



## Dr. Ing. h.c. F. Porsche Aktiengesellschaft

### General Terms and Conditions of Purchase for Information Technology

Status 09/2021

#### General Part

#### 1. Contractual basis

- 1.1 The legal relationship between Dr. Ing. h.c. F. Porsche Aktiengesellschaft or the company affiliated with it as defined in Section 15 German Stock Corporation Act (AktG) (hereinafter "Porsche") that commissions the services on the basis of these GTC and the Contractor are based on these General Terms and Conditions of Purchase (hereinafter "General Terms and Conditions of Purchase for IT") and any other written agreements, including amendments and additions. There are no collateral agreements.
- 1.2 The following documents shall apply in the following order of precedence:
- 1.2.1 The Contract (order and acceptance) concluded with the Contractor, including the respective reference documents
- 1.2.2 The respective orders/call-offs, including the respective reference documents
- 1.2.3 The relevant section of the Special Part of these General Terms and Conditions of Purchase for IT
- 1.2.4 The General Part of these General Terms and Conditions of Purchase for IT
- 1.2.5 The technical specifications of the Contractor's tender (except for commercial and legal contents).
- 1.3 Contracts (order and acceptance) and call-offs, as well as amendments and additions thereto must be concluded or made in writing.
- 1.4 IT systems are using information very quickly and on a large scale. In the development and operation of IT systems, special care must be taken with regard to information protection. IT systems that are not installed in the vehicle must be developed and documented in accordance with the "Porsche Vorgehensmodell" (PVM) or the Porsche IT Tool and Method Box (PITT).
- 1.5 The Contractor's General Terms and Conditions shall not apply, including as a click wrap/shrink wrap agreement or in any other form, even if they have not been expressly rejected in specific cases. If it has been agreed in writing in an individual case that the Contractor's licensing conditions or terms of use are to apply, the provisions covering the nature and scope of the rights of use shall apply solely. Provisions above and beyond that, in particular on rights relating to defects or questions of liability, shall not apply.

#### 2. Ordering and change request

- 2.1 Contracts and call-offs as well as amendments and additions thereto must be concluded in writing. As well as the written form, the text form and transactions by means of an electronic system provided by Porsche shall suffice.
- 2.2 If the Contractor does not accept the order within five working days of its receipt, Porsche shall be entitled to revoke the order. Call-offs become binding if the Contractor does not object within five working days of receiving the order.
- 2.3 Porsche shall be entitled to request changes to the contractual services to a reasonable extent. Porsche must come to an agreement with the Contractor in this regard. The Contractor shall advise the effects of changes to contractual services on the remuneration and timeframe without delay. If there is any question of a change in remuneration or completion date, it must be recorded by means of an amendment to the Contract. Otherwise, remuneration and timescale shall remain unchanged.

#### 3. Invoicing and payment

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

the agreed delivery date or service date and not before the actual shipment of the items or the provision or acceptance of the service.

- 3.6 Payment shall be made by bank transfer.
- 3.7 If deliveries or services are faulty, Porsche shall be entitled to withhold payment pro rata by value until orderly completion.
- 3.8 Unless prior written approval is granted by Porsche (which shall not be unreasonably withheld), the Contractor shall not be entitled to assign his claims against Porsche or to arrange for such claims to be collected by third parties. If, contrary to sentence 1, the Contractor cedes his claim against Porsche to a third party without Porsche's consent, the cession shall nevertheless be valid. Porsche may, however, make payment to the Contractor or the third party at his own discretion with the effect of discharging his obligations.
- 3.9 All amounts stated in the Contract are inclusive of any tax deductions. If Porsche is obliged pursuant to Section 50a of the German Income Tax Act (EStG) to withhold and pay withholding tax for the account of the Contractor in respect of remuneration, licence fees, payments in kind or other non-cash benefits paid or granted to the Contractor under this Contract, Porsche shall be entitled to deduct the relevant amounts from the payments to be made to the Contractor. This shall apply even if it is doubtful whether the conditions for the tax deduction are fulfilled. The Contractor shall bear all withholding taxes for which it is liable. Tax will be generally deducted from the total remuneration, unless a separate apportionment is agreed in writing and the Contractor issues Porsche an invoice corresponding to this apportionment.
- If the withholding taxes to be withheld by Porsche exceed the payments to be made or made to the Contractor, the Contractor shall be obliged to pay the excess amount to Porsche in advance or to reimburse Porsche as soon as Porsche has requested the payment from it in writing. This shall apply mutatis mutandis to withholding taxes in connection with the granting of benefits in kind and other non-cash benefits, and in the event that the Contracting Parties have divided the remuneration for the purposes of tax deduction and the tax amount is subsequently adjusted. When paying out the remuneration, Porsche will only take account of any benefits under a double taxation agreement if the Contracting Parties have received a certificate of exemption from the Federal Central Tax Office and have presented it to Porsche before payment of the remuneration (Section 50d (2) sentence 1 of the German Income Tax Act).
- #### 4. Provision of services
- 4.1 The Contractor is obliged to provide the contractual services such that they have the characteristics described in the Contract or call-off, including reference documents, and are not subject to defects which nullify or reduce the value or suitability for normal use or the use intended under the contract/call-off. The contractual services shall be provided based on the current state of the art in terms of technology, and with due observation of the degree of diligence usual in the industry, but at least with the diligence of a prudent businessman. The relevant statutory and official regulations must be observed. The status at the time of carrying out the respective services shall be definitive.
- 4.2 The hardware supplied must be CE-certified and comply with the valid VDE regulations and UUV accident prevention regulations. Software must be provided in compliance with the relevant quality standards (e.g. the Generally Accepted Principles of Orderly Data Processing (GoDV), the Generally Accepted Principles of Computer-Assisted Accounting Systems (GoBS), SPICE).
- 4.3 The Contractor shall provide its services at the place defined in the Contract or call-off, including reference documents, or in a separate written agreement. Unless otherwise agreed in writing, delivery shall be made in accordance with DAP (Incoterms 2020) to Porsche's registered office or a place of delivery specified in the Contract or call-off, including reference documents.
- 4.4 In providing its services, the Contractor shall comply with all safety regulations and information security guidelines of Porsche.
- 4.5 Partial performance shall require the prior written agreement of Porsche.
- 4.6 Agreed dates and deadlines for the respective contracts and call-offs – including reference documents in each case – are binding. The time at which the items are provided ready for unloading at the place of delivery, or the time the items are installed and are technically ready for operation, shall determine whether the delivery date or delivery deadline has been met.
- 4.7 If the Contracting Parties have agreed in relation to software that the software's source code is also to be supplied, the source code must be supplied together with the complete development documentation and the development tools, including for updates, upgrades or other new versions of the software supplied as part of maintenance services. In addition, Porsche can demand that the source code be deposited at reasonable terms and conditions if there is good cause for that (e.g. the software is important for essential business processes of Porsche). If supply of the source code is not part of the Contract, the Contractor shall ensure that the Contract is fulfilled by means of suitable measures.
- #### 5. Obligation to inspect and inform
- 5.1 Deliveries and services of the Contractor, whether on data media or transferred electronically, must be comprehensively inspected and tested using up-to-date inspection and analysis processes before being provided to Porsche or used and so as to ensure that they comply with the required properties and quality and are free of malware (e.g. trojans, viruses, spyware). If malware is detected, Porsche shall be notified immediately and a solution that is free of malware shall be created in agreement with Porsche.
- 5.2 If the Contractor has concerns regarding the intended manner of execution or the materials, studies, preparatory work or documents provided by Porsche, these must be advised in writing to Porsche without undue delay. The same shall apply if the Contractor is aware or ought to be aware that other information or requirements of Porsche are in error, incomplete, not clear or not suitable for execution.
- 5.3 If, while the services are being provided, changes or improvements are seen to be expedient or

