

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

Contents

1	Definitions	3
2	Applicability of these IT Purchase Terms and other Terms and Conditions	5
3	Tenders, Contract Formation.....	6
4	Execution of Contractual Performance.....	6
5	Change to Performance	8
6	Interruption of Contract Performance	8
7	Settlement in the event of Termination as a result of Contractual Breach	8
8	Cooperation Services on the part of the Customer	9
9	Performance Deadlines, Consequences of Default	9
10	Circumstances Interfering With Contractual Performance	9
11	Open-Source Software	9
12	Artificial Intelligence.....	10
13	Rights of Use and Exploitation	11
14	Ownership.....	11
15	Place of Performance, Transfer of Risk.....	11
16	Provision of hardware.....	11
17	Cloud Services.....	12
18	Maintenance and Support Services.....	12
19	Copyright-Related Rights	12
20	Acceptance	13
21	Handover	13
22	Duty to Inspect, Notification of Defects.....	13
23	Remuneration	13
24	Travel and Accommodation Expenses	14
25	Invoices.....	14
26	Terms of Payment, Taxes	14
27	Default in Payment	14
28	Claims for Defects, Warranty.....	14
29	Infringement of Intellectual Property Rights	15
30	Other Copyright Holder Involvement	15
31	Rights to Information, Presentation, Inspection.....	15
32	Liability	16
33	Limitation of Claims	16
34	Data Protection	16
35	Nondisclosure	16
36	Subcontractors.....	17
37	Reference, Advertising	17
38	Business Liability Insurance	17
39	Right to Audit the Contractor	17
40	Changes in Ownership	17

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

41 Prohibition on Assignment 17

42 Migration Support..... 17

43 Feedback 18

44 Divergent agreements 18

45 Continued Validity in the event of Partial Invalidity..... 18

46 Escalation procedures 18

47 Place of jurisdiction 18

48 Binding Version..... 19

49 Order of precedence of documents 19

Appendix Invoicing

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

1 Definitions

The following expressions used in these IT Terms of Purchase have the meanings listed below:

1.1 **Contractor** refers to the supplier / contractor.

1.2 **Customer** refers to the company within the Everllence Group which orders the services under the Agreement (depending on whether Everllence SE or its operating sites or subsidiaries).

1.3 **Order Placement** refers to a purchase order made by the Customer, a blanket purchase order, or an order being called off as a result of a blanket purchase order, or to an (individual or separate) contract that the Customer has entered into with the Contractor.

1.4 **Operating Performance** refers to the operation of hardware and / or software (systems), the hosting and management of data and / or of the datacenter headquarters.

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

1.6 **Cloud Services** are contractual services, where the Contractor provides various services (e.g. SaaS, PaaS and/or IaaS) via a network environment (e.g. the Internet). SaaS (Software as a Service) refers to Cloud Services where the Contractor provides the Customer with application programs. PaaS (Platform as a Service) refers to Cloud Services where the Contractor provides the Customer with a platform (e.g. a development environment). IaaS (Infrastructure as a Service) refers to Cloud Services where the Contractor provides the Customer with IT resources, such as computing power, storage capacity or communication resources.

1.7 **Copyleft License** is a licensing and usage stipulation for open-source software that may cause software components that are integrated into or joined with the respective open-source software to be subject to the same terms and conditions of licensing and usage as those applied to the open-source software in question.

1.8 **Data Protection Legislation** means all applicable laws and regulations protecting the privacy of individuals and their personal information in the country where the Everllence company concluding the Contract is located.

1.9 **Services** refers to information and communications services, as well as telecommunications and telecommunications-supported services.

1.10 **Own Use** refers to the use of results by the Group companies and the order-specific use by service providers who operate on behalf of the Customer or on behalf of Group companies.

1.11 **Embedded Software** is software that is integrated in hardware. Embedded Software can be Standard Software or Individual Software.

1.12 **Work Products** refers to all work results that constitute the subject matter or the result of Contractual Performance, including know-how, hardware, and software supplied, and all content, access numbers, domains, subdomains, telephone numbers, and other identification numbers and symbols that the Contractor establishes or registers for the Customer or uses or provides to the Customer for use in the course of its Contractual Performance.

1.13 **Everllence Data** refers to personal and non-Personal Data (i) that constitute Deliverables or parts thereof or that the Contractor or a third party commissioned by the Contractor transfers or makes available to the Customer in connection with Contractual Performance; (ii) that the Customer or a third party commissioned by the Customer transfers or makes available to the Contractor, (iii) that the Contractor or a third party commissioned by the Contractor creates, collects, stores, or otherwise processes on behalf of the Customer; (iv) that the Contractor creates, collects, stores, or otherwise processes in connection with contractual performance to the extent such data is (a) stored on media that is in the Customer's ownership or possession at the time of storage, that subsequently passes into the Customer's ownership or possession, or to which the Customer is entitled to demand ownership or possession, or (b) stored on other media (in particular in the Cloud) that are allocated to the Customer either contractually (e.g. Cloud area contractually assigned to the Customer) or as a factual matter (e.g. Customer has access rights or Customer as product owner); or (v) that are created by vehicles, systems, devices or other technical facilities that the Customer manufactures or places in the stream of commerce or which it uses, especially in connection with production.

1.14 **Feedback** refers to suggestions, comments, or proposals that are conveyed by the Customer during the term of the contract and pertain to a possible development, modification, correction, improvement, or expansion of the contractual services, to the extent these are not Deliverables.

1.15 **Hardware Services** refers to the delivery / licensing of hardware (systems) and the adjustment / adaptation of hardware (systems).

1.16 **Individual Software** is software, which has been programmed or developed specially for the

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

Customer or for companies of the Volkswagen Group. Individual Software also includes software components of Standard Software, which were programmed or developed for the Customer or for companies in the Volkswagen Group, for example as part of Development Services, customizing or Maintenance and Support Services.

- 1.17 **Infrastructure Services** refers to the entire portfolio of equipment, system software, and network components which are necessary for the integrated provision and operation of the Customer's IT systems and applications. Infrastructure includes all preparatory services that are necessary for the provision of Contractual Performance, such as planning, constructing, setting up, or installing systems, e.g. the building services required in each case (power supply, air conditioning, etc.).
- 1.18 **IT Purchase Terms, Terms of Purchase or IT-GTC** refers to these "General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts".
- 1.19 **AI (Artificial Intelligence)** refers to AI systems and/or AI foundation models. An AI system is a system as defined as "AI system" in the AI ACT and/or functions autonomously to a certain extent (e.g. decides, learns or develops itself) and generates AI Output, including generative AI systems and general purpose AI systems. A generative AI system is an AI system that is designed to generate text, images, audio, video and other similar content. A general purpose AI system is an AI system that can be used in and adapted to a variety of applications for which the AI system was not specifically developed. AI foundation model refers to an AI model that has been trained on the basis of broad data at scale, is designed for a generality of AI Output, and can be adapted to a wide range of distinctive tasks (e.g. large language models).
- 1.20 **AI Regulation** means the AI ACT and other legal acts on artificial intelligence, regardless of their jurisdiction.
- 1.21 **AI Output** refers to AI generated results, e.g. text, images, videos, code, as well as predictions, recommendations or decisions.
- 1.22 **AI Contractual Services** are contractual services that (i) contain AI or AI Output and/or (ii) are intended to be used in connection with AI, in particular for the development, validation, testing and/or operation of AI.
- 1.23 **AI ACT** refers to the Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial

Intelligence Act) and amending certain Union acts.

