

# General Terms of Business

## Smart Tunnel Drive -

### 1. Applicability of General Terms of Business

- 1.1. BMW AG ("BMW") Petuelring 130, 80788 München, provides to you ("Customer") telematic and online services under the name "Smart Tunnel Drive" ("Service") in accordance with these General Terms of Business ("Agreement").

Contact details of BMW and postal email address for correspondence are:

BMW AG, BMW Smart Tunnel Drive, DE-341, Parkring 19, 85748 Garching, Germany

Email: managed.city.drive@bmwgroup.com

- 1.2. The Customer will be notified in writing (including email) of any changes to the Agreement proposed by BMW at the latest six week before they are scheduled to become effective. They shall become part of the Agreement if the Customer does not object in writing (including email) to such changes before they are due to come into effect.

### 2. Objective and Duration of the Service

- 2.1. The Smart Tunnel Drive Service is developed and will be tested within the EU-funded research project Socrates<sup>2.0</sup> (AGREEMENT No INEA/CEF/TRAN/M2016/1366032; <https://socrates2.org/>, duration 09/2017 – 12/2020). BMW is owner of the Service and the other Socrates<sup>2.0</sup> project partner will advertise and support it.
- 2.2. The goal of this research is to assess Customers' behavior as it is exposed to different routing behavior related to strategic information and incentives. The results of the research may be used to establish technical, collaborative or policy solutions that make traffic management effective in urban areas, thus may help to balance traffic loads, reduce traffic jams and improve air quality and emissions.
- 2.3. The Service will be available at maximum in the period of October 2019 until December 2020.

### 3. Subscription to the Service and necessary items of equipment

- 3.1. In order for the Customer to be provided with the Service, it is necessary to register in the BMW Labs web portal (<https://labs.bmw.com/>) to the Service.
- 3.2. The Service is made available to those Customers with a valid Connected Drive account and who have successfully registered to the Service via the BMW Labs web portal. Furthermore, the Customer requires the following items of special equipment, in order to use the Service: ,
  - a) BMW vehicle equipped with active Connected Drive Services and Professional Navigation system version ID5/6 (available in certain BMW vehicles produced since 03/2016),
  - b) valid email address of the Customer that he/she could access via mobile device while being in the serviced vehicle.
- 3.3. Upon verification that the registration concerns a valid BMW equipped vehicle, the Customer will receive an email for successful registration.
- 3.4. In background there will be a specific activation of the registered vehicle for the Service ("Provisioning") that makes the Service available in car via the Connected App Catalogue. Upon registration, Provisioning could take up to 7 days.
- 3.5. The Service is provided by an in car app ("Service App") installed via the ConnectedDrive Catalogue named "GenIE". An active internet connection of the vehicle is needed to install and use the Service App.
- 3.6. Within 6 weeks after ending of the Service period or if the Customer unsubscribes, the Provisioning of the registered vehicle will be deactivated.

### 4. Service Description

- 4.1. To use the Service the Customer has to have active a guidance in the Online Routing of the vehicle's head unit (ID 5/6).
- 4.2. The Service advises the Customer on the route selection with regard to the two tunnels on the motorway network in Antwerp (Belgium) that can be used to cross the river Scheldt: The Kennedytunnel and the Liefkenshoektunnel. The Kennedytunnel is free of charge and is the busiest tunnel on the network. The Liefkenshoektunnel, which has a fixed toll rate, often has some capacity left and can be a good alternative. The Service App suggests to Customers with an active online

routing guidance via the Kennedy Tunnel to switch routes from the Kennedytunnel to the Liefkenshoektunnel

- a) when toll is suspended by the Flemish Road Authority (Vlaamse Overheid); or
  - b) if the Flemish Road Authority (Vlaamse Overheid) decides to redistribute traffic to balance the traffic flow in the two tunnels.
- 4.3. The Customer may accept or decline the alternative route suggested in the Service App. If the Customer accepts, the guidance of the online routing will be adapted to the alternative via Liefkenshoektunnel. In case of 4.2 b), the Customer gets sent a QR Code by email to his/her registered address when approaching the Liefkenshoektunnel and a notification is shown in the in car Service App that the QR code has been sent. For further confirmation, the QR Code is shown in the in car Service App when approaching the toll booth sector.
- 4.4. The QR Code voucher on the mobile device can be used as a payment method at the Liefkenshoektunnel toll booths for one passage within the stated valid time period. To get the QR Code scanned, the Customer has to use one of the Liefkenshoek toll booths with a green arrow sign.
- 4.5. The Service is partly restricted in spatial terms to the reception and transmission of the radio stations operated by the relevant network operator. They may be adversely affected by atmospheric conditions and topographical factors or obstacles (e.g. bridges and buildings). Interruptions in Service may be caused by force majeure, or by technical and other measures, which must be carried out in the systems of BMW, the suppliers or network operators in order to ensure proper operation or to improve the Services, e.g. maintenance, repairs, system-related updates, expansions. They may also result from short-term capacity bottlenecks caused by loading peaks in the Services or by malfunction in areas where telecommunication assets of third-parties are located. BMW will make every reasonable effort to re-instate the Service or to assist with their re-instatement.