- necessary, the Contractor must inform Porsche of this in writing without undue delay and obtain a decision regarding a possible change to the services.
- 5.4 If the Contractor believes that he cannot meet an agreed date or deadline, he shall notify Porsche immediately, stating the main reasons for the delay. The agreed dates and deadlines shall remain unchanged unless a change to them is agreed in writing.
- 5.5 With justified cause (e.g. in the case of non-compliance with agreements, milestones etc. by the Contractor), Porsche shall be entitled to check the provision of services by the Contractor during normal business hours and inspect the materials, documents and results and other objects which are directly or indirectly associated with the services.
- 6. Use of free and open source software**
- 6.1 Definition of free and open source software  
 "Free and open source software" or "FOSS": Software which
- 6.1.1 is licensed and released on terms that meet the requirements of the "Open Source Definition" (<https://opensource.org/osd>) of the "Open Source Initiative" and is therefore licensed and distributed free of charge by its copyright holders also in source code form to be used in any way by anyone, and/or
- 6.1.2 is licensed on terms which have been recognized on the websites of the "Open Source Initiative" and/or the "Free Software Foundation" as free software licenses or open source software licenses, and/or
- 6.1.3 is offered as public domain software.
- 6.2 Preconditions for the use of FOSS  
 FOSS may only be used in products, technologies and services (including hardware with integrated software) which are distributed, licensed, transferred or otherwise made available to Porsche or which have been developed for Porsche (hereinafter "Contractual Products") if all the license requirements for the FOSS in use are met and all the following terms are complied with:
- 6.2.1 The Contractor must not make use of FOSS in the Contractual Products in any way that would cause a copyleft effect on pre-existing proprietary software or software newly developed as part of the Contract. This does not apply to modifications made in existing FOSS components (e.g. bug fixes and modifications to specific hardware) and individual cases that Porsche agreed upon.
- 6.2.2 The Contractor must not use any FOSS with license terms which require that the user must be able to install or execute modified software on hardware with integrated software (so-called embedded system, in particular motor vehicles), unless the Contractor has the confirmed information by Porsche that the software provided by the Contractor will not be used on such an embedded system with technical security mechanisms (e.g. signature procedure).
- 6.2.3 The Contractor undertakes to complete the FOSS declaration (located under [https://www.vwgroupsupply.com/one-kbp-pub/de/kbp\\_public/information/procurement\\_conditions\\_new/porsche\\_ag.html](https://www.vwgroupsupply.com/one-kbp-pub/de/kbp_public/information/procurement_conditions_new/porsche_ag.html)) truthfully and confirms by signing it that any FOSS is used in compliance with the licenses and complies in full with the stipulations of the FOSS declaration.
- The requirements set out in this section 6.2 also apply, without further notice or request by Porsche, to every update of the software used in the Contractual Products, regardless of the form in which the software (such as source code, binary, software as a service, container) is provided.
- 6.3 Confirmation  
 Irrespective of any other rights of Porsche, the Contractor guarantees to Porsche that it will comply with the stipulations in section 6.2 and all requirements arising from the relevant licenses for all FOSS used by the Contractor for Contractual Products, that the Contractual Products do not contain any further FOSS and that there is no other copyright infringement.
- 6.4 Legal consequences and compensation  
 In the event that the Contractor fails to comply, or fails to comply in good time, with (i) the license terms for the FOSS included in or any other copyright provisions concerning the Contractual Products, and (ii) the preconditions and confirmations given in sections 6.2 and 6.3, the Contractor undertakes the following:
- 6.4.1 If FOSS is used in Contractual Products in a way which does not comply with licenses the Contractor shall exchange such software promptly at its own cost for other software components which can be used without infringing license terms or applicable copyright law.
- 6.4.2 The Contractor must reimburse Porsche for all costs, expenses and damages incurred and resulting from non-compliance or delayed compliance.
- A lack of one of the confirmed issues in section 6.3 will be deemed a material breach of contractual obligations and the Contractual Product will be deemed defective as a result.
- 7. Deployment of Staff, minimum wage and deployment abroad**
- 7.1 The Contractor shall only employ staff who are qualified both technically and on a personal level for carrying out the services and tasks specified in the purchase order. This also applies should members of the Contractor's staff be replaced. The Contractor shall be responsible for the consequences of changes to its staff in this respect, in particular all costs for replacing staff and the familiarization of replacement staff.
- 7.2 The Contractor shall identify to Porsche a contact responsible for managing the contractual services and this person is the main point of contact for communications with Porsche (representative). The Contractor and Porsche may also appoint more than one representative if the scope and/or complexity of the assignment requires it. The Contractor undertakes to identify representatives to Porsche in writing in advance. Porsche must also be advised beforehand in writing if there is a change of representative.
- 7.3 Before the start of contractual performance the Contractor is required to screen for terrorist activity all persons who are deployed at Porsche's factory premises to perform the contractual service. Therefore, the last name, first name, date and place of birth are to be verified against sanctions lists pursuant to Council Regulations (EEC) No. 2580/2001, No. 881/2002 and No. 753/2011 as well as any amendment to the lists of names which have been or will be issued by the European Commission. The check has to be repeated periodically, but as a minimum once per year. Porsche has the right to request proof from the Contractor that the appropriate verifications have been performed. If the Contractor is AEO-certified (AEO C/S or at least AEO S), i.e. authorized economic operator, the obligations under section 7.3 are deemed to be fulfilled.
- 7.4 The contractual services shall be provided under the responsible management of the Contractor. The Contractor shall retain sole technical, personal and disciplinary authority for the staff employed by the Contractor within the framework of the subject matter of the Contract.
- 7.5 If foreign staff are employed, the Contractor shall undertake to ensure that they have a valid residence permit which entitles them to engage in gainful employment. A valid work permit in accordance with the currently applicable regulations must be presented to Porsche on request.