- 1.24 **Deliverables** refers to any object to be delivered to the Customer by the Contractor pursuant to the Order Placement (hardware, data carriers, documents, documentation, concepts, etc.).
- 1.25 **Monitoring Services** refers to the recording of performance and other data relating to systems and / or services, as well as the creation of reports and their transfer to the Customer in the context of operating the systems and / or in the context of the services.
- 1.26 **Personal Data** refers to all information relating to an identified or identifiable natural person in whatever form, format, or medium (including written, electronic, and other records or materials).
- 1.27 **Maintenance Services** are contractual services, where the Contractor is obliged to maintain and update software. Maintenance Services include, in particular, the provision of updates, upgrades and new program versions.
- 1.28 **Blanket Purchase Orders** describe Contractual Performance (where appropriate based on the Customer's request for proposal (RFP)), stipulate the remuneration and other terms of supply as appropriate, and may contain a forecast regarding the volume of Contractual Performance the Customer will require. Even where they include a forecast, Blanket Purchase Orders do not give rise to any obligation on the part of the Customer to issue call-off orders for Contractual Performance unless otherwise expressly agreed in writing. A Blanket Purchase Order places the Contractor under the obligation to render Contractual Performance as specified in the Blanket Purchase Order upon receipt of the Customer's call-off order(s). No contractual obligation – in particular, no obligation to accept and / or pay for Contractual Performance – will arise on the part of the Customer until it issues a call-off order
- 1.29 **Software Services** refers to the creation and editing of software and software systems, the expansion and amendment of software (systems), the adjustment and adaptation of software (system), and the licensing of standard software.
- 1.30 **Standard Software** is software, which was not developed especially for the Customer.
- 1.31 **Support Services** are contractual services for which the Contractor is obliged to provide user support. The Contractor shall accept and respond to user requests, e.g. via call center or help desk and respond and resolve any defects or errors.
- 1.32 **Systems** encompasses IT systems, IT networks, and IT equipment and / or data and

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

telecommunications systems, equipment, networks, lines, and communication paths, including hardware and software.

1.33 **Processing** refers to any and all operations or series of operations, whether accomplished with or without the aid of automated processes, that are performed in connection with personal data, including collecting, recording, organizing, ordering, storing, adapting or modifying, reading, accessing, using, disclosing by transmitting, distributing or making otherwise available, comparing, linking, restricting or filtering, deleting, or destroying such data.

1.34 **Contractual Performance** refers to all services to be provided by the Contractor and agreed under the terms of the Order Placement.

1.35 **Everllence** refers to Everllence SE and all businesses under the direct or indirect control of Everllence, as defined in Sections 15 et seq. Aktiengesetz (German Stock Corporation Act).

2 Applicability of these IT Purchase Terms and other Terms and Conditions

2.1 Unless otherwise agreed in a specific case, all of the Customer's Order Placements are formed subject exclusively to these IT Purchase Terms in the version applicable at the time of concluding the contract. Should the Contractor have conflicting or differing terms and conditions, these will only be binding for the Customer if the Customer has expressly acknowledged them in writing. The IT Purchase Terms apply even where the Customer accepts deliveries without objection or reservation despite being aware of the Contractor's conflicting or differing terms and conditions to which the Customer has not explicitly agreed in writing. Conflicting business terms and conditions shall not affect the contract's realization provided that the Parties have reached agreement on all significant issues. In such cases, the concordant provisions of both sets of business terms and conditions and the relevant statutory provisions shall apply as regards the contract's interpretation.

2.2 Unless otherwise expressly agreed in writing, the most current versions of these contractual conditions for the respective Order Placement which are valid at the time of contract conclusion, including the Service Product Specifications and the Everllence Code of Conduct for Suppliers and Business Partners, shall form part of the contract. If these have not been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract, they can be obtained via:

Contractual conditions:

<https://www.everllence.com/purchasing/purchasing-conditions>

Equipment regulations (*Betriebsmittelvorschriften*): can be obtained on request from the responsible authorized purchaser.

Code of Conduct for Suppliers and Business Partners:

https://www.everllence.com/docs/default-source/compliance/code-of-conduct-for-suppliers-and-business-partners---en.pdf?sfvrsn=b1c907c7_4

2.3 If the Contractor renders Contractual Performance in or on the Customer's premises or grounds, the applicable house rules and accident prevention and safety regulations will form an integral part of the terms of the Order Placement in question. If these have not already been included in the tendering process, the quotation phase or upon conclusion of the contract, the Contractor shall familiarize itself with these provisions as follows:

i) For the Augsburg site, all safety and accident-prevention regulations and all house rules can be found in the document "Instructions for external companies at the AUG plant" available from this link https://www.man-es.com/docs/default-source/man-documentation/supplierdocuments/files/hse-01-vorgaben-fuer-fremdfirmen-auf-werkgelaende-man-es-aug.pdf?sfvrsn=e4feeacd_2

Acceptance of these safety rules shall be confirmed using the "Declaration of consent by external company" which can be found at https://www.man-es.com/docs/default-source/man-documentation/supplierdocuments/files/hse-02-einverstaendniserklaerung-fremdfirmen-man-es-aug.pdf?sfvrsn=da18570_1

ii) For all the remaining sites, the Contractor will not find the above regulations on a website. If the aforementioned regulations have not been provided, the Contractor shall contact the site concerned so that the regulations can be sent by e-mail beforehand.

2.4 If contractual services are intended for series production (production materials), the provisions in Section 3.1 second paragraph, 11 and Section 20 of the General Terms of Purchase for Supplies, Services and Works shall additionally apply to patents and, if these terms have not already been included during the tendering process, quotation phase or upon conclusion of the contract, the Contractor can view, save and print them from <https://www.everllence.com/purchasing/purchasing-conditions>

2.5 Unless otherwise expressly agreed in writing, the confidentiality declaration concluded pursuant to section 35 below is an integral part of the terms of the respective Order Placement.

2.6 Should the Customer, in a specific and justified case, agree to the applicability of the Contractor's or

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

any third party's terms and conditions of licensing and use, which must be explicitly stated in writing in order to be valid, only the provisions that define the nature and scope of the rights of use and exploitation shall apply. Provisions dealing with all other matters, including, in particular, rights arising from product defects, liability for damages, applicable law, and / or place of jurisdiction, shall not apply.

2.7 Click Wrap / Shrink Wrap licensing conditions do not apply to the Customer under any circumstances.

2.8 With respect to enterprises and legal persons under public law, the IT Purchase Terms shall also apply to all future Order Placements for IT and / or telecommunications contracts. Furthermore, these shall apply to contracts and legal relationships with an entrepreneur in which the Customer acts on behalf of a third party by proxy.

3 Tenders, Contract Formation

3.1 Tenders to the Customer must be effected in writing in accordance with sections 126 and 126a of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*) and must be free of charge. These tenders must always be prepared in German. However, a data exchange procedure which deviates from the above may be specified in the invitation to tender.

3.2 Unless otherwise agreed, the pre-printed forms sent by the Customer should be used for the submission of tenders, and these should contain all the information required by the Customer.

3.3 In the event that the tender is submitted on the basis of an inquiry or request for proposal from the Customer, the tendering party shall be obliged to comply with the guidelines issued by the Customer. If there are deviations nonetheless, they must be expressly pointed out in the tender in writing. The tendering party shall be free to submit alternative tenders and specific proposals.

3.4 Only complete tenders encompassing all the requested services should be submitted.

3.5 All prices should be stated in the tendering party's national currency (if this is not euros, they should also be stated in euros, and, if applicable, include currency hedging shown separately). Unless otherwise agreed, all prices shall be fixed prices. In the event that the prices quoted do not specify whether the prices include VAT, these should be interpreted as gross prices.

3.6 Tenders should generally be addressed to the purchasing office specified in the documentation relating to inquiries / requests for proposal.

3.7 In the case of an inquiry or request for proposal by the Customer, the tendering party shall be bound by

its tender for the duration of the period named therein, or else for the duration specified by the tendering party. In the event that neither party expressly states a validity period, this shall be deemed to be 12 weeks from the time the Customer receives the tender.

3.8 In the event that the tendering party fails to comply with the aforementioned regulations, the Customer reserves the right to disregard the tender in question.

3.9 An Order Placement only becomes effective when issued in writing and on the basis of these terms and conditions. The Order Placement and, where applicable, the documents relating to the request for proposal, and, where applicable, the request to submit a tender and / or the Customer's specifications shall be the determining factor for the content and scope of Contractual Performance, unless otherwise expressly agreed in writing. If, by way of exception, a contract is entered into verbally, it must be confirmed in writing by both Parties without delay.

Orders placed by the Purchaser, framework orders and call-offs on the framework order may be made in text form instead of in writing. This also applies to all expressly deviating agreements permitted in these IT-GTC, provided they are made in the order or framework order.

Notwithstanding the previous paragraph and the written form requirement, supplementary agreements to orders subject to these IT-GTC may be made by means of an electronic signature using an electronic signature software solution (including, but not limited to, simple, advanced and qualified electronic signatures in accordance with applicable laws and regulations, including Regulation (EU) No. 910/2014 ('eIDAS Regulation') and the US Electronic Signatures in Global and National Commerce Act ('ESIGN Act') and the Uniform Electronic Transactions Act ('UETA')) may be signed and concluded.

