

## GENERAL TERMS AND CONDITIONS GOVERNING THE CONTRACTING OF SERVICES

### 1. SCOPE OF APPLICATION

- 1.1. The following general terms and conditions (hereinafter, the "General Terms and Conditions") apply to service agreements signed between the Supplier of the Services (hereinafter, the "Supplier") and BMW Ibérica, S.A., or any company belonging to its parent's group having registered offices within Spain (hereinafter, "BMW"). The Supplier and BMW shall hereinafter be referred to jointly as the "Parties".
- 1.2. The engagement of services between BMW and the Supplier shall be governed by the special terms and conditions agreed upon in writing between the Parties in the corresponding purchase order, and by any modifications and/or extensions thereto (hereinafter, the "Special Terms and Conditions"), and, secondarily, by these General Terms and Conditions, which must always be interpreted in accordance with the provisions of the Special Terms and Conditions. In the event of inconsistency between the General Terms and Conditions and the Special Terms and Conditions, the latter shall take precedence over the former.
- 1.3. Purchasing terms and conditions of the Supplier are expressly excluded upon acceptance of these General Terms and Conditions, and shall accordingly have no bearing on the contractual relationship between the Supplier and BMW.
- 1.4. BMW reserves the right to modify the General Terms and Conditions in order to apply them to subsequent service agreements and possible extensions thereto, and undertakes to ensure that the Supplier has a fully up-to-date and current version of such General Terms and Conditions at all times. The Parties agree that any modified General Terms and Conditions that BMW may furnish shall be deemed expressly and voluntarily accepted by the Supplier without qualification if the Supplier does not express its refusal to accept the modified General Terms and Conditions in writing within the term of 30 days from the date on which it receives them from BMW. Following acceptance, the new General Terms and Conditions resulting from the modification in question shall be deemed fully applicable to the contractual relationship between the Supplier and BMW. In the event that the Supplier expresses its opposition or refusal to accept the General Terms and Conditions resulting from the modifications, BMW shall be entitled to withdraw from the contractual relationship between the Parties, which shall terminate with full legal effect, without BMW incurring any obligation or liability vis-à-vis the Supplier in relation to said termination.
- 1.5. In cases of electronic or telematic purchasing, the Parties agree that BMW shall be under no obligation to furnish the information envisaged under Articles 27 and 28 of the Spanish Information Society Services and Electronic Commerce Law 34/2002 (*Ley 34/2002*) of 11 July 2002.

### 2. ORDER

- 2.1. The order shall be completed in writing by BMW and accepted by the Supplier in writing within the term of 10 business days from the date of the order. Otherwise, the order shall be deemed rejected.
- 2.2. This agreement does not preclude the right of BMW to request and obtain identical or similar services to those envisaged herein from other suppliers competing with the Supplier.

### 3. PROCEDURES TO BE FOLLOWED

- 3.1. In rendering the services set forth herein, the Supplier undertakes to follow the procedures described for such purpose in these Special Terms and Conditions.
- 3.2. Modifications to the agreed procedures shall require a corresponding prior amendment to the Special Terms and Conditions.
- 3.3. The Supplier must at all times analyse the procedures in place and propose improvements to BMW in relation to such procedures and the quality of the services rendered under this agreement. In turn, BMW may, at any time, request the Supplier to modify these procedures with a view to improving the performance or quality thereof.
- 3.4. In order for the Supplier to render any service that is not

envisaged as a general service herein, the Supplier must have received the corresponding written request from BMW, which shall be prepared in the manner and sent via the channels described in the Special Terms and Conditions.

### 4. MONITORING RESULTS

- 4.1. Both parties must constantly analyse the results of the services rendered by the Supplier under this agreement in order to gauge the effectiveness thereof in relation to the proposed targets.
- 4.2. Performance indicators  
For the purpose of monitoring results, the Special Terms and Conditions shall contain the performance indicators. BMW reserves the right to modify such indicators and even replace them for others by merely notifying the Supplier of its decision to do so with sufficient advance notice to ensure that the Supplier is able to change its activities to reflect the new indicators. In such cases, when modifying these indicators could affect the prevailing prices in effect, either Party may request from the other the corresponding change to the prices, which, where applicable, shall be effected by mutual agreement. The Supplier may likewise propose that BMW adopts new performance indicators or modifies existing ones when it believes that this would benefit the services it is to render under this agreement.
- 4.3. Reports  
The Supplier must, as often as required and with the contents established in the Special Terms and Conditions, issue reports on the results obtained in relation to the services rendered and provide a soft copy to BMW.