- 7.6 The Contractor shall undertake to pay its employees at least the statutorily prescribed or contractually agreed minimum wage. Further, the Contractor shall undertake only to employ such subcontractors that likewise contractually undertake to pay at least the legally prescribed or contractually agreed minimum wage to their employees. The Contractor shall place the subcontractors instructed by it under this obligation.
- 7.7 In the event of an infringement of the provisions of the Minimum Wage Act (MiLoG), the Contractor shall undertake to comprehensively indemnify and hold harmless Porsche from and against any and all obligations associated with such an infringement and also to compensate Porsche for any damages resulting from a culpable infringement. The same obligation shall apply to the Contractor if a subcontractor instructed by him should infringe the provisions of the Minimum Wage Act (MiLoG). If a claim should be made against Porsche by an employee of the Contractor for payment of the statutory minimum wage, the Contractor shall undertake to provide to Porsche all information necessary for the defence against the claim and any action for payment. This shall also apply following termination of the contractual relationship between Porsche and the Contractor. The Contractor shall guarantee to place subcontractors instructed by it under this obligation and to pass the necessary information to Porsche without delay if an employee of the subcontractor lodges claims against Porsche.
- 7.8 Should the Contractor deploy employees abroad on a cross border basis to perform the services and tasks listed in the purchase order, the Contractor undertakes to comply with all obligations for which he is responsible in respect of legislation pertaining to labour, foreign workers, tax and social insurance as well as other obligations relating to national and foreign law. Porsche shall inform the Contractor of the relevant place of performance in good time.
- 7.9 The Contractor shall undertake to comprehensively indemnify and hold harmless Porsche from and against any and all third-party claims resulting from the Contractor's breaches of his obligations pursuant to 7.8. and also to compensate Porsche for any losses resulting from a culpable infringement.
- 8. Delay in delivery and contractual penalties**
- 8.1 The Contractor shall be obliged to compensate Porsche for damages due to delay. The Contractor shall be deemed to be late if he should exceed the delivery date agreed in the contracts and call-offs – or in the respective reference documents thereto – unless he is not responsible for exceeding the agreed date.
- 8.2 If the Contractor is late in delivering devices or programs and materials or installing them and making them technically ready for operation, Porsche shall have the right to revoke the Contract for the devices or programs and materials which the Contractor is late in delivering or installing and making technically ready for operation. Porsche shall also have the right, but not be obliged, to revoke the Contract as a whole. Porsche's right to claim for damages remains unaffected.
- 8.3 The statutory provisions relating to delay shall also apply.
- 8.4 If a penalty for delays which are the responsibility of the Contractor has been agreed in the contracts and call-offs, Porsche reserves the right to lodge a claim for damages above this amount. The right to demand payment of an agreed penalty shall not be forfeited by the fact that the penalty was not expressly reserved when accepting the delayed delivery. However, the reservation must be declared by Porsche at the latest on payment for the delayed service. A penalty for default is to be allowed for in claims for damages which are based on the delay.
- 9. Force majeure**  
 Force majeure, lawful labour disputes, civil disturbances, action by official bodies and other unforeseeable, unavoidable and serious external events shall release the Contracting Parties for the duration of the problem and, to the extent affected by such occurrences, from their duties to perform. The Contracting Parties shall within the framework of what is reasonable, be required to provide the required information without undue delay and adjust their obligations to suit the changed conditions in good faith.
- 10. Acceptance**
- 10.1 Insofar as contractual services are subject to acceptance, the Contractor shall notify Porsche in writing of completion of its contractual services, hand over the contractual services to Porsche or make them available for acceptance. An acceptance date must then be agreed.
- 10.2 It is possible to agree on the acceptance of individual, self-contained parts of the contractual services (partial acceptance) within a contract. Such acceptance is then deemed to be acceptance in legal terms with regard to the partial performance. The Contracting Parties may agree that after completion of all agreed partial acceptances, it is established that contractual performance has been accepted in its entirety.
- 10.3 Unless partial acceptance has been agreed in accordance with section 10.2, a joint assessment of the condition of parts of contractual performance by Porsche and the Contractor during the progress of the project (performance assessment) shall not constitute acceptance in legal terms. As a rule, performance assessments are subject to acceptance in legal terms. The result of the performance assessment must always be documented in writing in a protocol to be signed by both Contracting Parties.
- 10.4 Acceptance shall take place within four weeks of Porsche's receipt of notification of completion of partial or total performance and handover/provision of the contractual services, unless a different date has been agreed. If verification of the contractual services by the Contractor requires commissioning or putting into use for test purposes, acceptance shall only take place after the tests have been successfully completed. The result of acceptance must always be documented in writing in a protocol to be signed by both Contracting Parties.
- 10.5 Payments by Porsche do not mean that the contractual services have been accepted by way of partial or total final acceptance or that acceptance has been waived.
- 11. Material defects**
- 11.1 Porsche must notify the Contractor in writing within 14 days of receipt of delivery of any defects in the delivery of items where these involve clearly recognisable defects and transport damage or identity and quantity deviations. In the case of all other defects of items, notification of the defects shall be deemed to be timely if this takes place within 14 days of discovering the defect.
- 11.2 Claims arising from defect liability shall lapse on expiry of 36 months from the transfer of risk or acceptance unless a longer limitation period is provided by law.
- 11.3 In the case of defects, Porsche shall have the option of requesting that the defect be rectified or the items be replaced or remanufactured. If rectification of the defect is unacceptable to the Contractor, he must supply a defect-free replacement or manufacture a new item. The costs of rectification, including any installation and dismantling costs, shall be borne by the Contractor.