4 Execution of Contractual Performance

4.1 The Contractor shall render Contractual Performance in its entirety in a due and proper manner in accordance with the latest technological standards, including current programming standards, and shall produce the Work Product agreed in the Order Placement. In so doing, the Contractor shall comply with the Customer's currently applicable (quality) standards and working practices as brought to its attention.

4.2 Achievement of the agreed, or standard and generally accepted, quality standards shall be verified and documented by the Contractor using code scanning tools. Detailed code scanning documentation (scan findings reports agreed with the Customer) shall be delivered with the respective Contractual Performance.

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- 4.3 When performing the service, the Contractor shall observe and comply with the content of the document "Information security guidelines for suppliers", which can be found at https://www.man-es.com/docs/default-source/man-documentation_supplierdocuments_files/11---everllence_informationsecurity_information-security-guidelines-for-suppliers_en.pdf?sfvrsn=fe59890b_0
- If this Appendix has not already been included in the tendering process, the quotation phase or upon conclusion of the contract, the Contractor shall request it from the Customer. The Contractor shall be obliged to inform the Customer without delay of any non-compliance or breach of the requirements listed here and to put in place effective countermeasures promptly and with no reduction in the provision of the contractual services.
- 4.4 The most up-to-date level of IT security shall be employed for the contractual services. The Contractor shall conduct security testing at regular intervals before and – in the case of continuous obligations – during provision of the contractual services, and shall document the results. The Contractor shall inform the Customer in writing without delay as soon as any threat to information security becomes apparent and, in close consultation with the Customer and at its own expense, shall introduce effective countermeasures without delay and with no reduction in the provision of the contractual services.
- 4.5 The Contractor shall consult with the Customer before making any public announcement concerning IT security weaknesses which may affect the products and/or services of the Customer.
- 4.6 All the latest technological precautions and measures shall be taken when Everllence data is backed up so that datasets can be archived and restored at any time without risk of loss and in a legally-compliant manner.
- 4.7 If the Contractor requires access to the Customer's systems in order to provide the contractual services, this shall be possible only if the Customer's technology is used and shall require the Customer's express written consent in advance. The Contractor shall bear any costs associated with such use. The Contractor shall be obliged to familiarize itself with the applicable security policies and plans in accordance with Section 4.3 of the "Guidelines for service providers".
- 4.8 Before providing software and / or data carriers to the Customer, the Contractor shall scan these using a state-of-the-art virus detection software and ensure that such software and / or data carriers contain neither malware (software programmed to do damage) nor any computer viruses, worms, Trojan horses (Trojans), or similar. Before providing software to the Customer, the Contractor shall run state-of-the-art software security tests and ensure that the software contains no critical vulnerabilities that could compromise the integrity and confidentiality of the Customer's systems and data or the systems and data of third parties linked to the Customer's systems. The Contractor shall furnish the Customer with proof of its compliance with the foregoing before providing software to the Customer.
- 4.9 The Contractor shall carefully select the employees on whom it relies to perform the contract (both initially and / or where employees are replaced or require training) to ensure that they possess the necessary personal aptitude and technical knowledge to render Contractual Performance to the agreed level of quality.
- 4.10 Both Parties shall name a point of contact for all information to be shared. Discussions to coordinate the content and performance of the contract, as well as for sharing all information required for the performance of the contract, shall take place at regular intervals.
- 4.11 The Contractor agrees that one of its principal contractual obligations shall be to maintain clear technical documentation on Contractual Performance rendered that is easy to understand and, upon request, to inform the Customer of the status of Contractual Performance with a reasonable degree of detail. The Customer may require the delivery of Work Products in their draft or interim state at any time; the exercise of this right shall in no way release the Contractor from its obligations under this section.
- 4.12 Software shall in all cases be delivered to the Customer together with user documentation and, except for standard software, with the source code and programming documentation.
- 4.13 Contractual Performance effected by the Contractor in or on the Customer's premises or grounds shall be carried out by the Contractor independently and on its own responsibility, in compliance with the Customer's technical and organizational specifications, and under the supervision and exclusive direction of the responsible personnel appointed by the Contractor.
- 4.14 The Contractor shall obtain information about the house rules and accident prevention and safety regulations applicable in each case at the respective place of performance (in particular, in or on the Customer's premises or grounds). In this respect, please see Section 2.3.
- In addition, the provisions of Sections 16.1 to 16.7 of the General Terms of Purchase for Supplies, Services and Works shall apply accordingly. These can be viewed at <https://www.everllence.com/purchasing/purchasing-conditions>

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- 4.15 The Customer is only obligated to provide resources (hardware, software, office space, etc.) where this has been expressly agreed in writing. Any use, in particular for system operation purposes, of the Customer's premises, office space, or other facilities by the Contractor requires a separate written contract to be concluded with the Contractor regulating such use, in particular specifying the duration thereof and the consideration to be paid by the Contractor therefor. An obligation on the part of the Customer to provide resources does not result merely from the fact that Contractual Performance is effected in or on the Customer's premises or grounds. Any resources that the Customer provides may be used by the Contractor, its employees, and / or its subcontractors solely to render Contractual Performance. Passwords may not be stored or provided to other persons and must be changed at least every 90 days.
- 4.16 The Customer reserves all rights to technical requirement profiles, illustrations, drawings, calculations, samples, models, and other documents that the Customer makes available to the Contractor, especially ownership rights and copyrights. Third parties may be given access to such materials only with the Customer's express prior written consent. Such materials and information shall be used solely to effect Contractual Performance and must be automatically returned to the Customer upon contract completion, without any request to do so.
- 4.17 Unless there is express written agreement to the contrary, the Contractor shall render all necessary Infrastructure Services without additional costs to the Customer.
- 4.18 On request, the Contractor may offer Maintenance and Support Services subject to conditions that are standard for the market.
- 4.19 The Contractor shall notify the Customer immediately in writing if it believes the information that has been provided by the Customer and that it requires in order to perform the contract to be incomplete or incorrect.
- 4.20 The Contractor undertakes to give the Customer precautionary warnings of any risks, and to protect against disruptive influences, including those of third-party origin.
- 4.21 Every delivery shall be accompanied by a delivery note containing the Customer's order data (in particular, the number and date of the Purchase Order, cost center).
- 4.22 Before permitting its personnel and any subcontractors used to commence work, the Contractor shall brief them in writing on the requirements of this section 4 and place them under

the obligation to comply with same.

5 Change to Performance

- 5.1 If, after the contract has been concluded, the Customer requests a change to the agreed Performance, the Contractor is required to take into account the requested change in the provision of its Performance, unless this is not reasonable with respect to its operational capacity and it immediately informs the Customer of this in writing, at the latest within 5 working days of receipt of the change request.
- 5.2 Within 5 working days of receipt of the change request, the Contractor must communicate in writing whether the change requested by the Customer affects the agreed remuneration and performance deadline; if there is an impact, justification must be provided.
- 5.3 If an extensive review is necessary in order to determine whether a requested change or its impact is feasible, particularly with respect to the agreed remuneration and performance deadline, the Contractor must communicate this in writing by the deadline set in section 5.2, stating the reasons and the expected duration of the review. The performance of a review of this type requires a separate agreement.
- 5.4 Until an agreement is in place regarding the performance of review pursuant to section 5.3, or regarding the change requested by the Customer, Performance must be rendered in accordance with the contractual agreements that applied before the change request, unless the Customer has requested interruption pursuant to section 6.

6 Interruption of Contract Performance

- 6.1 In the event of communication from the Contractor pursuant to section 4.17 or a change request from the Customer pursuant to section 5.1, the Customer may request interruption of the performance of all or individual services at any time. If the Customer does not request interruption, and if the Contractor recognizes that continuing the work on the basis of the existing specifications would result in unusable results, it must inform the Customer of this immediately in writing.
- 6.2 An appropriate agreement must be made between the Parties regarding the impact of the interruption. The agreed performance deadlines change in accordance with the scope of the part of Performance that is delayed by the interruption, at the most by the number of working days not used for contract performance as a result of the interruption.

