

12.3 If the Contractor gives a manufacturer's warranty in relation to the service or has received it from a third party, this manufacturer's warranty or its transfer to BMW parts are the Contractor's essential obligations of the contract. The Contractor shall provide the declaration of the scope of the warranty and its assertion together with the handover. This also applies to the declaration on the terms of warranty extensions or insurances, if such are agreed. BMW may claim warranty directly from the manufacturer or, if the Contractor is the proprietor, through the Contractor.

12.4 If the service consists in the supply of IT hardware, the limitation period for BMW's warranty claims against the Contractor and the manufacturer's warranty begins, if the Contractor has received a manufacturer's warranty with respect to the IT hardware, with the delivery of the IT hardware at BMW.

12.5 If negotiations are pending between the parties on the claim, e.g. for subsequent performance, in particular on the elimination of a defect, or the circumstances giving rise to the claim, the limitation period shall be suspended until one party

refuses to continue the negotiations. The limitation period shall not expire at the earliest three months after the end of the suspension

12.6 The limitation period begins again if the Contractor recognizes BMW in relation to the respective claim.

12.7 If and to the extent that an agile approach has been agreed for the provision of services, the limitation period shall only begin with the formal acceptance of the total service in accordance with clause 8. Acceptance date is the signing date of the acceptance protocol in accordance with clause 5 of the GTC.

12.8 If and to the extent that the application of Service Levels has been agreed for the service to be provided by the Contractor, BMW's right to reduce the remuneration shall be replaced in so far as the cause of the defect is at the same time due to the failure of an agreed service level, triggering a contractual penalty unless the parties have agreed otherwise. The assertion of other, in particular statutory claims due to defects remains unaffected.

13. Rights of use

By way of supplementation to Clause 13 of the GTC, the following shall apply:

13.1 If and to the extent that the service consists in the creation or adaptation of individual software, clause 13 of the GTC applies.

13.2 If and to the extent that the service consists in the purchase of IT hardware or in the purchase of modular and third party software, the Contractor grants BMW with delivery a right of use which is unlimited in space and time, irrevocable, transferable, permanent, in regards to the modular and third party software, which also refers to the corresponding documentation.

With regard to Section 69c No. 3 p. 2 UrhG and, in addition, Section 17(2) of the UrhG, BMW has the right to sell purchased IT hardware and purchased modular and third party software, including documentation, without restriction. This right also applies to downloadable modular and third party software, old program versions and OEM versions and includes the right to rent.

13.3 If the service consists in the provision of a cloud service, the rental of modular and third party software or the rental of IT hardware, the Contractor shall grant BMW a limited period of time, which is limited in scope and content, with the provision of the contract right to use, including relevant documentation and user manuals. With regard to the rental of IT hardware, this right of use also includes the possibility to leave the IT hardware to a third party commissioned by the BMW Group.

13.4 For **modular and third party software**, the rights of use granted in accordance with clauses 13.2 and 13.3 include in particular the following uses:

(i) saving and installing the modular and third party software on IT systems,

(ii) permanent and temporary reproduction of the modular and third party software and associated documentation for contractual use, including, in particular, loading into memory, displaying and expiring,

(iii) loading, executing and processing of own data sets with the modular and third party software,

(iv) use of the modular and third party software on any hardware environment (in particular hardware exchange and replacement computers),

(v) use of the modular and third party software on production-, integration- and test systems,

(vi) use of the modular and third party software on backup- and emergency systems (hot/cold stand by),

(vii) Use of all language versions of the modular and third party software,

(viii) use of new program levels provided as part of maintenance, such as bug fixes, updates, upgrades, and new releases,

(ix) use of older versions of the modular and third party software with the same edition in the scope of use in the contract ("**downgrade right**") without obligation to notify the Contractor or the manufacturer of such use,

(x) use of the modular and third party software for order data processing for the benefit of third parties,

(xi) the release of the modular and third party software to all companies and use in all companies of the BMW Group, if BMW itself is entitled to use it, also by means of cloud computing, on servers or server clusters of any kind, by means of Application Service Providing or as software as a Service,

(xii) the release of the modular and third party software to and use by third parties for the purposes of the BMW Group in the sense of an extended workbench,

(xiii) use of the modular and third party software by third parties at any location and on systems not owned by the BMW Group for the purposes of the BMW Group and

(xiv) transfer of the modular and third party software to a service provider and install, load into memory, run and other reproduction of the modular and third party software on a hardware of that service provider, to the extent and as long as that service provider is in charge for companies of the BMW Group to take over the data center operation, e.g. through outsourcing, or provide data center services such as hosting the modular and third party software.