### 5. MODIFICATIONS AND EXTENSIONS TO THE ORDER

- 5.1. BMW may request modifications and/or extensions to the order at any time in writing prior to its acceptance by the Supplier. After such modifications have been made, the term for acceptance stipulated in section 2.1 above shall begin from the date of this new request. In similar fashion, BMW shall be entitled to cancel an order at any time prior to effective receipt by BMW of the written acceptance thereof by the Supplier, without BMW incurring any liability or committing any breach by reason of such cancellation.
- 5.2. The Supplier undertakes to suggest to BMW immediately any modification it deems necessary or appropriate in order to ensure satisfactory execution and completion of the order. Such modifications shall apply to the order insofar as they are previously accepted by BMW in writing. Following such acceptance, the Supplier shall be bound to apply them. Notwithstanding the above, BMW shall be under no obligation to accept the modifications proposed by the Supplier, and may always withdraw from the order if it cannot be executed satisfactorily without applying such modifications.
- 5.3. Barring an agreement to the contrary between the Parties, these General Terms and Conditions and the Special Terms and Conditions for each order shall apply to any possible modifications thereto, and likewise to any additional services that may be rendered as a result of such order.

### 6. DOCUMENTS AND MATERIALS

- 6.1. BMW shall provide the Supplier with all documents and information deemed necessary to carry out the order, but shall be under no obligation whatsoever to furnish any information it considers confidential or commercially sensitive.
- 6.2. The Supplier must immediately return to BMW the documents and information described in section 6.1 above within the term of 48 hours following a simple request to such effect from BMW, and without fail within the maximum term of 48 hours from execution of the order.
- 6.3. Any rights attaching to or arising from any material, document or information envisaged under sections 6.1 and 6.2 above shall remain the exclusive property of BMW. The Supplier may only use such materials, documents and information under the aforementioned authorisation insofar as strictly necessary for the purpose of rendering the corresponding service. It may not

use such items for any other purpose, or allow them to be used in any way by third parties, unless BMW grants its prior written consent. Likewise, the Supplier undertakes to treat such materials, documents and information in strict accordance with the rules on confidentiality set forth in section 16 below.

## **7. PROVISION OF THE SERVICES**

- 7.1. The Supplier is responsible for meeting in due time the delivery dates agreed upon in the order.
- 7.2. The Supplier undertakes to notify BMW immediately of any circumstance that could give rise to, or has given rise to, any delay in delivering the service stipulated in the order, even when the underlying cause is not attributable to the Supplier.
- 7.3. BMW shall be entitled to seek compensation from the Supplier for any damage or loss it may suffer as a result of the delay in rendering the service, without prejudice to any other specific contractual penalties that may have been agreed upon between the Parties to cover such an eventuality.

## **8. DOCUMENTATION**

- 8.1. At the time the service is rendered, the Supplier shall furnish BMW with full documentation containing the specifications and characteristics of the services in accordance with applicable law, including any other document relating to or needed for the service in question.

## **9. PRICE, INVOICING AND METHOD OF PAYMENT**

- 9.1. The Supplier shall issue its invoice once the service has been rendered and accepted without qualification, or on the dates specified for such purpose in the case of services arranged for a specific term. BMW must pay the invoice 60 days from date of invoice and upon delivery of the invoice, which must be issued in accordance with law.
- 9.2. The invoices issued by the Supplier must include the BMW order number and supplier number designated internally by BMW. Invoices shall be addressed and sent to the BMW Group company that placed the order and to the address indicated in said order, or, in the absence of such information, to the following address:  
  