7 Settlement in the event of Termination as a result of Contractual Breach

- 7.1 In the event of extraordinary termination by the Customer, the Contractor shall only be entitled to

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

invoice for the services it has verifiably provided up to the day of the termination, based on the proportion of the completed part to the overall value of the respective individual order, insofar as the Customer has a use for it. In addition, the Customer may also request partially completed services in return for the reimbursement of the verifiably incurred costs; however, no more than an amount that corresponds to the value of the partially completed services in proportion to the overall value of the respective individual order.

- 7.2 If the Contractor ceases payments or if insolvency proceedings regarding its assets or extrajudicial settlement proceedings are initiated, the Customer shall be entitled to terminate the contract with immediate effect. In this case, section 7.1 above applies accordingly.

8 Cooperation Services on the part of the Customer

The cooperation services required must be coordinated and agreed between the Contractor and the Customer at the start of the contract (hereinafter referred to as "Cooperation Services on the part of the Customer"). The Contractor shall inform the Customer, in writing and promptly, about any necessary rendering of "Cooperation Services on the part of the Customer". If the Customer has not, or has not promptly, rendered one of the "Cooperation Services on the part of the Customer", despite prior written information by the Contractor, the Contractor shall

- i) request in writing that the Customer provide fulfilment, setting a reasonable deadline (at least one week), quoting the "Cooperation Services on the part of the Customer", and
- ii) undertake all reasonable efforts to provide the service, even without the (prompt) provision of the "Cooperation Services on the part of the Customer".

Only after two requests pursuant to section (i) above have been made to no avail can the Contractor demand any applicable additional costs that may have been incurred for the time after the second request was made to the Customer to no avail; these additional costs must be individually verified.

9 Performance Deadlines, Consequences of Default

- 9.1 Any agreed dates and deadlines shall be binding. If the Contractor realizes that the agreed dates cannot be met, it shall inform the customer in writing without delay, specifying any appropriate remedy. The obligation to meet the agreed deadline shall remain unaffected. The Customer's consent shall be required for any early delivery or service and any partial delivery or service.
- 9.2 The Customer shall have the right to rescind the contract, in whole or in part, before performance becomes due if it is apparent that the Contractor will

not complete work on schedule even if the customer were to set a reasonable extension.

- 9.3 Statutory provisions shall apply to the legal consequences in the event that the Contractor fails to meet the agreed dates or deadlines.

- 9.4 Should records or items possessed by the Contractor be required in the event of termination or rescission or execution by a third party, then the Contractor shall deliver them to the Customer without delay. If property rights hamper performance by a third party, the Contractor shall be obliged to obtain appropriate exemption from these rights without delay.

- 9.5 If the Contractor fails to meet the performance date then, at its own option and without setting any further extension, the Customer shall be entitled to demand subsequent performance or compensation in lieu of performance because of non-performance or defective performance, or to rescind the contract. In the case of default, a contractual penalty of 0.3% of the agreed net fee per working day exceeding the deadline, but with a maximum of 5% of the agreed net fee, shall be payable. Furthermore, if an interim deadline is exceeded, the percentage rates shall apply only to the net fee pertaining to the contractual services to be provided by the interim deadline. To the extent that Swiss law applies to this contract pursuant to Section 47.2, the maximum contractual penalty shall be 10% of the net fee. The contractual penalty for delayed services shall be demanded in combination with performance of the contract in all cases. The contractual penalty shall be offset against any claims for damages pertaining to losses actually suffered due to delayed performance. The Customer's claim regarding a contractual penalty shall also remain unchanged if, after the claim has arisen, the customer rescinds the contract or has a third party provide the contractual services. This shall not affect any further claims and rights on the part of the customer due to a missed deadline.

- 9.6 The unconditional acceptance of delayed services shall not constitute any waiver of the claims the customer is entitled to assert because of the delayed services, and this shall apply until the final account is settled in full.

10 Circumstances Interfering With Contractual Performance

Should the Contractor believe that circumstances have arisen that may interfere with its ability to render Contractual Performance, irrespective of the reason, or have reason to suppose that such circumstances may arise, the Contractor shall immediately notify the Contractor thereof in writing and agree on appropriate countermeasures with the Contractor.

11 Open-Source Software

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

11.1 The use of Open-Source Software that is subject to a Copyleft License is prohibited in connection with Contractual Performance; the use of other Open-Source Software requires the prior written consent of the Customer. Should the Contractor intend to use Open-Source Software in connection with Contractual Performance, the Contractor agrees that the following shall be incumbent upon it as cardinal contractual obligations:

- i) notifying the Customer which Open-Source Software components it proposes to use,
- ii) notifying the Customer of the license terms and conditions applicable thereto and providing the Customer with a copy thereof; and
- iii) confirming that no "copyleft effect" will be triggered that would cause the software performance as a whole to be considered Open-Source Software.

To the extent that the use of Open-Source Software is permissible under this section, the Contractor is obliged to ensure that the use of Open-Source Software does not restrict or limit the contractual or intended use of Contractual Performance by the Customer or by Volkswagen Group Companies.

11.2 In the event that the Contractor uses Open-Source Software in connection with Contractual Performance without the Customer's prior consent or with consent that was based on information within the meaning of the preceding paragraph that was culpably incomplete or inaccurate, the Customer may, at its discretion, withdraw from the contract or require that the Contractor replace the Open-Source Software with equivalent proprietary software; section 29.1, sentences 3 and 4 shall apply accordingly.

11.3 During the limitation period for legal defects provided for under section 33.1, the Contractor shall indemnify the Customer against any and all third-party claims and associated costs, regardless of the amount, arising as a result of the use of Open-Source Software. Section 29.1 shall apply accordingly.

11.4 If required under the respective terms and conditions of licensing and use, the Contractor shall deliver the source code of the Open-Source Software to the Customer on the agreed date of delivery at the latest.

11.5 If the Customer requests certification under ISO/IEC 5230:2020(E) from the Contractor prior to the time of contracting, the Contractor undertakes as one of its essential contractual obligations either to furnish proof in suitable form of such certification by an outside certification provider at the time of contracting or to have such certification carried out by an outside certification provider and to furnish proof thereof within six months of the time of contracting.

12 Artificial Intelligence

12.1 Contractual services may only contain AI Output if this has been expressly contractually agreed or the Customer has given its prior consent in text form.

12.2 The Contractor shall ensure and document in accordance with the state of the art for AI contractual services that

- i) human control and monitoring of the AI is performed or can be performed;
 - ii) the AI features a technical robustness appropriate to its intended use, including resistance against misuse by third parties;
 - iii) the requirements of these IT Terms of Purchase regarding data protection and information security are complied with, see in particular sections 4.3 and 34;
 - iv) the data used for the development, validation, training and testing of the AI fulfils quality requirements, in particular to avoid AI Output, that is incorrect, biased or discriminating;
 - v) the AI is adequately comprehensible and explainable and corresponding information (in particular on the capabilities and limitations of the AI and on the data and methods used for the development, validation, training and testing of the AI) is provided transparently to the Customer and/or users;
 - vi) the AI does not generate discriminatory, biased or unfair AI Output;
- and make the relevant documentation available to the Customer on request.

12.3 Regarding AI Contractual Services, the Contractor shall give due consideration to the values of equal access, gender equality, cultural diversity, sustainability and environmental friendliness.

12.4 To the extent AI Regulation applies to the AI Contractual Services of the Contractor or to the intended use of the AI Contractual Services, the Contractor shall provide the AI Contractual Services in such a way that they are in accordance with the AI Regulation and/or the AI Contractual Services of the Contractor can be put into operation, used or placed on the market in accordance with the AI Regulation; unless the Contractor was not aware of the intended use of the AI Contractual Services from which the applicability of the AI Regulation follows and should not have been aware of this even if the Contractor had exercised due care in trade.

12.5 The Contractor shall support the Customer to a reasonable extent in complying with the obligations arising from the AI Regulation which result from the intended use of the AI Contractual Services. The Contractor shall provide the supporting services free of charge, unless this is unreasonable for the Contractor; in this case, the Customer shall grant the Contractor an expense allowance. Unreasonableness shall be assumed in particular if the Contractor was not aware of the intended use of

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

the AI Contractual Services, from which the application of the AI Regulation follows, and should not have been aware of it even if the Contractor had exercised due care in trade. The Contractor may only demand compensation for expenses if the PARTIES have agreed to this in written form prior to the provision of the supporting services.