13.5 For **cloud services**, the rights of use granted in accordance with 13.3 include in particular the following:

(i) uploading, storing and downloading data to or from the Cloud Services,

(ii) use of the production, integration, test and backup systems including so-called sandboxes of the cloud services,

(iii) use of all provided bug fixes and patches as well as new program updates such as updates, upgrades and new releases, including relevant documentation, in particular for testing purposes,

(iv) use of all language versions of the Cloud Services and Documentation,

(v) the provision of the cloud services to all companies and use in all companies of the BMW Group, insofar as BMW itself is entitled to use,

(vi) use of the cloud services by subcontractors of BMW,

(vii) use of the cloud services by third parties (e.g. dealers and end customers) within the scope of the products and services offered by the BMW Group, and

(viii) use of the access software (including in particular download, installation, running and loading into memory) provided that the Contractor makes it available to BMW for the use of the cloud services.

13.6 The regulations in accordance with clause 13.5 of the GTC apply only to individual software, or interfaces specially adapted or developed for the BMW Group within the modular and third party software.

13.7 For provided third-party services, BMW grants the Contractor a non-exclusive and non-transferable right of use, to the extent and as long as

(i) the Contractor needs this for the provision of services in accordance with the contract, and

(ii) this is permitted under the existing agreements with third parties on the use of the Client Supplied Resources.

This right of use is granted free of charge, unless charges are specified in the BMW Purchase Order. To the extent that the provision of a provided third-party service requires the consent of a third party, the parties will jointly seek to obtain consent.

13.8 In the event that a company or part of the company leaves the BMW Group during the contract term, the Contractor hereby offers the departed company or part of the company to provide the rent or cloud service under the same conditions (including free maintenance) if and to the extent that the modular and third party software or cloud service has already been used in this company or part of the BMW Group. It is the responsibility of each party to notify the departed company or the part of the company that has resigned in writing of this offer after receiving knowledge of the withdrawal. The Contractor shall remain bound to the offer in accordance with the first sentence until the expiry of four weeks after the receipt of this notice. The commitment to the offer ends independently of the Contractor's knowledge and a notice after the expiry of two calendar months after the departure of the company or part of the company or with the termination of the Rental Agreement or the Cloud Service Contract between BMW and the Contractor.

14. Rights to BMW data

By way of supplementation to Clause 15 of the GTC, the following shall apply:

14.1 "BMW data" according to clause 15.1 of the GTC are also configuration files of the programs used for the provision of services, as well as the normalized database model in SaaS (in particular illustration of the structure of the database and the relation of the corresponding data tables).

14.2 According to clause 15.4 of the GTC, the Contractor is also prohibited from making changes

to the structure of BMW data or the data format without the prior written consent of BMW.

14.3 With regard to the release of data in accordance with clause 15.6 of the GTC, BMW may choose whether the Contractor should hand it over on a data carrier or transmit it over a network.

15. Information Security

By way of supplementation to Clause 16 of the GTC, the following shall apply:

15.1 The separation of data within the meaning of clause 16.2 of the GTC must be carried out at least logically (e.g. by the separation via access rights and different folder systems). If the parties have agreed on a physical separation, the Contractor shall ensure this by means of a spatial separation via dedicated physical systems and connections.

15.2 If the Contractor has access to BMW IT systems within the scope of the provision of services, this may only be carried out by persons who have been approved by BMW and equipped with appropriate access authorization. The disclosure of access data (e.g. passwords) for access to such IT systems from BMW to third parties, in particular subcontractors, is only permitted with the prior written consent of BMW. As soon as a legitimate person is no longer involved in the fulfilment of the order, the Contractor must notify BMW immediately.

15.3 Due to the access and use of BMW's IT systems by its employees, the Contractor shall, at his own expense, take the necessary technical and organizational measures (e.g. training) in order to prevent, impairment of these IT systems or cases of abuse.