- 11.4 The Contractor shall rectify defects in software by supplying a version that is free of defects. If Porsche cannot be reasonably expected to wait until a version free of defects is supplied, the Contractor shall swiftly provide an adequate replacement or workaround solution in order to minimise the effects of the defect until the replacement
- 11.5 If the Contractor refuses to carry out the rectification, if the rectification is unsuccessful, if Porsche does not find it reasonable or if the Contractor does not meet Porsche's requirement to carry out the rectification within a reasonable time in the individual case, Porsche shall be entitled to make further claims based on defects according to statutory regulations and, in the case of work and labour services, including the right to remedy the defects himself.
- 11.6 Notification of a defect to the Contractor shall suspend the limitation period. If the Contractor is notified of a defect within the limitation period, the Contractor shall forego any defence under the statute of limitations.
- 11.7 The statutory provisions shall also apply.
- 12. Contractor's liability**  
The Contractor's liability for damages and product liability shall be based on the statutory provisions.
- 13. Third-party rights and defects of title**
- 13.1 Applying the standard of care customary in the sector, the Contractor must conduct appropriate research to ensure that the services he is to provide and their results do not infringe third-party rights. If, contrary to this obligation, the contractual service infringes the proprietary rights of third parties, the Contractor shall indemnify Porsche from all claims by third parties based on conflicting rights to the contractual service except when the Contractor is not responsible for the defect of title.
- 13.2 If the rights of third parties would be infringed or if uninterrupted usage of the results would be impaired due to the intended form of the contractual service, the Contractor shall inform Porsche without delay. The Contracting Parties shall then cooperate to modify the contractual service. If the proprietary rights of third parties cannot be circumvented, Porsche shall decide whether the proprietary right affected shall be used by way of a licence. The Contracting Parties shall agree the distribution of the costs incurred thereby in the individual case.
- 13.3 If a third party asserts an encroachment upon a right when the contractual service is used in accordance with the Contract, the Contractor shall undertake to clarify the situation with the third party so that the third party asserts no further rights against the use of the contractual service and Porsche is able to use it without interruption, unless the assertion of the rights by a third party is clearly unjustified.
- 13.4 In addition, Porsche shall be entitled to the statutory claims on account of defective title, wherein the limitation period shall be 36 months from the transfer of risk unless a longer limitation period is provided by law.
- 14. Free-issue items**  
All concrete or non-concrete resources provided by Porsche, such as documents, information, data media, access to systems, hardware or other objects, shall be used solely to perform the contractual services. Porsche shall retain sole ownership of them. Access authorisations, in particular to IT and other systems, provided to the Contractor by Porsche and the authorisation to use infrastructure, computers or licences shall end when the Contract ends. At the same time, the Contractor shall return all ID cards and other objects he has received from Porsche in connection with the Contract. Electronic documents, information or means of access shall be destroyed, deleted or overwritten in such a way that they can no longer be restored.
- 15. Term and termination**
- 15.1 If the Contractor is providing a work and labour service, Porsche may terminate the entire Contract or parts thereof at any time or, in the case of continuous service, only by giving reasonable notice. If the Contractor is not responsible for the termination, his entitlement to remuneration shall be based on the statutory provisions with the proviso that the assumption according to Section 649 sentence 3 of the German Civil Code (*BGB*) is limited to 2.5 percent unless the Contractor provides evidence of a higher amount. If termination occurs for good reason without notice, the Contract shall only be entitled to remuneration for the services which have been completed and demonstrated up to the time of termination if the use of these services is acceptable to Porsche and the services are usable. Otherwise, there shall be no entitlement to remuneration.
- 15.2 If the Contractor is providing a service, Porsche may terminate the Contract or parts thereof at any time. If the termination is based on an action by the Contractor which contravenes the Contract and which is the responsibility of the Contractor, or if he himself terminates the Contract without being prompted to do so by an action on the part of Porsche which contravenes the Contract, only those services which have been provided up to then in accordance with the Contract and which have been completed and demonstrated shall be remunerated as long as these can be used by Porsche. Porsche's right to claim for damages remains unaffected. If the reasons for the termination are not the responsibility of the Contractor, Porsche shall reimburse the expenses which can be shown to have been incurred and which result directly from the Contract, including the costs arising from commitments which cannot accordingly be resolved. The Contractor shall not be entitled to further claims for performance or for damages in the event of termination.
- 15.3 The rights to the results achieved up to the point of termination shall transfer to Porsche as contractually provided.
- 15.4 On completion of the service agreed in the purchase order, the Contractor must hand over without prompting all results of the services as well as the documents including parts, samples and digital data media loaned to him by Porsche. A right of retention to these documents shall only apply on account of undisputed or legally binding claims arising from the same legal relationship.
- 15.5 Any notice of termination must be given in writing.
- 16. Confidentiality**
- 16.1 The Contracting Parties shall treat all Confidential Information within the meaning of section 16 from the other Contracting Party as confidential, protect it from access to and notice by third parties, in particular by means of appropriate technical and organizational measures, and shall not communicate or make accessible such information or any part thereof, either directly or indirectly, to third parties, and to use it exclusively in accordance with and for the purpose of the performance of the Contract and to make it accessible only to those employees who need the Confidential Information for the purpose of the performance of the Contract and who are themselves subject to a confidentiality obligation. Companies affiliated with Porsche as defined