- 12.6 The Contractor shall ensure that the AI Contractual Services do not contain or cause any Infringement of intellectual property rights, in particular regarding (i) the AI itself; (ii) the development, test and training data and/or (iii) the AI Output generated by the AI Contractual Services; Section 29 of the IT Terms of Purchase (infringements of intellectual property rights) shall apply accordingly.

13 Rights of Use and Exploitation

- 13.1 Where standard software is provided to the Customer by the Contractor by any means, including download, the Contractor shall grant the Customer non-exclusive, irrevocable, and sub-licensable rights of use and exploitation with respect thereto, without restrictions as to their geographic, temporal, or material scope; such rights are moreover transferable to Volkswagen Group Companies and other companies deemed as equivalent thereof by the Parties' mutual agreement. Where the Contractor grants the Customer rights of use and exploitation of software by a specified number of users, the software / systems may be used simultaneously by this number of users unless otherwise clearly specified (concurrent user license). Within the meaning of this section, the term "user" refers to employees of Volkswagen Group Companies or to third parties that have a business relationship with Volkswagen Group Companies or have been commissioned by such companies.

- 13.2 With respect to all other Work Products and Deliverables (e.g. custom-made software, customized software, documentation, source code, concepts, etc.), the Customer acquires exclusive, irrevocable, transferable, and sub-licensable rights of use and exploitation, without limitation as to their geographic, temporal, or material scope, that comprise any known type of use, including the right to adaptation, duplication, amendment, and expansion.

- 13.3 The Contractor shall ensure that all employee inventions arising in the course of Contractual Performance are transferred to the Customer free of charge.

- 13.4 All rights referred to in this section may be exercised by the Customer or by third parties commissioned by the latter, provided any third parties commissioned by the Customer exercise these solely for the Customer's business purposes.

14 Ownership

- 14.1 The Contractor shall grant the title to all (physical) Deliverables to be permanently provided to the Customer to same, effective when these are created and in their respective evolving state(s) of development.

- 14.2 The title to Deliverables which the Contractor grants to the Customer shall be free from all third-party rights.

15 Place of Performance, Transfer of Risk

- 15.1 The place of performance for all supplies of goods, work, and services shall be, of the Customer's various places of business, the one for which Contractual Performance is intended. Where the Contractor makes software available to the Customer to download, its performance obligation will not be discharged until the software has been successfully downloaded.

- 15.2 The risk of accidental destruction or accidental deterioration of Work Products or Deliverables is not transferred until handover to the Customer or, where applicable, acceptance by the Customer, at the destination the Customer has designated in each particular case. Risk regarding goods partially delivered and work or services partially performed shall not be transferred until performance is completed.

16 Provision of hardware

The following applies with respect to the transfer of hardware:

- 16.1 The Contractor transfers hardware with Embedded Software and/or Operating Software with associated documentation to the Customer. Regarding Embedded Software and the Operating Software, section 13.1 applies accordingly; insofar as the Embedded Software and/or Operating Software are Individual Software, section 13.2 shall apply instead. These IT Terms of Purchase apply exclusively to Embedded Software and Operating Software; should the Customer confirm its acceptance of license terms or terms of use of the Embedded Software and Operating Software, only those provisions which regulate the type and scope of the rights of use shall apply. No other regulations shall apply, in particular those relating to warranty, liability, taxes, applicable law and/or jurisdiction.

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

- 16.3 The Customer is not obliged to return any packaging to the Contractor. Upon the Customer's request, the Contractor shall take back the packaging at own expense at the risk specified in section 15.1 of these IT Terms of Purchase.

- 16.4 The Contractor shall, upon request, offer the

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

Customer Maintenance And Support Services at usual market rates.

17 Cloud Services

The following applies with respect to Cloud Services:

17.1 Contractual services

- i) The Contractor shall provide the Customer with the necessary information and tools (e.g. user name, passwords, access codes or access software) required to use the Cloud Services in good time prior to startup and on request at any time during the contract period at no cost.
- ii) The provisions set out in section 11 apply accordingly to Cloud Services, insofar as the provision of the Contractual Services involves (i) open source software or parts thereof being stored on systems and/or in products of the Customer or third parties, whereby only temporary storage is sufficient (e.g. loading a copy into the memory), or (ii) a Copyleft Effect (e.g. with remote access) is triggered.
- iii) Cloud Services are subject to approval by the Customer in text form prior to their startup. Remuneration agreed for the creation shall not be due prior to approval, nor shall the period (rental period) commence.
- iv) Unless agreed otherwise in the contract, the availability of the Cloud Services shall be 99.98% based on the calendar month.
- v) The System should utilize federated identity with the Customer to provide reliable and traceable service to the Customer.
- vi) The Contractor shall provide Maintenance Services on an ongoing basis for the Cloud Services for no additional remuneration and adapt the Cloud Services to the current state-of-the-art.
- vii) To the extent Support Services are not already included in contractual services, the Contractor shall, upon the Customer's request, offer Support Services to the Customer at usual market rates.
- viii) The Contractor shall perform or facilitate data backups on a regular basis. The data backups are to be performed or facilitated in reasonable proportion to the risk of loss and damage, but at least on a daily basis. The Contractor shall ensure that the data backups are suitable for preventing the loss of the Customer's data. The backup copies shall be handed over at the request of the Customer.
- ix) The Contractor is not entitled to make changes to the file format of Everllence Data without the prior consent of the Customer, unless this is absolutely essential in order to provide the contractual services; the Contractor must inform the Customer thereof without undue delay in text form.
- x) Before the Contractor implements changes (e.g. interfaces) to the Cloud Services that are of relevance to the Customer, the Contractor shall

provide the Customer in good time with the information in text form that is required for uninterrupted continuation of the contractual use of the Cloud Services.

- xi) In providing the Cloud Services, the Contractor shall comply as a minimum with the requirements and standards of the German Federal Office for Information Security's basic IT protection standard (BSI).
- xii) The Contractor shall only process Everllence Data at the contractually agreed locations and shall not change the location of Processing without the consent of the Customer in written form. This shall also apply to external backup servers as well as the disaster data centers used in the event of failure of applications, software and/or infrastructure or in case of a contractually described emergency.
- xiii) Any vulnerabilities detected which could impact the safety of the Cloud Services should be removed as soon as possible and notified to the Customer in written form.

17.2 License / Rights of use

The Contractor grants the Customer non-exclusive, irrevocable rights to properly and contractually use the software provided via the Cloud Services, unlimited in territory or content; such rights can be transferred and (also in different levels) sub-licensed within the Volkswagen Group.

18 Maintenance and Support Services

For contractual services with respect to Maintenance and Support Services the following applies:

- 18.1 Within the scope of Support Services, the Contractor resolves defects and malfunctions within the agreed time periods, but in any case within an appropriate period with respect to the risks and effects of the defects and malfunctions.
- 18.2 Insofar as Maintenance Services have been agreed, the Contractor shall continue to develop the Deliverables and provide the Customer with patches, updates, upgrades and new program versions.
- 18.3 Section 13.1 shall apply accordingly to all patches, updates, upgrades or new program versions; insofar as these are Individual Software, section 13.2 shall apply instead.

19 Copyright-Related Rights

To the extent that the contract requires the Contractor to deliver or make available content / information that it owns or is required to provide (content providing), the Contractor shall acquire, from the holders of the respective rights / copyrights or from the collection associations that administer such rights, all rights of use and exploitation, copyrights, and related rights necessary to effect Contractual Performance at its own expense. The

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

Contractor shall indemnify the Customer against any and all third-party claims asserted as a result of the Contractor's failure to comply with the foregoing obligation or failure to do so to a sufficient extent, unless such failure is without fault on the Contractor's part.

20 Acceptance

The following shall apply if the contractual services concern a contract for work and services or if acceptance of the contractual services has been agreed:

20.1 Complete fulfilment of the requirements set forth in section 4 and, in particular, submission of the documentation required by section 4.2, is required before notice may be given under section 20.2 that Contractual Performance is ready for acceptance.

20.2 The Contractor shall give written notice that Contractual Performance is ready for acceptance. The Parties shall then agree a time and a place for the Customer's receipt of Contractual Performance. Unless waived by the Customer in writing in a specific instance, acceptance testing shall be carried out on at least fifteen (15) consecutive working days under simulated and / or real operating conditions. The precise details and, in particular, the time period for this acceptance testing shall be specified by the Customer in consultation with the Contractor. The Customer may also carry out the acceptance testing itself or require the Contractor to carry out the acceptance testing in the Customer's presence. In relation to these matters, The Customer is entitled to verify the fulfilment of all requirements, in particular those described in sections 4 and 11 above, using code scanning tools, or to have the Contractor perform such verification. The Customer shall make a written record of any defects identified during the acceptance testing.

