

# GENERAL TERMS AND CONDITIONS FOR USE OF BMW CARDATA.

## 1 GENERAL INFORMATION

- 1.1 BMW (UK) Limited, Summit ONE, Summit Avenue, Farnborough, Hampshire, GU14 0FB, United Kingdom, (hereinafter referred to as "BMW") offers its customers ("Customers") the opportunity to use BMW CarData to view readily available data and other selected information about their BMW branded motor vehicles ("Vehicles") and related services ("Telematics Data") at any time, to comply with its obligations under the Regulation (EU) 2023/2854 ("Data Act"), to share data with third parties and to approve services for service and maintenance companies, in accordance with these General Terms and Conditions for Use ("Terms and Conditions") and the supplementary Data safety information. As soon as the Customer accepts these Terms and Conditions, a contract is concluded between BMW and the Customer about the use of BMW CarData.
- 1.2 BMW CarData is a BMW ConnectedDrive service. If these Terms and Conditions do not contain any more specific regulations, the General Terms and Conditions for ConnectedDrive services apply.
- 1.3 The BMW CarData service allows BMW to offer its Customers the option of easy access to Telematics Data collected as part of the ConnectedDrive services and to release these data to third parties authorized by the Customer. In addition, Customers have the option to approve service and maintenance companies that do not belong to BMW or the BMW dealer and service network (hereinafter "independent providers") for the provision of certain services. Once approval is granted, these services will no longer be provided by BMW, but by the selected independent provider. This includes the following services:
- Service center management services (e.g., processing Teleservice Calls)
  - Roadside Assistance
  - Accident Assistance
  - Access to the electronic service history
  - Access to the repair history
  - Remote diagnosis
- 1.4 A description of these services can be found in the BMW ConnectedDrive General Terms and Conditions under BMW ConnectedDrive Services, which is located on the registration page for the My BMW portal when not logged in. The range of available service may vary according to the vehicle market and location of the independent provider.
- 1.5 Customers have the option to share selected Telematics Data with independent providers via the BMW CarData service provided by BMW. Customers can also approve the abovementioned services for provision by an independent provider. Once approval is granted, the independent provider can receive Telematics Data and other Vehicle data, make a voice call to the Vehicle and receive remote access to the Vehicle, depending on the conditions (see also the description of services in the BMW ConnectedDrive General Terms and Conditions under BMW ConnectedDrive Services, which is located on the registration page for the My BMW portal when not logged in). Customers may



withdraw data and service permissions at any time. Once approval for a service has been withdrawn from an independent service provider, the service will be provided by BMW again, unless the Customer grants approval to another independent provider.

- 1.6 The respective most recent version of these Terms and Conditions may be viewed, saved and printed via the BMW CarData website.
- 1.7 BMW will inform its Customers by email about any changes to these Terms and Conditions at the latest six weeks before the intended effective date. They will form part of these Terms and Conditions if the Customer does not object to the changes within one month after receiving the notification.

## 2 WARRANTIES BY THE CUSTOMER

The Customer warrants that the following requirements will be met throughout the term of these Terms and Conditions:

- 2.1 The Customer is the owner of the Vehicle or is contractually entitled to use the Vehicle under a rent, lease or similar contract.
- 2.2 The Customer is therefore considered a user within the meaning of Article 2 (12) Data Act ("User"). The Customer undertakes to provide BMW with any relevant documentation to support these declarations at BMW's request.

## 3 PREREQUISITES FOR PROVIDING TELEMATICS DATA TO THE CUSTOMER

Telematics Data shall be made available by BMW to the Customer in accordance with Section 4, to the extent and for as long as the following conditions are met:

- 3.1 The Customer uses the BMW CarData service in accordance with the documentation.
- 3.2 The Customer cannot access the Telematics Data directly from the Vehicle.
- 3.3 There is a valid legal basis for making personal data available under Article 6 of Regulation (EU) 2016/679 (GDPR) and only, where relevant, the conditions set out in Article 9 of that Regulation and of the respective implementing provision in Member State law of Article 5(3) of Directive 2002/58/EC as amended by Directive 2009/136/EC (Directive on privacy and electronic communications) are met. Upon request, the Customer must indicate to BMW the legal basis for processing under Article 6 GDPR (and, where relevant, the applicable derogation under Article 9 GDPR and Article 5(3) of Directive 2002/58/EC as amended by Directive 2009/136/EC) upon which the making available of personal data is requested. In case the Customer bases the request on Article 6 (1)(f) GDPR, the Customer will provide the legitimate interest assessment upon request by BMW. The Customer will inform other data subjects about the request and will make available to them the BMW CarData data protection information which can be found under [https://www.bmw.co.uk/en-gb/mybmw/api/policy/download/CARDATA\\_DPP](https://www.bmw.co.uk/en-gb/mybmw/api/policy/download/CARDATA_DPP).