in Section 15 German Stock Corporation Act (*AktG*) shall not be considered to be third parties in relation to Porsche.

"Confidential Information" shall mean any written, verbal, electronic, visual or any other tangible or non-tangible notices, documents, disclosures, materials or other information from the disclosing Contracting Party, including but not limited to data, know-how, source codes, technical and non-technical information, materials, prototypes, samples, specifications, prices and other business-related information, and any reproductions thereof, which are disclosed or otherwise made accessible to the other Contracting Party in connection with this Contract, regardless of whether these are explicitly identified as being "confidential" or "proprietary" or which must be regarded as such by reason of the disclosing Contracting Party's intention for them to be kept confidential owing to the nature of the information or for some other reason. Information shall not be deemed Confidential Information to the extent the receiving Contracting Party can prove that such information:

- was known to the receiving Contracting Party, was generally known, or freely accessible to the public at the time it was disclosed or made accessible to the receiving Contracting Party;
- became generally known or freely accessible to the public after the time of disclosure or made accessible without any direct or indirect breach of a confidentiality obligation toward the disclosing Contracting Party;
- was disclosed or made accessible to the receiving Contracting Party by an authorized third party outside the scope of a confidentiality obligation toward the disclosing Contracting Party after the time of disclosure or making accessible;
- was created or developed by the receiving Contracting Party without using or referring to the Confidential Information of the disclosing Contracting Party;
- was expressly marked or described in text form by the disclosing Contracting Party as not confidential; or
- the receiving Contracting Party was obliged to disclose the information by virtue of judicial order or regulatory action.

The obligations under this section 16.1 shall apply for the duration of the Contract or its performance and for a period of five years thereafter.

Sub-suppliers and subcontractors involved in the project are not third parties within the meaning of this provision, provided that they are subject to a confidentiality obligation that corresponds with the provisions of this section 16.1, whereby disclosure of Confidential Information shall be limited to such Confidential Information that they need in order to perform their services for the receiving Contracting Party.

- 16.2 The Contractor may only refer to the business relationship in advertising with the prior written consent of Porsche.

**17. Information and cyber security**

- 17.1 The Contractor has taken appropriate technical and organizational measures to prevent disruptions to the availability, integrity, authenticity and confidentiality of its information technology systems, components and processes as well as all Porsche information and data and has implemented appropriate, industry standard standards, processes and methods to prevent, identify, assess and remedy all vulnerabilities, malicious code and other disruptions in the contractual services. In doing so, the Contractor shall comply with applicable standards such as IEC/ISO 27001, IEC 62443 or ISO 21434 and the state of the art. At Porsche's request, the Contractor shall be obliged to have a TISAX test ([www.tisax.de](http://www.tisax.de)) carried out within a reasonable period of time with the TISAX test objective specified by Porsche and to make the result available to Porsche.
- 17.2 The Contractor shall test and evaluate the security of the contractual services before and – in the case of continuing obligations – regularly during the provision of the contractual services. The Contractor shall document the results in accordance with standard industry practice and make them available to Porsche on request. Porsche shall be entitled, but not obliged, to comprehensively test, examine and process the contractual services at any time for vulnerabilities, malicious code and other malfunctions, and in particular to remove, disable or bypass program protection measures. The Contractor shall grant Porsche the rights required for this purpose. Porsche shall be entitled to commission third parties bound to confidentiality to carry out these tests. The Contractor shall provide Porsche with reasonable assistance on request. This right of Porsche shall not restrict the Contractor's obligations under this section 17.
- 17.3 The Contractor shall inform Porsche of its office responsible for ensuring information security and shall provide the relevant contact information. The Contractor shall notify Porsche immediately in text form of any potential or actual disruptions to information security and – in close consultation with Porsche and at its own expense – shall immediately initiate effective countermeasures which do not restrict the provision of the contractual services.
- 17.4 The Contractor shall confirm compliance with the provisions of this section 17 to Porsche upon request by providing written evidence, including recognized test reports (such as SSAE-16 SOC2 Type II). The Contractor shall also grant Porsche the right, subject to prior notification, to inspect and review all data relating to business transactions between Porsche and the Contractor at the Contractor's premises and to review information security measures; Porsche or third parties commissioned by Porsche and obliged to maintain confidentiality may enter the Contractor's premises during normal business hours for this purpose. The Contractor shall bear the costs of the inspection if violations of the agreements of the respective Contract and/or these General Terms and Conditions of Purchase for IT are discovered, unless the Contractor acted without negligence.
- 17.5 The Contractor shall impose obligations on its subcontractors and suppliers which correspond to the obligations in this section 17.
- 18. Data Protection and attribution of data**
- 18.1 In case the Contractor has access to personal data while performing the Contract, the Contractor shall observe all applicable laws and regulations on data protection and privacy. In particular, the Contractor shall only process personal data as required by the contractual obligations (specification of purpose), shall make sure that the Contractor's employees only have access to personal data to the extent strictly required, and shall commit the Contractor's employees to data secrecy in writing as well as instruct the Contractor's employees on applicable laws and regulations on data protection and privacy and submit proof to Porsche upon request. In case of commissioned data processing by the Contractor on Porsche's behalf, the Contractor shall – before the Contractor receives access to the personal data from Porsche – execute the required data protection agreement that Porsche provides in the respective context (particularly an agreement on commissioned data processing). The Contractor warrants that the processing of