20.3 In the event of no or only insignificant defects as defined in Section 640 para. 1 sentence 2 BGB (German Civil Code) or immaterial defects as defined in Article 197 OR (Swiss Code of Obligations), the Customer shall declare acceptance in writing, within fifteen (15) working days of the Customer's receipt of Contractual Performance where acceptance is to take place without acceptance testing, and within fifteen (15) working days of the conclusion of acceptance testing where acceptance is to be preceded by such testing, unless a longer period has been mutually agreed. Any acceptance by the Customer requires an explicit, written declaration of acceptance from the Customer; tacit or implied acceptance is ruled out, as is deemed acceptance. The Customer is not obliged to partial acceptance. During overall acceptance, the acceptance of partial Performance does not restrict the Customer from asserting claims based on shortcomings in already accepted partial Performance, insofar as these only become

apparent through the interaction of system parts. The foregoing provision does not affect Section 640 para. 2 sentence 1 BGB under German law. In addition, the above acceptance cannot take place if, in particular, the originals of the following documents have not been delivered to the Customer:

- i) All testing and acceptance certificates required for the use and commissioning of the Contractor's services;
- ii) Inventory documentation to be produced by the Contractor under the terms of the contract;
- iii) If agreed, a list of all subcontractors employed by the Contractor and the subcontractors employed by them;
- iv) Directions for use and operating and maintenance instructions, if required for use of the services provided by the Contractor;
- v) All the necessary official licensing and acceptance documents to be obtained by the Contractor, to the extent required.

20.4 The Contractor shall correct defects that preclude acceptance and resubmit its performance for acceptance without delay. The provisions of sections 20.1 to 20.3 above apply accordingly with regard to such resubmission.

21 Handover

To the extent that Contractual Performance involves the sale of goods under a purchase contract and / or the Parties have agreed on handover to the Customer, the Contractor shall give written notice that Contractual Performance is ready for handover at least ten (10) working days prior to the intended handover date and agree with the Customer on the place and exact time of the handover.

22 Duty to Inspect, Notification of Defects

Insofar as the Customer has a legal obligation to inspect for and notify of defects, such notice is deemed timely if given within two (2) weeks of delivery / handover in the case of obvious defects and within two (2) weeks of discovery in the case of other defects.

23 Remuneration

23.1 The remuneration provided for in the Order Placement is binding. Unless otherwise expressly agreed in writing, the prices for free delivery to the delivery address include packaging and insurance. There is no obligation to return the packaging unless specifically agreed otherwise. However, the Contractor shall, at the Customer's request and at its own expense, take the packaging back to the place of performance specified in section 15.1 of these IT Purchase Terms. The remuneration specified in the Order Placement constitutes payment in full for Contractual Performance in its entirety.

23.2 If a fee based on the number of hours worked is agreed during assignment, the Contractor shall

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

provide proof of its performance by means of entry documents provided and countersigned by the Customer. A template entry document showing the required information shall be provided to the Contractor by the Customer upon request. The Contractor shall submit the entry documents weekly to the Customer for countersignature.

24 Travel and Accommodation Expenses

Expenses for travel and accommodation will be reimbursed only to the extent that this is expressly provided for in the respective Order Placement, and where the Customer has approved in advance, in writing, both the specific business travel and the costs incurred.

25 Invoices

- 25.1 Invoices must be sent in accordance with the terms specified in the Appendix entitled Invoicing.
- 25.2 Invoices shall comply with the requirements of the German VAT Act.
- 25.3 If a bonus has been agreed, the note "fee reduction agreed in advance" must be included on every invoice.

26 Terms of Payment, Taxes

- 26.1 Unless otherwise individually agreed in writing in a specific instance, the agreed remuneration shall be payable within thirty (30) days of the responsible office as stated in section 25 receiving an invoice from the Contractor that shows any applicable value added tax separately. However, the invoice is due and payable only if the Contractor has rendered its Contractual Performance in full and the latter has been accepted by the Customer or completely handed over to the Customer.
- 26.2 The stipulated remuneration is exclusive of value added tax which, if applicable, shall be added thereto at the appropriate statutory rate.
- 26.3 Due to fully automated processing, the Customer pays its invoices only on the 5th, 15th, and 25th of each month. Should these days fall on a Saturday, Sunday, or a public holiday, the payment is made on the next working day. The dispatch date of the payment funds is deemed to be the date of payment. The payment is subject to invoice auditing. In the event of acceptance of early deliveries, the due date shall depend on the agreed delivery date.
- 26.4 Payments shall be made exclusively by credit transfer.
- 26.5 In the event of an incorrect delivery, the Customer shall be entitled to retain payment on a pro rata basis until proper fulfilment.
- 26.6 The Contractor shall be responsible for all direct taxes (e.g. withholding tax) imposed or deducted in

Germany as a result of the remuneration paid to the Contractor. To the extent that the Customer is required by law to deduct tax (such as withholding tax) from any portion of the remuneration, only the balance remaining will be disbursed. Any applicable withholding tax will be paid on a quarterly basis to the tax authorities responsible for the Customer. Where contractual payments are exempt from withholding tax or subject to a reduced rate of withholding tax under the terms of a double taxation treaty applicable to the remuneration, the resulting increased payment will only be disbursed if a valid certificate entitling the Customer to reduce the withholding amount has been provided to the Customer no later than the time of payment in all cases in which the applicable law requires such a certificate. The Customer will provide the Contractor with the original of an appropriate tax certificate showing any tax withheld. Any tax amounts withheld shall not constitute default in payment as set out under section 27 of these IT Purchase Terms.

27 Default in Payment

- 27.1 No payment on the part of the Customer becomes delayed until it has fallen due and the Contractor has delivered a written demand for payment of the overdue amount to the Customer.
- 27.2 The Contractor is entitled to suspend Contractual Performance due to the Customer's default in payment only where the default amount is not insubstantial and the customer has failed to make payment despite receipt of a written demand for payment, the assertion of the right of retention, and the setting of a reasonable specified new deadline of no less than four (4) weeks.

28 Claims for Defects, Warranty

- 28.1 Where Contractual Performance is defective, the customer may, except where an ongoing service (*Dienstleistung*) is being provided, set a reasonable deadline for substitute performance by the Contractor, within which it shall, at the Customer's option, either remedy the defects in the Contractual Performance as rendered, or render new Contractual Performance. The Contractor shall bear all costs arising in connection with the substitute performance. If the Contractor fails to provide substitute performance as requested or fail to do so within the deadline set, or if two substitute performance attempts are unsuccessful, the Customer is entitled:
 - i) to remedy the defect itself or have a third party do so, and to require the Contractor to bear the costs necessary for this purpose, or
 - ii) to reduce the agreed remuneration by an appropriate amount, or
 - iii) to withdraw from the contract, either in part or in full, and require reimbursement of any remuneration already paid and
 - iv) claim compensation for the damage the Customer suffers as a result of the defect and

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

reimbursement of the expenses the Customer incurred in reliance on receipt of defect-free Contractual Performance.

In the event of termination or partial withdrawal from the contract, the Contractor shall receive remuneration only for Contractual Performance that has been accepted as free of defects, that is not covered by the partial withdrawal, or that was rendered after termination and is of significant economic utility to the Customer. The foregoing is without prejudice to the Customer's right to claim damages and reimbursement of expenses. The Customer furthermore remains entitled to its statutory claims for defects in full.

28.2 Where the Contractor provides software components to the Customer as part of software maintenance, defects therein and defects arising from the interaction of the software (components) with the software being maintained shall be remedied in accordance with the terms of the maintenance contract. With respect to such defects the Customer shall, however, be entitled to all rights described in section 28.1 in full in the event that the maintenance contract ends before expiration of the limitation period for warranty claims.

28.3 To the extent that Contractual Performance is intended for use in mass production (production material), however, any related claims for material defects become time-barred, by way of derogation from the preceding provision, within two (2) years of the acceptance of the Contractual Performance in question, with the compensation for the vehicle when used in trucks, with the FAT when used in marine engines, and upon acceptance or from installation of a replacement part when used in power plant engines and other types of machinery delivery, however no later than three (3) years after delivery to the Customer.