- 3.4 The Telematics Data protected as trade secrets as defined in the Trade Secrets Directive (EU) 2016/943 ("Identified Trade Secrets") and the identity of the respective trade secret holder (BMW, BMW's affiliates (i.e., any person that is directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with, BMW) or a third party) ("Trade Secret Holders") are set out in the Telematics Data catalog which can be found under <https://www.bmw.co.uk/en-gb/mybmw/public/cardata-telematic-catalogue>. Identified Trade Secrets are Confidential Information as defined in Section 13.1; the Customer is therefore obliged to adhere to Section 13 regarding Identified Trade Secrets. Where the confidentiality measures taken by the Customer according to Section 13.1 do not materially suffice to adequately protect a particular Identified Trade Secret, BMW may, by giving notice to the Customer with a detailed description of the inadequacy of the measures unilaterally increase the protection measures regarding the specific Identified Trade Secret in question, provided this increase is compatible with its obligations under these Terms and Conditions and does not negatively affect the Customer. Section 7.2 shall apply. Section 4 (8) Data Act remains unaffected.
- 3.5 The provision of Telematics Data does not undermine security requirements of the Vehicle, as laid down by Union or national law, in a way resulting in a serious adverse effect on the health, safety or security of natural persons.
- 3.6 In order to use BMW CarData, an existing BMW ConnectedDrive contract in accordance with the General Terms and Conditions of Use for BMW ConnectedDrive is required, as is linking the Vehicle in the My BMW portal.

#### 4 DESCRIPTION AND TERM OF BMW CARDATA

- 4.1 Insofar as the prerequisites in Section 3 are fulfilled, BMW CarData offers BMW Customers the option of viewing Telematics Data, which have been transmitted to BMW and are stored there in the long term, to release them for transmission to third parties, and to access them via the CarData API, each free of charge for the Customer, with at least the same quality as it becomes available to BMW, and in any case in a comprehensive, structured, commonly used and machine-readable format as well as the relevant metadata necessary to interpret and use those Telematics Data. A list of all generally available Vehicle data relevant for the use of BMW CarData may be found in the Telematics Data catalog.
- 4.2 The Customer receives access to the Telematics Data (i) easily and securely by access to the Telematics Data where they are stored, (ii) (if applicable) without undue delay after the Telematics Data become available to BMW; and (iii) continuously and in real-time or with appropriate frequency, as applicable.
- 4.3 With regard to the provision of the Telematics Data to the Customer, the parties consider that the requirements in Sections 4.1 and 4.2 are met by the following specifications for access: <https://www.bmw.co.uk/en-gb/mybmw/public/cardata-eudataact>, <https://bmw-cardata.bmwgroup.com/customer/public/home>. BMW may, in good faith, unilaterally change the specifications of the Telematics Data or the access arrangements, if this is objectively justified by the general conduct of business of BMW – for example, by a technical modification due to an immediate security vulnerability in the line of the products or related services or a change in BMW's infrastructure. BMW must in this case give notice of the change to the Customer within six weeks after



deciding on the change.