Avda. de Burgos, nº 118  
28050 Madrid (Spain)
- 9.3. Payment shall be made by bank transfer.
- 9.4. If the Parties agree that BMW is to effect payments on account, such payments shall only be made against delivery of a stand-alone bank guarantee in its favour enforceable jointly and severally on first demand. The Supplier shall be fully responsible for requesting and assuming the costs associated with the guarantee, which shall cover the return of the amounts furnished on account by BMW in the event of breach by the Supplier.
- 9.5. Payments on account made by BMW shall not constitute or otherwise imply acceptance by BMW of the services stipulated in the contract.
- 9.6. The prices indicated in the corresponding purchase order include all concepts and amounts that BMW must pay to the Supplier as consideration for the contracted service. Under no circumstances, whether foreseen or unforeseen, may the Supplier increase the agreed price or include new complementary and/or accessory concepts. No subsequent changes may be made to the agreed price, unless such change is introduced by express agreement between the Parties into the Special Terms and Conditions of the Agreement or into another written document, which, where applicable, shall be attached to the contract and signed by both Parties.
- 9.7. As regards items not expressly envisaged in the order or in the Special Terms and Conditions, the Supplier must send BMW a prior estimate containing sufficient details of all expense items that it may charge to BMW when invoicing the services in question.
- 9.8. BMW shall be under no obligation to pay the Supplier any amount for any concepts or items that are not duly detailed in the order, in the Special Terms and Conditions, or, where applicable, any that were not previously approved in the manner stated above.

- 9.9. If deemed necessary on the basis of the service to be rendered, each new estimate shall include the corresponding guidelines on the procedures to be followed, as well as the corresponding milestones to be used as the performance indicators described in sections 2 and 3 above.

## **10. SUBCONTRACTING, TRANSFER AND NETTING**

- 10.1. The Supplier may only subcontract or fully or partially transfer the rights and obligations arising from the service agreements signed with BMW to third parties if it obtains the prior and written consent of BMW, which may refuse to grant its consent if it so wishes for any reason. The consent of BMW shall not discharge the Supplier from its liability vis-à-vis BMW for full compliance with and execution of the corresponding order in accordance with the terms of these General Terms and Conditions.
- 10.2. Any amounts payable or receivable stemming from the contractual relations in effect between any of the companies belonging to the groups of the Supplier and BMW may be netted, provided that the requirements of Article 1196 of the Spanish Civil Code (*Código Civil*) are duly met.
- 10.3. For such purpose, the corresponding credits and debits between the companies of the group of the Supplier and/or the companies of the BMW Group shall be deemed effected and approved.

## **11. COMPENSATION**

- 11.1. The Supplier guarantees that the services to be rendered by virtue of the contractual relationship with BMW shall not violate the rights of third parties, and likewise guarantees the right of BMW to quiet enjoyment thereof.
- 11.2. The Supplier shall discharge BMW from all liability in relation to any claims arising directly or indirectly from breach of the obligations assumed by the Supplier within the framework of the contractual relationship with BMW. Accordingly, the Supplier expressly accepts and undertakes to pay any such amounts relating to penalties, fines, compensation, damages, interest and/or losses (including the fees of lawyers and legal costs) as may be charged to or levied of BMW as a product of such claims, or which directly or indirectly result from such claims. The indemnities and compensation described in this section may be claimed from the Supplier following termination of the contractual relationship between the Parties for any reason, and likewise in the event of subcontracting or transfer ratified by BMW in accordance with the provisions of section 10 above.

## **12. QUALITY. CONTROL AUDITS**

- 12.1. The Supplier warrants to BMW that the services to be rendered shall comply with prevailing law in effect at all times and meet the highest standards of quality, such quality being an essential and material part of the order placed by BMW and, therefore, of the intention and wishes of BMW.
- 12.2. The Supplier undertakes to render the services envisaged herein whilst upholding the utmost standards of quality and within as quick a period and at as competitive a price as possible, hereby undertaking to apply the most efficient methods and technologies at all times.
- 12.3. In all cases, the Supplier must be capable of optimising the entrusted service such that the beneficiary perceives it as a premium quality service.
- 12.4. BMW reserves the right to carry out any control or audits it deems appropriate at any time in order to verify:
  - a) the quality of the services rendered by the Supplier;
  - b) the procedures followed by the Supplier in rendering the services;
  - c) compliance by the Supplier of the obligations and responsibilities assumed vis-à-vis BMW in rendering the contracted services.