29 Infringement of Intellectual Property Rights

29.1 In the event that Contractual Performance infringes third-party rights (including industrial property rights and copyrights), the Contractor shall make every reasonable effort to remedy these defects by acquiring the necessary rights. If the Contractor is unable to obtain such rights, the Contractor shall provide the Customer with substitute Contractual Performance and Deliverables (especially documentation) that are of equal value to the Customer but do not infringe third-party rights (circumvention solution). The circumvention solution is only deemed of equal value if it does not limit the Customer's agreed use of the Contractual Performance and Deliverables, or does so only to an insignificant extent. The Contractor shall bear the cost of the circumvention solution and of any necessary adjustment to the environment of the Contractual Performance unless it is not responsible for the infringement of the third-party

rights.

29.2 The Contractor shall indemnify the Customer against any and all third-party claims and the costs associated with the infringement of third-party rights, regardless of the amount, unless it is not responsible for the infringement of third-party rights, for instance because the infringement results solely from the Customer using the Contractual Performance in a manner that is not permissible under the Contractor's terms and conditions of use (e.g. connecting software to third-party software without being permitted to do so).

29.3 In the event that claims alleging the infringement of third-party rights as a result of Contractual Performance are asserted against the Customer, the Contractor is required to independently conduct the legal defense for the Customer, at its own expense. Where necessary and at the Contractor's expense, the Customer will assist the Contractor to a reasonable extent in its defense against third-party claims. The Customer is entitled to take control of the defense itself, but shall, if that is the case, coordinate its actions with the Contractor. In this case, the Contractor is still required to bear all necessary costs.

29.4 Claims on behalf of the Customer pursuant to this section 29 become time-barred within two years, starting from the point in time at which the third party asserts the claim in question against the Customer for the first time.

30 Other Copyright Holder Involvement

During the limitation period for legal defects under section 33.1, the Contractor shall indemnify the Customer against any claims that are raised against the Customer by copyright holders who are involved in creating the contractual Work Product.

31 Rights to Information, Presentation, Inspection

The Contractor shall be entitled to rights to information, presentation, and inspection solely as provided for in sections 101 to 101b of the German Copyright Act (*Urhebergesetz – UrhG*) and only after making an advance payment in the amount of the Customer's anticipated reasonable internal and external costs and after providing collateral in a reasonable amount to cover the risk and to cover the damage the Customer may suffer as a result of the measure, such collateral may take the form of money placed in escrow or delivery of an unconditional bank guarantee. Within the meaning of this section 31, the term "costs" includes, in particular, expenses to verify whether the requested measure is legal, expenses for planning and structuring the requested measure so that it is proportionate and, in particular, consistent with data protection and confidentiality considerations, and expenses for carrying out the requested measure including detriment resulting from limitations on and

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

/ or loss of functionality due to the requested measure; such costs may be reimbursed in accordance with section 101a (5) UrhG. The amount of the advance cost payment, the amount of collateral, and the place at which the information, presentation, or inspection will be carried out shall all be fixed by the Customer as it reasonably sees fit; section 315 BGB applies accordingly.

32 Liability

The Customer may require compensation from the Contractor for all damage (including defects in and consequential damage to the goods, economic damage, economic consequential damage, and expenditure in vain) caused by the Contractor and / or its governing bodies, employees and other personnel, representatives, vicarious agents, or other third parties acting at its request, provided the damage is due to the Contractor's breach of warranty, guarantee, or duty. The Contractor shall, however, not be liable for breaches of duties to the extent that it is able to furnish proof that the breach was not due to fault on its part. Furthermore, the Customer remains entitled to all statutory claims for damages.

33 Limitation of Claims

33.1 Warranty claims for defects become time-barred after two (2) years in the case of material defects and, in the absence of any provisions to the contrary, after three (3) years in the case of legal defects; should the applicable statute of limitations for such claims be longer, it shall apply instead. The limitation period begins upon the Customer's acceptance of Contractual Performance that is subject to acceptance, upon the Customer's confirmation of handover of Contractual Performance that is subject to handover, and as provided by law in all other cases. The foregoing also applies to software components provided to the Customer as part of software maintenance.

33.2 The statutory limitation periods apply to liability claims and other claims.

34 Data Protection

34.1 The Parties undertake to observe all statutory provisions at all times, particularly those of the applicable data protection legislation, when processing the shared personal data (as defined by the respective applicable law).
The Contractor acknowledges to Everllence Privacy Notice accessible at:
<https://www.everllence.com/dataprotection>
In the event that, upon conclusion of the Contract or in connection with the provision of the contractual services, one Party (hereinafter "Data Recipient") gains access to personal data for which the other Party is responsible (hereinafter "Data Transferee"), the following provisions shall apply, in addition to the applicable data protection legislation:
i) Personal data shall be processed solely for the purpose of fulfilling the contractual obligations

arising from the Contract ("purpose limitation").

- ii) The Data Recipient shall ensure that its employees have access to personal data only to the extent necessary for the fulfillment of the contractual obligations arising from the Contract. All employees shall be obligated in writing to comply with the applicable data protection legislations. Proof of such compliance shall be provided to the Data Transferee upon request.
- iii) The Data Recipient shall implement technical and organizational measures in accordance with the state of the art to ensure a level of protection for personal data appropriate to the risk and to safeguard such data permanently. Upon request, the Data Recipient shall provide evidence of the implementation of the specified technical and organizational measures.
- iv) The transfer of personal data to Data Recipients located in third countries shall be permitted only in compliance with the conditions defined in the respective and applicable data protection legislations. The Data Transferee must have the applicable consents or lawful basis to effectuate the transfer of the data.
- v) The Data Recipient shall delete the data without undue delay once it is no longer required for the performance of the Contract, in accordance with the relevant statutory retention periods.
- vi) In the event that personal data is processed by the Data Recipient on behalf of the Data Transferee, a corresponding Data Processing Agreement shall be concluded between the Parties.

34.2 Contractual services must comply with the requirements of data protection law from time to time in force. They must in particular be designed, produced and configured in accordance with the principles of Privacy by Design and Privacy by Default. The Contractor shall document this and provide the corresponding documentation to the Customer. This documentation shall in particular contain information on the principles of data protection and their implementation, on deletion facilities, and on the implementation of data subject rights. The objective is in particular to provide the Customer with the information relating to the contractual services that it needs in order to discharge its obligation of accountability. contractual services must in particular not contain functions that enable processing of personal data by the Contractor or by third parties (including so called calling home functions) unless this is explicitly agreed in the contract.

35 Nondisclosure

35.1 The Contractor agrees to maintain strict secrecy regarding both the existence of the business relationship with the Customer and all information exchanged in the context of this business relationship.

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

35.2 The obligation to maintain secrecy remains in force for a period of nine (9) years after the end or complete performance of the respective Order Placement.

35.3 This obligation to secrecy shall also apply, irrespective of the formation of a contract, to all knowledge and expertise obtained during the tender phase.

35.4 In addition, the provisions of the separate confidentiality undertaking, as provided by the Customer prior to conclusion of the contract, shall apply. The Contractor shall sign this document and return it to the Customer if this has not already been done.

35.5 Should a nondisclosure agreement for these services be concluded in advance during the tender phase, said agreement will also apply to this contract and replace the provisions set out under sections 35.1, 35.3, and 35.4 during its term.

36 Subcontractors

Any delegation of Contractual Performance to third parties by the Contractor requires the Customer's express prior written consent; such consent shall not be unreasonably withheld. All obligations to which the Contractor is bound hereunder must also be imposed by the Contractor in writing on any third party on which it relies; the Contractor shall furnish proof of its compliance herewith to the Customer on request. The Contractor is not permitted to delegate Contractual Performance to independently employed (freelance) individuals (natural persons). The Contractor shall indemnify the Customer against all third-party claims asserted as a result of the Contractor's failure to respect this prohibition, unless such failure is without fault on the Contractor's part. Within the meaning of this section 36, the terms "third party" and "third parties" also include companies affiliated with the Contractor within the meaning of sub-sections 15 ff. AktG (or any similar statutory provisions).

37 Reference, Advertising

The Contractor shall make no reference to the business relationship with the Customer in advertising or otherwise without the Customer's prior written consent. The same applies to the use of the Customer's trademarks, trade names, and other insignia.