- 4.4 BMW may use the services of a third party (including a third party providing data intermediation services as defined by Article 2(11) of Regulation (EU) 2022/868) to allow the exercise of the Customer's rights under Section 4. Such third party will not be considered a data recipient under the Data Act, unless it processes the Telematics Data for its own business purposes. The party requiring the use of such a third party must notify the other party in advance.
- 4.5 The Customer can also allow third parties to access real-time data streams generated by their Vehicle using the data and service sharing management section in the BMW ConnectedDrive customer portal. These real-time data streams refer exclusively to Telematics Data that fall under the 'real-time data (data streams)' category. In this case, data are not collected as part of the provision of the BMW ConnectedDrive services the Customer has booked, but rather explicitly for the intended third-party use the Customer authorized. The data transferred in the real-time data stream are not stored by BMW; instead, BMW makes them available to the third parties directly. To stop real-time data streams from being transferred, the Customer can cancel the previously approved data sharing in the data and service sharing management section in the My BMW portal. Details on data processing within the scope of BMW ConnectedDrive services can be found in "BMW ConnectedDrive Data Privacy" on the My BMW portal at the bottom of the page under "Data Privacy".
- 4.6 In addition, the Customer has the option to approve certain repair and maintenance services for provision by an independent provider. For the provision of services by an independent provider, independent providers may access Vehicle data, make a voice call to the Vehicle or receive remote access to the Vehicle, depending on the service. Details of the services in question and of data processing during the provision of services can be found in the BMW ConnectedDrive General Terms and Conditions under BMW ConnectedDrive Services, which is located on the registration page for the My BMW portal when not logged in.
- 4.7 Once the term of the BMW ConnectedDrive contract expires, the right to use BMW CarData expires too.
- 4.8 The Customer can request an archive file via BMW CarData to view their Telematics Data. It may take a few days to compile this archive file, or longer in exceptional cases. The Customer is informed by email as soon as the Telematics Data archive is available and can be downloaded. The Customer can release Telematics Data selected via BMW CarData for downloading by third parties at any time. The third party defines the data they require and requests their release from the Customer. In addition, BMW CarData can be used to approve the abovementioned services for provision by independent providers at any time. Each of these services can only be approved for one independent provider at a time. However, the Customer may replace an approved independent provider with another at any time. If the Customer approves another independent provider for the provision of a service, approval is withdrawn from any existing independent providers, who will no longer be able to access Customer data.
- 4.9 A data release and service release is only ever valid for one Vehicle. If the Telematics Data for several Vehicles are to be released to a third party or services for multiple Vehicles are to be provided by independent providers, this release must be separately granted for each Vehicle.
- 4.10 The release of Telematics Data and services to third parties is valid without a time limit. An exception



is the release for Vehicles that cannot receive so called "in-vehicle-messages" from the BMW backend. These releases are time-limited and must be reconfirmed at regular intervals. BMW will inform the Customer of this in advance. However, the Customer can revoke a data or service release at any time, with future effect. All the Customer needs to do is delete the data or service release they have granted by clicking on it in the My BMW portal. Any consequences for the Customer resulting from the revocation of a data or service release, such as those arising from a contractual relationship between the Customer and the third party that was previously authorized, are the responsibility of the Customer. Such a revocation and the consequent non-delivery of data may, for example, have consequences for the grading of the Customer as part of a pay-as-you-drive insurance contract.

- 4.11 BMW will regularly inform Customers by email and, where this is technically possible, by direct communication with the Vehicle, that there are Customer data or service releases to third parties.

## 5 CUSTOMER'S OBLIGATIONS

- 5.1 If the Customer identifies an incident related to the performance of these Terms and Conditions, including (but not limited to) the Customer's failure to comply with Sections 2 or 3, the Customer must notify BMW with a detailed description of the incident in writing (including email, fax and other text-based communication).
- 5.2 The Customer undertakes not to engage in the following:
- use the Telematics Data to develop a connected product that competes with any product offered by BMW, nor share the Telematics Data with a third party with that intent;
  - use such Telematics Data to derive insights about the economic situation, assets and production methods of BMW;
  - use coercive means to obtain access to Telematics Data or, for that purpose, abuse gaps in BMW's technical infrastructure which is designed to protect Telematics Data;
  - share Telematics Data with a third party considered as a gatekeeper under Article 3 of Regulation (EU) 2022/1925;
  - use Telematics Data they receive for any purposes that infringe EU law or applicable national law, in particular antitrust law.
- 5.3 The Customer shall take all precautions for the provision of the Telematics Data that are necessary to ensure that the provision does not hinder, prevent or interfere with the exercise of the rights of the data subject under Regulation (EU) 2016/679 and, in particular, with the right to data portability under Article 20 of that Regulation.
- 5.4 The Customer may not use the BMW CarData service for illegal purposes and must ensure that third parties comply with this provision as well.

## 6 BMW'S RIGHTS



- 6.1 BMW is entitled to retain any information, in particular log data, on the Customer's access to the Telematics Data requested insofar this is necessary for (i) the sound execution of the Customer's access request and/or these Terms and Conditions and for the security and maintenance of the data infrastructure, or (ii) compliance with legal obligations of BMW to keep such information.
- 6.2 BMW's rights according to the Data Act remain unaffected.