## 5. Privacy Protection and Data Storage

- 5.1. Data storage of Customers' Connected Drive Account, Customers' VIN (Vehicle Identification Number), Customers' email address for QR Code sending, support and Service evaluation, Customers' mobile number for support (optional, provided by customer).  
The data will also be provided to the Connected Drive Call Center for support.
- 5.2. When the Service App and the online guidance of the navigation device is active, selected vehicle data parameters are sent to and stored at the BMW's backend server like actual position, destination, initial route, estimated time of arrival, vehicle identification number (VIN) for identification and response and QR Code shipment. At the end of each day the collected data is parsed into a format that allows to evaluate the effectiveness of the traffic management measures and, at the same time, removes all private user data that is not required for evaluation.
- 5.3. The Socrates<sup>2.0</sup> project partners and their subcontracted companies will receive data collected by BMW in the course of this Service in depersonalized form only for evaluation and service assessment.
- 5.4. For Service evaluation the Customer agrees to get sent online questionnaires to his/her stated email address. If the Customers fills out the questionnaire the answers will be stored.
- 5.5. The data stored by BMW will be deleted 2 years after ending of the EU-project Socrates<sup>2.0</sup> (12/2020).
- 5.6. Data provided for evaluation to the Socrates<sup>2.0</sup> partners will be stored at the Socrates<sup>2.0</sup> data archive for 5 years after project ending for assessment purposes of the European Commission (INEA). The Socrates<sup>2.0</sup> archive will be in the responsibility of and accessible by the Dutch Traffic Ministry Rijkswaterstaat (project coordinator of Socrates<sup>2.0</sup>).

## 6. Obligations of the Customer

- 6.1. The Customer will receive the Service free of charge.
- 6.2. The Customer may not and shall not permit others to use the Service. The Customer is not entitled to forward the data and information obtained from using the Service to third parties on a commercial basis or to process them further.
- 6.3. The Customer may report faults in the Service immediately to BMW via the BMW Labs portal: <https://labs.bmw.com/> or via email: [Managed.City.Drive@bmwgroup.com](mailto:Managed.City.Drive@bmwgroup.com).
- 6.4. The Customer shall inform BMW immediately of any change in his/her contact data communicated under this Agreement.
- 6.5. The Customer has no rights to get paid compensation of Liefkenshoeks' toll fee if for any reason the Customer has to pay the toll, in particular if the receipt of the QR Code via email failed, the mobile

device with the QR Code in the email inbox was not available for scanning, or if the wrong toll booth was chosen (toll booth with no green arrow).

In these cases the Customer has to pay the toll fee requested by the Liefkenshoek Tunnel Provider by himself/ herself.

- 6.6. The Customer may only use his/her mobile device in the context of the Service (in particular for the purpose of scanning the QR Code at the toll booth) to the extent it is permitted under applicable traffic laws and regulations, in particular not while driving.

## **7. Duration of Agreement**

- 7.1. The Agreement shall continue until 31.12.2020 unless earlier terminated by either party with not less than one-month prior written notice.
- 7.2. Either party is entitled to terminate the Agreement without notice for a material breach of the Agreement on the part of the other party. This includes, but is not limited to, the use of the Service by the Customer for illegal purposes, BMW's decision to stop providing the Service for any reason, and the Customer and/or BMW becoming bankrupt or insolvent, being in liquidation or administration or entering into an arrangement with their creditors.

## **8. Limited liability**

- 8.1. BMW shall assume no liability for the accuracy and topicality of the data and information transmitted via the Service. This shall also apply for the consequences of disturbances, interruptions and functional impairments of the Service.
- 8.2. In cases of ordinary negligence, BMW is only liable for breaches of material contractual duties (cardinal obligations), e.g. such duties which this Agreement, considering its intent and purpose, particularly aims at imposing on BMW or such duties whose fulfilment facilitates the implementation of this Agreement in the first place and on whose fulfilment the Customer will typically rely and must be able to rely. This liability is limited to typical damage foreseeable at the time this Agreement is concluded.
- 8.3. The personal liability of legal representatives, agents and employees of BMW for damage caused by their ordinary negligence is limited in the same way as stipulated in the previous paragraph.
- 8.4. BMW's liability for malicious non-disclosure of a defect, the granting of a guarantee or the assumption of a procurement risk and BMW's liability under the German Product Liability Act (Produkthaftungsgesetz) shall remain unaffected. Exclusions or limitations of liability shall not apply to liability for an intentional or grossly negligent breach of duty or for damage from injury to life, body or health.

## **9. Jurisdiction and applicable law**

- 9.1. This Agreement shall be governed by German Law and both parties hereby agree to submit any dispute to the jurisdiction of Courts in Munich (Germany). However, if the Customer is a consumer, any laws or regulations which favor the Customer and are mandatory in the country in which the Customer has their habitual residence, shall, to the Customer's benefit, take precedence over German Law.
- 9.2. Based on applicable law, we are, regardless of whether we take part in alternative dispute resolution, obliged, to inform you that the European Commission has established an online platform for alternative dispute resolution for consumer law litigation which is called ODR (Online Dispute Resolution Platform). It can be found on the following address: <http://ec.europa.eu/consumers/odr/>. BMW will not take part in alternative dispute resolution proceedings in front of a consumer arbitration board and is not obliged to. Our email address is [managed.city.drive@bmwgroup.com](mailto:managed.city.drive@bmwgroup.com).