38 Business Liability Insurance

The Contractor is required to take out and maintain business liability insurance with a limit of indemnity that is appropriate for the level of risk associated with the respective Order Placement and to immediately verify this to the Customer on request.

39 Right to Audit the Contractor

The Contractor shall grant the Customer the right,

exercisable at any time following prior notice, to enter the Contractor's premises to inspect and audit all data pertaining to business transactions between the Customer and the Contractor, and to audit its IT and data security measures; the Customer or third parties commissioned by the Customer may enter the Contractor's premises during normal business hours for this purpose. If these audits result in the discovery of violations of the provisions of the respective Order Placement and / or of these IT Purchase Terms, the cost of such audits shall be borne by the Contractor unless the violation involves no fault on the Contractor's part.

40 Changes in Ownership

The Contractor is required to notify the Customer in writing, without delay and without prior request on the Customer's part, of any change in the composition of its shareholders or other owners that takes place during the term of an Order Placement by the Customer and which the Contractor is obliged to disclose to the public (such as by entry in the commercial register). The Customer is entitled to terminate the contractual relationship without the need to observe a notice period if any such change results in a change in control with respect to the Contractor (for instance, because a majority stake in its shares has been sold or third parties have acquired a controlling influence) and this change in control is potentially detrimental to the Customer's interests.

41 Prohibition on Assignment

The assignment of contractual rights or delegation of contractual obligations by the Contractor is ineffective without the Customer's prior written consent. The Contractor is not entitled to assign its receivables from the Customer or have them collected by third parties without the Customer's prior written consent, which shall not be unreasonably withheld. The assignment of a receivable from the Customer without the Customer's consent is nonetheless effective; the Customer may, however, at its option, discharge the Customer's liability by making payment to either the Contractor or the third party.

42 Migration Support

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

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- 42.2 Within the scope of migration support, the Contractor shall continue to provide contractual services affected by the termination at the Customer's request and under the previous conditions. If the Contractor can prove to have higher expenses in providing the contractual services, the Contractor may demand an appropriate adjustment of the remuneration.
- 42.3 Within the scope of migration support, the Contractor shall offer the Customer upon its request and against separate remuneration at usual market rates further migration services, in particular prepare or assist in the preparation of a migration concept with detailed planning of the individual migration steps and offer the Customer hardware and software belonging to the infrastructure as well as other objects and rights necessary for the operation of the contractual services.
- 43 Feedback**
The Customer may voluntarily provide Feedback to the Contractor. With respect to this Feedback, the Contractor receives free of charge a non-exclusive, perpetual, and world-wide right to use the Feedback for purposes of improving the contractual services or its own products. In the event the Feedback contains elements that are patentable or otherwise protectable under intellectual property law, the Contractor shall receive no rights to these. The Contractor is not permitted to reveal the source of the Feedback. This section 43 shall be without prejudice to sections 35 and 37. All rights and claims by reason of defects as to quality or as to title regarding the Feedback are excluded unless the Customer has acted fraudulently. The Customer gives no warranty or guarantee with regard to the Feedback and is liable only for its intentional misconduct or gross negligence.
- 44 Divergent agreements**
Any amendments to the contract shall only be valid if they have been agreed in writing. This also applies to the requirement of the written form itself.
- 45 Continued Validity in the event of Partial Invalidity**
- 45.1 In the event that one or more of the provisions in or referenced by the present contractual provisions is or becomes null and void, this shall not affect the validity of the remaining clauses and the validity of the contract itself.
- 45.2 In the event that contractual gaps become apparent during the realization of the present contract, these must be remedied with replacement provisions that approximate the economic purpose of the contract as closely as possible.
- 46 Escalation procedures**
- 46.1 If disputes arise based on this contract, the Parties shall endeavor to resolve these amicably by agreement and in accordance with the escalation procedure described below.
- 46.2 If there is a dispute between the Parties, each Party is entitled to initiate the escalation procedure by sending a notice to the other Party's project manager or the specified point of contact. This notice must be issued in writing and must contain sufficient information to give the other Party a complete picture of the subject of the dispute.
- 46.3 If the project managers or named points of contact are not in a position to resolve the dispute within a period of fourteen (14) days after the initiation of the escalation procedure, or if one of the Parties is of the view that the dispute cannot be resolved in this way, it may submit a corresponding written notification to the other Party stating that the dispute will be passed on to the steering committee or to the next higher level of hierarchy so that a solution may be found by mutual agreement.
- 46.4 The deadlines for the escalation of a dispute specified in section 45.2 do not apply if one Party informs the other that a solution to the dispute is urgently required. In this case, escalation may take place immediately.
- 46.5 If the Parties resolve a dispute in the course of the escalation procedure, they shall set out in writing the agreement reached and attach the written agreement to this contract as an appendix.
- 46.6 Only once escalation has been taken to the final stage pursuant to this section to no avail can recourse be made to courts. In derogation of the above, recourse to courts may be made
- i) insofar as the Parties fail to reach an agreement within 45 days (incl. escalation period pursuant to section 45.3) following an enforcement letter and after an appropriate period of 10 working days has been set, or
 - ii) by either Party immediately if claims are in danger of becoming time-barred.
- 47 Place of jurisdiction**
- 47.1 If the Customer is Everllence SE and the Contractor's place of business is located in the Federal Republic of Germany, the following clause concerning law and place of jurisdiction shall apply:
- i) The place of jurisdiction shall be Augsburg. However, the Customer may, at its own discretion, also bring legal action against the Contractor at the latter's general place of jurisdiction.
 - ii) The law of the Federal Republic of Germany shall apply. The rules on conflict of laws (private international law) and The United Nations Convention on the International Sale of Goods of 11th April 1980 (CISG) shall not apply.
- 47.2 If the Customer is Everllence Schweiz AG or the Contractor's place of business is located outside the Federal Republic of Germany, the following clause

General Terms of Purchase of Everllence for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

concerning law and place of jurisdiction shall apply:

- i) Any disputes arising from and/or in connection with the contract shall be referred to a court of arbitration for final settlement in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) without recourse to the ordinary courts of law. The place of arbitration shall be Zurich, Switzerland. The number of arbitrators shall be three. The language of the arbitration proceedings shall be German. The provisions for expedited proceedings and the provisions for expedited arbitration proceedings shall not apply. The parties shall keep the existence of arbitration proceedings confidential. The same shall apply to information and documents which are made accessible to, or are otherwise associated with, such proceedings.
- ii) Swiss law shall apply. The rules on conflict of laws (private international law) and The United Nations Convention on the International Sale of Goods of 11th April 1980 (CISG) shall not apply.

48 Binding Version

The English version of these IT Purchase Terms is a non-binding translation of the original German version, which is the sole authentic and binding document.

49 Order of precedence of documents

These IT General Terms of Purchase include the generally applicable provisions for every contract which falls within the scope of the IT General Terms of Purchase in the following order of precedence, whereby the provisions mentioned first always take precedence over the provisions mentioned last in the event of conflicts:

- a) The Order Placement;
- b) The IT General Terms of Purchase;
- c) The provisions of the (other) Appendices to the individual contract, such as information security instructions for Everllence service providers;
- d) General Terms of Purchase for Supplies, Services and Works;
- e) Code of Conduct for Suppliers and Business Partners.

Appendix – Invoicing

III Invoicing Everllence SE

1) Invoices are to be sent in electronic form as follows:

- In PDF format
- One invoice per PDF file
- No more than one invoice per PDF file
- No attachments, such as timesheets, invoice accompanying documents etc., in separate files.
- One e-mail may contain any number of invoices in separate PDF files, as long as the following criteria are met:
 - Overall size maximum 50 MB
 - No single file bigger than 10 MB
 - File name must not use characters that are incompatible with MS Windows
 - No nested e-mails containing attachments
 - No password protected PDF files
 - No digitally signed e-mails
- The PDF file should ideally meet the ZUGFeRD standard Further information can also be found at:
www.ferd-net.de

For invoices to Everllence - Augsburg, Hamburg (Rossweg / Baumwoll), or Rostock, please use the following e-mail address:

incoming-invoice-aug@everllence.com

For invoices to Everllence - Oberhausen, Berlin, Ravensburg, and Hamburg (Hermann-Blohm-Straße), please use the following e-mail address:

incoming-invoice-obh@everllence.com

For invoices to Everllence Switzerland AG please use the following e-mail address:

incoming-invoice-zrh@everllence.com