## **7 TECHNICAL PROTECTION MEASURES ON THE UNAUTHORIZED USE OR DISCLOSURE OF TELEMATICS DATA**

- 7.1 BMW may apply appropriate technical protection measures, including smart contracts and encryption, to prevent unauthorized access to Telematics Data, including metadata, and to ensure compliance with the Data Act and these Terms and Conditions.
- 7.2 Without prejudice to other remedies available to BMW in accordance with these Terms and Conditions or applicable law, if the Customer modifies or removes technical protection measures applied by BMW or fails to maintain the technical and organizational measures agreed pursuant to Section 3.4, the Customer shall comply, without undue delay, with the requests of BMW
  - to erase the Telematics Data made available by BMW and any copies thereof;
  - to end the production, offering or placing on the market or use of goods, derivative data or services produced on the basis of knowledge obtained through such Telematics Data, or the importation, export or storage of infringing goods for those purposes, and destroy any infringing goods, where there is a serious risk that the unlawful use of those Telematics Data will cause significant harm to the respective Trade Secret Holder or where such a measure would not be disproportionate in light of the interests of the respective Trade Secret Holder; and
  - to compensate the party suffering from the misuse or disclosure of such unlawfully accessed or used Telematics Data.

## **8 AVAILABILITY AND DOWNTIME OF BMW CARDATA**

- 8.1 BMW reserves the right to modify the scope of services of BMW CarData, in as far as the Customer can be expected to accept such a modification in relation to the overall scope. The same applies to adaptations to the Telematics Data catalog, such as the form of the deletion or addition of individual attributes. In the event of further modification of the BMW CarData service scope that the Customer is informed about by email, the Customer can end their use of BMW CarData at any time, thus terminating the usage contract for BMW CarData (see Section 9).
- 8.2 The quality and validity of the telematics data provided via BMW CarData depend, among other things, on the Vehicle model, the control devices installed, and Internet availability. Telematics Data displayed to the Customer by BMW CarData may deviate from the current status shown inside the Vehicle. BMW CarData provides the Customer with the Telematics Data most recently transmitted to BMW as part of the BMW ConnectedDrive services. The provision of BMW ConnectedDrive services and thus the transmission of Telematics Data depend on various factors and may be limited in individual cases. In any event, the Telematics Data will be provided to the Customer in the same



quality as is available to BMW.

- 8.3 Faults with BMW CarData may be the result of force majeure, including strikes, lock-outs and statutory regulations, as well as short-term capacity bottlenecks caused by peak loads or faults with the telecommunication equipment of third parties. In addition, faults may occur as a result of technical and other work on BMW or network operator equipment required to ensure smooth functioning or to make improvements to BMW CarData (for example maintenance, repairs, system-related software updates, extensions). BMW will take all reasonable steps to repair BMW CarData faults immediately or to contribute to their repair.
- 8.4 The Customer may inform BMW ConnectedDrive Customer Services about any faults occurring with BMW CarData (see Section 11 below).
- 8.5 BMW is not responsible for the quality of services provided by independent providers. In some rare cases, for technical reasons, a voice call may be made not to the selected independent provider, but to BMW, within the scope of service provision. BMW is not responsible for the correctness of an independent provider's contact details (e.g., telephone number, customer support, etc.); this is the provider's own responsibility.

## **9 CANCELLATION OF THE BMW CONNECTEDDRIVE CONTRACT, CANCELLATION OF BMW CARDATA USAGE**

- 9.1 If the BMW ConnectedDrive contract is terminated, BMW will block access to "My BMW ConnectedDrive". This means that the Customer can also no longer use BMW CarData, as this requires a BMW ConnectedDrive contract.
- 9.2 If the BMW ConnectedDrive contract for a specific Vehicle is canceled, no further data will be transferred to any third parties previously authorized via BMW CarData. Any active service approvals for independent providers will also be terminated.
- 9.3 The Customer can reset the use of BMW CarData to its original state by carrying out a "BMW CarData Reset" on the My BMW portal. This causes all data and service permissions to be withdrawn and all corresponding third parties to be informed about the reset.

## **10 SALE OR PERMANENT TRANSFER OF THE VEHICLE**

The Customer cannot transfer their existing contract with BMW for the use of BMW CarData to a third party without the consent of BMW. This also applies in the event that the Customer sells their Vehicle or permanently transfers it to another person.

## **11 CONTACT OPTION**

The BMW ConnectedDrive customer service centre can be contacted at [www.bmw-connecteddrive.co.uk](http://www.bmw-connecteddrive.co.uk). Our hotline is also available to you from Monday to Friday from 8am to 6:30pm, Saturday from 9am to 5pm

and Sunday from 1pm to 5pm on telephone number 0800 3256 000.