	personal data that are allocated to Porsche or Porsche's customers is only conducted in the territory of the Federal Republic of Germany, a Member State of the European Union or a Member State of the Agreement on the European Economic Area. Derogations from this provision shall be agreed upon by Porsche and the Contractor in writing.		of the situation, Porsche shall be entitled to end the entire business relationship by extraordinary termination immediately.
18.2	The contractual services must be provided in compliance with the requirements for data protection by design and by default (Article 25 General Data Protection Regulation ( <i>DSGVO</i> )), to the extent that these requirements are applicable to the contractual services. In this case, the Contractor will provide Porsche with documentation of implementation of these requirements upon request and ensure that the principles relating to processing of personal data (Article 5 General Data Protection Regulation ( <i>DSGVO</i> )) can be fulfilled during the intended use of the contractual services.	20.3	The Contractor shall indemnify, defend, and hold Porsche, its directors, officers, agents and employees harmless from any and all claims, causes of action, losses, damages, liabilities, costs and expenses, including attorneys' fees, to the extent arising from any breach of the obligations under this section; provided, however, that the Contractor shall not be obligated to indemnify, defend, or hold harmless Porsche to the extent arising from negligent or intentionally wrongful acts of Porsche or anyone for whom Porsche is responsible.
18.3	The Contractor acknowledges that all data created at Porsche, the Contractor, the end customer or another third party from or in connection with use of the subject matter of the agreement shall be attributed to Porsche, if the end customer or another third party is not entitled to it under prevailing law. The Contractor shall not claim ownership of or any other rights to this data and shall not use the data in particular for big data purposes, such as for collecting data, creating databases or conducting data analyses. The right of the Contractor to use the data for fulfilling this agreement, where it is required for that purpose, shall remain unaffected.	20.4	If Porsche or a public authority requires access to the production process and/or the service provision process and the Contractor's documents and processes related to an order in order to verify compliance with specific requirements, the Contractor shall allow such an evaluation and/or audit in his division and provide all reasonable support.
19.	<b>Licence audit</b> If the Contractor gives Porsche written notification that there are reasonable grounds for suspecting that rights granted by the Contractor to Porsche to use software provided to him for a limited period of time are being exceeded, Porsche shall conduct a licence audit (review of compliance with the rights of use) for the software in question and shall inform the Contractor about the result of the licence audit in writing.	20.5	The "Requirements of the Volkswagen Group Regarding Sustainability in its Relationships with Business Partners (VW Code of Conduct for Business Partners)" available at <a href="http://www.vwgroupsupply.com">www.vwgroupsupply.com</a> also apply if contracted through VW Group Supply platforms "Star" and "Globe". In all other cases, the terms and conditions of the Porsche Code of Conduct for Business Partners available at <a href="http://www.porsche.com/compliance/overview">www.porsche.com/compliance/overview</a> apply in addition.
20.	<b>Compliance and sustainability</b>	21.	<b>General provisions</b>
20.1	The Contractor shall take all necessary and appropriate measures to combat corruption and avoid any other violation of the law, in particular violations of the provisions against antitrust law, competition law, environmental protection law, customs and foreign trade law and of employees' rights. The Contractor shall take the appropriate organizational (including, but not limited to, appropriate legal or contractual) measures to prevent his legal representatives, employees, sub-contractors, consultants or other third parties acting on his behalf from becoming liable to prosecution for committing or failing to act in light of, for example, bribery, corruptibility, granting of undue benefits, acceptance of undue benefits, money laundering, fraud or embezzlement.	21.1	If one of the Contracting Parties ceases payments or if an application is made for commencement of insolvency proceedings on its assets or for out-of-court settlement proceedings, the other Contracting Party will be entitled to revoke the portion of the Contract not yet executed. This shall also apply accordingly if the economic position of a Contracting Party deteriorates in such a way as to seriously affect fulfilment of the Contract.
20.2	In the event of an infringement of these obligations relating to the performance of this Contract, or if sufficient reason exists to suspect such an infringement in relation to this Contract, the Contractor must inform Porsche without undue delay and inform Porsche which measures he is taking to remedy such infringement and prevent future violations. If the Contractor fails to inform Porsche without undue delay or to take appropriate remedial measures within 60 days of learning	21.2	The place of performance for the contractual services of the Contractor is the registered office of Porsche. Alternative provisions may be agreed for the delivery itself.
		21.3	If one of the provisions of these General Terms and Conditions of Purchase for IT and of additional agreements is or becomes ineffective, this shall not affect the validity of the remaining provisions. The Contracting Parties are obliged to negotiate in good faith a rule which replaces the ineffective provision. The same shall apply in the event of a lacuna.
		21.4	The law of the Federal Republic of Germany shall apply exclusively. The application of the terms of UN Trade Law (United Nations Convention on Contracts for the International Sale of Goods) of April 11, 1980 shall be excluded.
		21.5	The exclusive place of jurisdiction is the registered office of Porsche; whereby Porsche reserves the right to assert claims at the court at the court of the Contractor's registered office.
		21.6	These General Terms and Conditions of Purchase for IT are produced in German and English. In the event of contradictions and discrepancies between the German and the English version the German version shall prevail.
<b>Special Part</b>			
<b>First Section: Purchase and leasing of hardware and standard software</b>			
22.	<b>Scope</b> The provisions in this section apply to hardware or standard software that is provided to Porsche for a limited period of time or permanently.		programs.