15.4 If the service consists in the provision of a cloud service, the Contractor is obliged to maintain the ISO 27017 and ISO 27018 certificates or to maintain a comparable level of protection continuously during the contract term and, provide evidence immediately upon BMW's request.

16. Audits

The right granted to BMW pursuant to clause 16.6 of the GTC to carry out audits to verify compliance with information security also applies to the verification of compliance with the processes agreed in accordance with these terms and conditions, and quality specifications.

17. Picking up and returning IT hardware

17.1 No separate rental contracts are concluded or signed for parts of the IT hardware retrieved with the BMW Purchase Order. The BMW Purchase Order with its equipment and the declaration of acceptance of the order by the Contractor are the exclusive basis of the contract.

17.2 BMW is not obliged to insure rented IT hardware.

17.3 At the end of the contract term, the Contractor must collect the rented IT hardware from BMW at his own expense. This also includes the costs of dismantling, packaging and returning the rented IT hardware. System components marked as "Non Returnable" and which are taken over by BMW in accordance with clause 9.10 (a) are excluded from the return.

17.4 The Contractor shall ensure that any BMW data on the IT hardware is completely and irretrievably deleted or destroyed, so that a reconstruction of this data is excluded. The Contractor has to confirm this in writing upon request.

17.5 At BMW´s request, the Contractor will take back the parts of the IT hardware purchased by BMW in accordance with clause 9.10. a) free of charge in accordance with this clause 17.

17.6 The Contractor is obliged to draw up an overview of the parts of the IT hardware which have to be returned by BMW, starting three (3) months before the end of the rental period and to transmit the overview to BMW. The Contractor will coordinate the pick-up with BMW and arrange return dates.

17.7 BMW fulfils the obligation to return the IT hardware by providing the IT hardware for collection to the Contractor on the agreed return date. The Contractor has to confirm the receipt of the IT hardware to BMW.

17.8 BMW may also fulfil the obligation to return the IT hardware by providing the Contractor with items of the same type and quality for collection on the agreed return date, e.g. equivalent replacement equipment from the same manufacturer and type as the original device or equivalent peripherals (monitors, other accessories), also from manufacturers other than the original peripherals, unless an equivalent replacement is unreasonable for the Contractor.

17.9 If and as long as BMW culpably does not provide the IT hardware or parts thereof to the Contractor for collection within ten (10) working days after the agreed return date and thus does not fulfil the obligation to return it in the due time, BMW shall be obligated to pay the Contractor pro rata compensation for use per month incurred in the amount of the compensation for the portion of the IT hardware not provided or not provided in time for collection.

17.10 Upon return, the parties shall record in a protocol the completeness of the IT hardware to be returned as well as any damage.

17.11 Common signs of use of rental objects do not entitle the Contractor to demand payments or replacements in excess of the agreed remuneration.

17.12 In the event that the parties cannot agree on the return whether the IT hardware to be returned has a damage that goes beyond the common signs of use, the parties shall instruct an independent third party (e.g. Chamber of Commerce) to assess the condition of the IT hardware. The costs of the preparation of the report are borne by the parties in half.

17.13 Possible claims for damages by the Contractor for damages of the IT hardware that go beyond common signs of use are limited to the market value of the affected parts of the IT hardware at the time of return, unless BMW is liable for the damages intentional or gross negligence.

18. Emergency measures

18.1 If and to the extent that the service consists of an IT Application and Infrastructure Management Service or Cloud Service, the Contractor is obliged to implement precautionary concepts for emergencies that ensure appropriate and effective measures to reduce the extent of possible damages. The emergency concept must include coordinated communication channels with BMW as well as business continuity and restart plans. In particular, alternative solutions and a return to normal operation must be guaranteed within a reasonable period of time ("**business continuity**"). The Contractor also ensures that he can meet the requirements agreed in the Service Levels also during an emergency ("**IT Service Continuity**").

18.2 The Contractor must regularly test the emergency concept with regard to the effectiveness and appropriateness of the emergency measures and report the test results to BMW.

18.3 The Contractor shall coordinate its emergency concepts with the BMW Group's internal emergency plans.