The Supplier accepts that BMW is entitled to carry out the aforementioned control audits with a view to verifying the quality of the services rendered and the management procedures followed. For such purposes, the Supplier shall allow BMW access to its premises and to any information

or documents related to the commissioned and rendered services as may be required in order to effect such controls and/or audits.

### **13. WARRANTIES**

- 13.1. The Supplier warrants that the service shall be provided in accordance with the agreed terms and conditions.
- 13.2. In the event of faults or defects in rendering the service, BMW may demand that the Supplier remedies the fault or defect in question, with the Supplier undertaking to comply with this demand. In the event that the defect is not effectively remedied, BMW is likewise authorised to entrust the service to a third party, which shall provide the service on behalf of and at the expense of the Supplier.
- 13.3. Any costs or expenses incurred from curing faults and defects shall be met by the Supplier, which similarly undertakes to reimburse BMW for any costs or expenses that the latter may incur for that same reason.
- 13.4. The Supplier undertakes to compensate BMW and to discharge it from all liability in relation to any third-party claim stemming from breach of the contractual obligations of the Supplier, or from breach by the Supplier of the requirements and specifications prescribed by applicable law governing the services envisaged herein.

### **14. INSURANCE**

- 14.1. The Supplier shall take out and maintain, at its entire expense, an insurance policy for a sufficient amount to cover any civil liability it may incur vis-à-vis BMW, and similarly any personal or material damage or loss that BMW may suffer directly or indirectly from the service to be rendered. Following a request to such effect, the Supplier shall furnish BMW with sufficient evidence proving it has indeed covered such risks and that it has paid and is continuing to pay the premiums and any other costs or expenses required for the ongoing validity and enforceability of such policies.
- 14.2. The concession of the insurance policies and the amounts insured therein shall not limit the liability of the Supplier vis-à-vis BMW.

### **15. CANCELLATION**

- 15.1. In the event that BMW partially or fully cancels an order at any time between the date of acceptance and the rendering of the services, and provided that there has been no breach by the Supplier, the latter shall not be entitled to demand that BMW honours the order, with the liability of BMW being limited to any duly substantiated damage or loss as may be effectively caused to the Supplier as a result of such cancellation. Under no circumstances, barring wilful breach, shall the liability of BMW exceed the price of the cancelled order.

### **16. CONFIDENTIALITY**

- 16.1. "Confidential Information" encompasses all information which, on occasion of (i) the signing of the General Terms and Conditions and/or (ii) the placement of an order, BMW furnishes to the Supplier, including any information the latter may receive or to which it may become privy, or any information it may develop, insofar as such information relates to the business or activities of BMW. This includes, but is not limited to, technical and commercial information, knowledge, figures, know-how, processes, client lists, pricing methods, plans, and inventions and ideas in any format and contained on any media, irrespective in all cases of whether ownership of such information has been filed in the name of BMW with any public registry, and regardless of whether the possible rights arising from such information have been protected in any other way.
- 16.2. The Confidential Information does not extend to any information which, at the time it is created, furnished or developed, already falls within the public realm or subsequently becomes public without this involving any breach by the Supplier.
- 16.3. The Supplier undertakes to ensure that all Confidential Information: (i) is kept in the strictest confidentiality by the Supplier, its employees, and any other third party that may be involved in the corresponding order following the consent of BMW; (ii) is employed for the sole purposes envisaged in the

corresponding order; (iii) is provided to its employees or to any other third parties to the extent strictly necessary for execution of the corresponding order; (iv) is not communicated, disclosed, disseminated or furnished in any way by the Supplier to third parties unless BMW grants its prior written consent thereto; and (v) is returned (or destroyed should BMW so indicate) upon completion of the order or at any other time that BMW may indicate, including prior to execution of the order.

- 16.4. The Supplier undertakes to ensure that its employees and, where applicable, any third parties subcontracted or otherwise involved in execution of the order, honour the provisions of this section 16, with the Supplier remaining directly liable vis-à-vis BMW for any breach by such parties of these obligations.
- 16.5. The preceding obligations shall remain in effect even when the order is cancelled or when the contractual relationship between the Supplier and BMW terminates for any reason.
- 16.6. The Supplier shall require the prior written consent of BMW in order to make any kind of public announcement or communication regarding its commercial dealings with BMW, including advertising or publicity-related actions.