23.	<b>Scope of services and subject matter of the Contract</b>	24.2	If the Contracting Parties have agreed that hardware or standard software is to be leased, the Contractor shall grant Porsche upon provision of the subject matter of the Contract a non-exclusive right to use the subject matter of the Contract for the term of the Contract and, unless explicitly agreed otherwise, without restriction as to location and content. Porsche may make copies for archiving and backup purposes.
23.1	Hardware is always supplied with system and operating software pre-installed (hereinafter "hardware"). The associated system and operating software is additionally provided to Porsche on a commercially available data medium. The hardware must be set up, installed, integrated and configured by the Contractor, it must be handed over to Porsche in a state that is ready for operation, and ownership of it must be transferred to Porsche. If the Contracting Parties have agreed that the hardware is to be provided for a limited period of time, the Contractor shall perform the maintenance and repair services required to keep the hardware in its contractual condition during the lease period. The provisions in the Second Section "Maintenance of hardware and software" shall apply accordingly.	24.3	If, as part of rectification of defects or the maintenance services to be performed under the lease, the Contractor provides Porsche with corrections, patches, updates, upgrades or new versions of the software contained in the subject matter of the Contract or updated documentation (hereinafter jointly "updates"), all provisions agreed by the Contracting Parties for the previously provided software shall likewise apply to them, including the granted rights of use.
23.2	Standard software shall be provided to Porsche for use to the contractually defined extent. If agreed, standard software must be installed, configured and handed over by the Contractor to Porsche in a state that is ready for operation. If the Contracting Parties have agreed that the standard software is to be provided for a limited period of time, the Contractor shall perform the maintenance and repair services required to keep the standard software in its contractual condition during the lease period. The provisions in the Second Section "Maintenance of hardware and software" shall apply accordingly. In principle, the Contractor shall provide the software in object code on commercially available data media in such a way that it can be executed. If the software is lost, inadvertently deleted or the like by Porsche, the Contractor shall replace it free of charge.	24.4	All work results, in particular data or documents, in whatever form, that are created as part of or in connection with use of the subject matter of the Contract shall be the property of Porsche. Porsche shall be entitled to all current or future rights to use and exploit them. The Contractor shall not be entitled to use these work results above and beyond the extent required to perform the contractual service.
23.3	Hardware and standard software shall be supplied with generally understandable documentation, in particular on how to install, use, operate or maintain them, in German or at least in English. This shall be a cardinal contractual obligation.	24.5	If special access tools, devices or specific licences are required to use the subject matter of the Contract, the Contractor shall provide them in adequate number.
23.4	The Contractor shall provide Porsche with instruction on how to use the hardware or standard software.	24.6	Porsche shall have the right to adapt the subject matter of the Contract in order, in particular, to carry out changes to, extensions to or other reworking of the software, provided it has given the Contractor two prior attempts to rectify defects. Porsche shall not have any rights of his own to use and exploit these adaptations above and beyond the Contract. Porsche shall also have the right to decompile the software contained in the subject matter of the Contract within the bounds of Section 69e of the German Copyright Act ( <i>UrhG</i> ). Upon written request, the Contractor shall provide Porsche with all the data and information required to enable interoperability with other hardware and software.
23.5	The purchase price or rent for the hardware and standard software shall cover all the services of the Contractor specified in this section 23, as well as granting of the rights of use defined in section 24.	24.7	Porsche may create and use copies of the software provided to him for backup and archiving purposes. If Porsche has obtained software by downloading it online, he may copy it onto data media. The rights to the software shall then be confined to those for purchase of it on a data medium.
24.	<b>Rights of use</b>	24.8	Licence terms of third-party vendors that apply in connection with the subject matter of the Contract must be supplied in full to Porsche along with the offer for the software before the Contract is concluded, otherwise the provisions of these General Terms and Conditions of Purchase for IT shall apply solely. Section 1.2 shall remain unaffected.
24.1	If the Contracting Parties have agreed that hardware or standard software is to be purchased, the Contractor shall grant Porsche upon provision of the subject matter of the Contract a non-exclusive, irrevocable and permanent right to use the subject matter of the Contract without restriction as to location and content, including for types of use which are unknown at the time the Contract is concluded. The Contracting Parties shall agree on adequate compensation if the rights of use are exercised for types of use which are unknown at the time the Contract is concluded. Use of the subject matter shall comprise in particular reproduction of the provided software for its contractual use, storage including any necessary installation on IT systems, and the loading, execution and processing of data. The right of use shall include in particular the right of third parties to adapt and develop programs that run together with the software on behalf of Porsche, including for the purpose of enabling interoperability with neighbouring systems and	24.9	Unless explicitly agreed otherwise, the companies of the Volkswagen Group as defined by Section 15 of the German Stock Corporation Act ( <i>AktG</i> ) and the holding companies FAW Automotive Company Ltd., Changchun, People's Republic of China, and Shanghai Volkswagen Automotive Company Ltd., Shanghai, People's Republic of China, shall also be entitled to the above rights.
		25.	<b>Manufacturer's warranty</b> If manufacturer's warranties for the subject matter of the Contract exist, the Contractor shall pass these on to Porsche so that Porsche can assert warranty claims directly against the manufacturer or through the Contractor. The Contractor shall provide such warranty statements together with the subject matter of the Contract.

