

# Software Update

User Agreement of  
Bayerische Motoren Werke  
Aktiengesellschaft

(as of August 2018)

## 1. Subject matter and scope of the Right of Use Agreement

The subject of this Agreement is the providing of the software 'Update für BMW CE-Device Steuergerät' (hereinafter referred to as 'software') by Bayerische Motoren Werke Aktiengesellschaft, Petuelring 130, 80809 Munich (hereinafter referred to as 'BMW') to the end user (hereinafter referred to as 'licensee') for downloading onto a USB stick and subsequent installation in his or her vehicle.

This Right of Use Agreement regulates the assignment of rights to the licensee only in terms of the proprietary components of the software. If and insofar as the software contains open source software components, the granting of rights is governed by the applicable licensing terms for open source software, which are included with the affected software packages as a text file in each case. This Right of Use Agreement thus applies solely in so far as and to the extent that no other regulations are contained within the corresponding licensing terms for open source software. Licensing terms are attached to the respective software packages which can be downloaded from [www.bmw.com/update](http://www.bmw.com/update).

## 2. Copyrights to the software

The software is protected by copyright. Subject to clause 1, second paragraph, BMW is the sole owner of the exclusive, irrevocable, assignable, unlimited rights of use in the software with respect to time, place and content. BMW reserves all rights to publish and reproduce, propagate, change, modify and exploit the software.

## 3. Granting of the right of use

BMW hereby grants the licensee at no charge the basic, non-exclusive, revocable, non-transferable right to use to the software exclusively for installation in the licensee's vehicle.

In particular, licensees are prohibited from altering or copying the software (except for the purpose of installation in the vehicle), creating products derived from the software, transferring the software or any copy thereof to a third party or exploiting it commercially.

## 4. License period

The right of use is valid for an indefinite period of time. The licensee's right to use the software expires

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automatically on violation of any provisions within this Agreement. If the right of use expires, the licensee is obliged to deinstall the software from his/her vehicle.

## **5. Warranty**

BMW provides the software to the licensee on an 'as is' basis. BMW assumes no liability for defects of quality or title except in case of bad faith.

## **6. Liability**

BMW is not liable as far as the licensee uses devices not released by BMW for the installation of the software during the download of the software and its installation in his or her vehicle or does not download or install the software according to the installation instructions.

BMW is only liable in cases of willful intent or gross negligence.

Independently of any possible default, the liability of BMW remains unimpaired in cases of malicious nondisclosure of a given defect or those covered by the German Product Liability Act. The limitation of liability of this chapter does not apply in the event of injury to life, body and health.

## **7. Jurisdiction and choice of law**

The place of jurisdiction for all disputes arising in connection with this Agreement – unless otherwise mandatorily required by law – is Munich. German law shall be applicable.