### **17. APPLICABLE LAW AND JURISDICTION**

- 17.1. The contractual relationship between the Parties shall be governed by the Laws of Spain.
- 17.2. The Supplier and BMW agree to submit any disputes arising from the interpretation or application of this contractual relationship to the exclusive jurisdiction of the courts of the City of Madrid, hereby waiving any other jurisdiction to which they may be entitled.

### **18. OWNERSHIP RIGHTS**

- 18.1. Ownership  
Any programme or document that the Supplier may receive from BMW in furtherance of this agreement shall remain the property of BMW. The Supplier undertakes to return such items to BMW along with any copies thereof it may have in its possession. The results of the services to be rendered by the Supplier under this agreement shall remain the property of the BMW Group, which may use such results without restriction in terms of subject-matter and territory and without time constraints. The BMW Group may also make any such partial modifications to such results as deemed appropriate, copy them fully or in part, and distribute and transfer them to any third party so that the latter may use them in any manner freely agreed upon with BMW. The Supplier shall act accordingly to ensure that the ownership rights of BMW as described herein are duly filed with the pertinent public registries when required, and shall take the necessary steps to protect the ownership rights of BMW in accordance with the provisions of this agreement.
- 18.2. Territory  
The ownership rights described herein are not subject to any territorial limitation, with BMW being entitled to exercise such rights freely both within and outside Spain.
- 18.3. Use of trade names  
If, due to the order, the Supplier is required to employ any kind of distinctive marks (including, but not limited to, word marks, pictorial marks and composite marks), the Supplier undertakes to use such marks for the sole purpose envisaged in the order and in accordance with any limitations that BMW may impose, while respecting any external image guidelines or rules that BMW may likewise indicate. Under no circumstances shall any authorisation to use such marks entail, or be construed as, a transfer to the Supplier of any other intellectual or industrial property rights held by BMW or the BMW Group. Likewise, the Supplier acknowledges and accepts that the prior and written consent of BMW must be sought and obtained in order to make any possible use of the distinctive marks belonging to BMW or its Group, and that BMW may require changes to the way in which such use is granted.

### **19. PERSONAL DATA FILING SYSTEMS**

- 19.1 The Supplier undertakes to use the data contained within the personal data filing systems provided by BMW solely for the

purposes envisaged herein, and in compliance with the provisions of Law 15/1999 (*Ley 15/1999*) and other consolidating legislation, and likewise with any future legislation that may be enacted.

- 19.2. For such purposes, the Supplier must keep in its custody and under its control any files it may receive from BMW, including personal data, and shall not disclose or transfer them to any entity or person unrelated to BMW. Likewise, the Supplier must return the aforementioned files to BMW, along with any copies it may have in its possession, in the event that this agreement terminates for any reason, or if the reason for why such files were originally transferred ceases to exist and, in all cases, when BMW requests them to be returned.
- 19.3. The obligations assumed by the Supplier under this section shall extend to its employees and to any third-party body corporate or natural person with which the Supplier may enter into contractual dealings for the purpose of rendering the services envisaged herein.
- 19.4. The Supplier shall remain solely and directly liable vis-à-vis BMW for any breach of this section, and shall release BMW from any liability that could arise from such breach.

## **20. MISCELLANEOUS**

- 20.1. The Supplier undertakes to render the service envisaged

herein while complying with the requirements imposed by Spanish legislation and in accordance with the instructions received from BMW.

- 20.2. In the event that any of the General or Special Terms and Conditions agreed upon between the Parties is held null or void, such a finding shall not affect the continuing validity or enforceability of the remaining terms and conditions.
- 20.3. The Parties must replace, in good faith and within acceptable limits, the condition held null or void for another that has or leads to an identical technical or economic result as the original condition, without this change leading to any substantial or material change to the remaining conditions governing the contractual relationship between the Parties.
- 20.4. Barring any express indication to the contrary in an agreement to such effect or in these General Terms and Conditions, all notifications and communications between the Parties shall be made by facsimile, registered fax, letter or telegram providing acknowledgement of receipt, or by any other written means that provides proof of receipt by the recipient, and sent to the addresses set forth in the corresponding purchase order. Any change or modification to the stated addresses must be notified in writing via any of the aforementioned channels to the other party, which shall be released from all liability until such time as the notification is effected.