## 26. Testing and trial operation

- 26.1 Before the subject matter of the Contract is handed over, the Contractor shall first test it himself to determine that it meets the contractual requirements and complies with the product description and specifications.
- The Contractor shall then assist Porsche in carrying out testing and trial operation upon request. The risk relating to price and performance shall pass to Porsche only after confirmation that testing and trial operation has been completed successfully.
- 26.2 Testing and trial operation must be recorded in writing upon completion, together with any

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

## Second Section: Maintenance of hardware and software

### 27. Scope

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

### 28. Scope of services and subject matter of the Contract

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

28.4 The Contractor shall comply with agreed service levels in rectifying problems.

28.5 All the Contractor's services defined in this section 28, as well as granting of the rights of use defined in section 29, are covered by the maintenance fee.

### 29. Rights of use

- 29.1 The Contractor shall grant Porsche the rights to use the maintenance services in accordance with the Contract governing the provision of hardware or software.
- 29.2 If the Contractor is tasked with the isolated maintenance of hardware or software to which Porsche has the exclusive rights, and Porsche has notified the Contractor thereof, the Contractor shall grant Porsche rights to the updates in accordance with section 34.
- 29.3 In all other cases of isolated maintenance of hardware or software, the Contractor shall grant Porsche rights to the updates in accordance with section 24.
30. Defects and performance problems
- 30.1 In addition to section 11, a service is defective if problems are not rectified, are not rectified to the required extent, or are not rectified in an agreed time or otherwise in a reasonable time. The Contractor can rectify insignificant defects as part of the next regular maintenance service.
- 30.2 Porsche hereby assigns his warranty claims from the contractual relationships governing the contractual services with equipment manufacturers and suppliers to the Contractor, who hereby accepts such assignment. The contracts in question shall be disclosed to the Contractor to the required extent. The Contractor shall then take them into account in providing its services. Irrespective thereof, Porsche himself shall still be authorised to assert the assigned claims himself after notifying the Contractor.
- 30.3 If the Contract is terminated prematurely, on whatever grounds, and Porsche is not able to transfer the maintenance services to a third party or continue them himself without impairment, Porsche can demand that the Contractor continue the Contract after it ends, where this is necessary to maintain the business operations of the division affected. This shall apply for as long as full continuation of Porsche's business operations or by a third party is ensured, but no later than 6 months after the end of the Contract.

## Third Section: Development of customised software

### 31. Scope

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

### 32. Scope of services and subject matter of the Contract

- 32.1 The Contractor shall provide Porsche with customised services in the field of the concept design, development and tailoring of software, including the creation of software and process specifications as part of a rough, detailed or test concept, creation and implementation of software or application designs, and development or parameterisation of software (hereinafter jointly "customised software").
- 32.2 If the Contractor is also to maintain the customised software, the relevant terms and conditions of Second Section "Maintenance of Hardware and software" shall apply.
- 32.3 Porsche shall be supplied with the customised software in full, along with the documentation and all documents required to use it, in a condition such that it is ready or suitable for use. This shall also include the source code, the documentation on the development history, quality assurance processes and results, and the quality management systems and development tools used.
- 32.4 The customised software shall be supplied with generally understandable documentation in German or at least in English. This shall be a cardinal contractual obligation. All documents and information that relate to its development and enable an IT expert to install, operate, maintain and further develop the customised software shall also be provided with it.
- 32.5 The customised software must be installed, integrated and configured by the Contractor, it must be handed over to Porsche in a state that is ready for operation, and ownership of it must be transferred to Porsche.
- 32.6 As part of the testing and trial operation to be carried out in accordance with section 36, the Contractor shall assist Porsche in becoming familiarised with the functions of the customised software and shall provide Porsche with instruction to the necessary extent.
- 32.7 All the Contractor's services defined in this section 32, as well as granting of the rights of use defined in section 34, are covered by the compensation for the work on the customised software.

### 33. Responsibility and obligations of the Contractor

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

### 34. Rights of use

- 34.1 Ownership of all the Contractor's results and intermediate results created as part of the development of customised software, including source code, test and development reports, suggestions, ideas, drafts, designs, proposals, samples, models, drawings, CAD data records,

service descriptions, documentation, programs, software including aids created for it, customising services for existing standard software and other results of the services (hereinafter jointly "work results") shall pass to Porsche at the time of their creation and, if they are physical objects, when the objects are handed over.

34.2 In addition, Porsche shall obtain the exclusive, already discharged, irrevocable, transferable and sub-licensable right, unlimited in time, location and subject matter, to use these work results as soon as they are created, but no later as of when they are handed over. This right of use shall comprise all types of use, in particular storage, loading, execution, processing of data, adaptation (also by third parties), including permanent combination with services of the Contractor, the right to reproduce and disseminate the work results, the right to present and demonstrate them (also in public), the right to remarket them, and the right to make changes, rework, translate, make additions to and develop them further, even without indication of who is the originator.

34.3 If innovations should be produced in conjunction with the provision of the contractual services (these include, in particular, inventions, suggestions for technical improvement, know-how, and also other individual intellectual and creative services), the Contractor is obliged to notify Porsche of this and to provide all documentation necessary for evaluating the innovations. Only Porsche shall be entitled to submit applications for proprietary rights. The Contractor shall claim innovations of this kind in relation to his staff without restriction in a timely manner, and support Porsche in obtaining proprietary rights, in particular issuing the necessary declarations thereof. If Porsche should decline in writing to apply vis-à-vis the Contractor and grants the Contractor permission to submit an application, the Contractor shall then be entitled to apply for appropriate proprietary rights at his own expense. Porsche shall be entitled to non-exclusive, free-of-charge and transferable usage rights which are unlimited in time, location and content, to the proprietary rights subsequently granted to the Contractor. Porsche and the Contractor shall only bear the commission for employee's inventions for their own employees in each case.

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

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

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

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

### 35. Testing and trial operation

- 35.1 Before the subject matter of the Contract is handed over, the Contractor shall first test it himself to determine that it meets the contractual requirements and complies with the product

description and specifications.

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

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

**36. Special acceptance requirements**

- 36.1 Porsche shall be required to conduct acceptance testing only after proper testing and trial operation has been carried out successfully.
- 36.2 Defects in the contractual services discovered in acceptance testing shall be assigned by Porsche to the following classes:
- 36.2.1 Class 1: Defects that mean that Porsche cannot use the subject matter of the Contract

or an important part of it economically.

- 36.2.2 Class 2: Defects that result in significant restrictions to use of important functions of the subject matter of the Contract and these restrictions cannot be circumvented for a period of time that is reasonable for Porsche.

- 36.2.3 Class 3: Other defects.

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

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

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