## 12 LIABILITY

- 12.1 BMW makes readily available data as defined in the Data Act available at least in the same quality as is available to BMW. In all other respects, BMW does not accept liability for updating the data and information transmitted via BMW CarData and for ensuring their accuracy. The same applies to the consequences of faults, interruptions and malfunctioning of the services, especially in the cases described in Section 4.
- 12.2 BMW does not accept any liability for errors or misconduct committed by independent providers during the provision of services.
- 12.3 In the event of slight negligence, BMW is only liable if it has violated its major obligations (material duties) in terms of the content and purpose of the contract, i.e., obligations that make due execution of the contract possible or obligations on which the Customer regularly relies or may rely on. Such liability is limited to the typical damage that can be foreseen at the time of concluding the contract.
- 12.4 Personal liability of the legal representatives, vicarious agents and employees of BMW for any damage resulting from their slight negligence is also limited to the extent described in the previous paragraph.
- 12.5 The liability of BMW in the event of malicious non-disclosure of a defect, resulting from the assumption of a guarantee or a procurement risk, and in terms of the product liability law remains unaffected. Liability restrictions do not apply in the event of malicious intent, gross negligence, death, bodily injury or damage to health.

## 13 CONFIDENTIAL INFORMATION

- 13.1 The Customer shall treat Confidential Information confidentially, protect it from access by third parties by means of confidentiality measures appropriate to the circumstances and use it only for the purposes of these Terms and Conditions. "Confidential Information" means all information of the respective Trade Secret Holder which BMW discloses or makes available to the Customer orally, in writing or in any other (e.g., electronic) form and which are either labeled as confidential or which a recipient acting with the care of a prudent businessman would reasonably consider confidential, in particular technical and commercial information, such as, for example, business and trade secrets, information of a scientific, industrial or commercial nature. Information is not Confidential Information if it demonstrably
- was already known to the Customer at the time of disclosure by BMW;
  - was already publicly known at the time of disclosure by BMW or becomes publicly known at a later date, unless this is due to a breach of these Terms and Conditions by the Customer;
  - has been disclosed to the Customer by a third party without the third party having acted unlawfully in obtaining or disclosing the information concerned or having breached a confidentiality obligation in favor of BMW; or
  - has been created or developed by the Customer themselves or was created or developed on behalf

of the Customer independently of knowledge of the Confidential Information.

- 13.2 The Customer shall ensure that their employees and other third parties involved (if any) also maintain the confidentiality described above. Third parties do not include professional consultants of the Customer who are subject to statutory or professional confidentiality obligations and who are involved in the context of BMW CarData on behalf of the Customer.
- 13.3 The Customer undertakes not to reverse engineer, decompile, disassemble or otherwise examine the composition and/or production of Confidential Information, unless BMW has expressly agreed to this in writing in advance.
- 13.4 The confidentiality obligation shall remain in force for 5 years after termination of these Terms and Conditions.

#### **14 DATA COLLECTION, STORAGE, USAGE AND SAFETY**

- 14.1 The data entered into "My BMW ConnectedDrive" and BMW CarData are automatically encrypted using TLS protocol (Transport Layer Security). TLS is the industrial standard for the transfer of confidential data via the Internet.
- 14.2 BMW collects, stores and uses personal data provided by the Customer within the framework of statutory regulations, in as far as this is required to substantiate, design the content or amend the contractual relationship (inventory data) and to make use of BMW CarData. Further information about processing personal or Vehicle-related data as part of BMW CarData may be found on the BMW CarData website.
- 14.3 The Customer is obliged to inform BMW immediately about any changes to personal data that could affect the contractual relationship.

#### **15 PLACE OF JURISDICTION AND APPLICABLE LAW**

- 15.1 The sole place of jurisdiction for all claims resulting from the business relations with dealers will be Munich, Germany.
- 15.2 The same place of jurisdiction applies if the Customer has no general place of jurisdiction in Germany, if they have moved their registered office or habitual place of residence from Germany after concluding the contract, or if their registered office or habitual place of residence is unknown at the time of filing the claim.
- 15.3 German law will apply to all disputes resulting from or on the basis of this contractual relationship, with the exclusion of the UN Sales Convention. This choice of law only applies in as far as it does not negate any mandatory consumer protection laws of the state in which the consumer has their habitual residence at the time of placing their order.

# BMW



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