

ZF FRIEDRICHSHAFEN AG

Conditions for transactions of ZF Plants in Germany (Version May 2019) accompanying the General Terms and Conditions of Purchase (Version 2002)

1. Determining Conditions

The legal relationships between Supplier and Buyer relative to supplies of Goods into Buyers plants in Germany are subject to the ZF General Terms and Conditions of Purchase, Version October 2002 ("ZF General Terms and Conditions of Purchase") and to any other agreements existing between the parties. Because of the changes in the Industry since 2002, the following conditions apply in deviation from or in addition to the ZF General Terms and Conditions of Purchase as stated in detail in the following provisions.

Other terms and conditions of Supplier do not apply even if Buyer has not expressly objected thereto in a given case. This also applies when Supplier explicitly refers to these, e.g., in confirmations of orders.

2. Orders

Section 2 of the ZF General Terms and Conditions of Purchase is replaced by the following provisions:

2.1 Supply contracts (order and acceptance), calls for delivery, as well as any changes and amendments thereof are binding only if they are issued or confirmed by Buyer in writing, by fax or in electronic form, including but not limited to: letter, fax, e-mail, EDI or web EDI.

2.2 Orders are considered to have been accepted if Supplier does not object to them in writing within two working days of receipt.

Within an ongoing supply relationship, Supplier will fulfil the orders and calls of Buyer especially regarding delivery time and delivery quantity according to their content, unless there are compelling reasons for the objection. In such case, Supplier has immediately to explain such reasons in writing to Buyer.

2.3 Unless the order requires Supplier to manufacture, ship and/or provide a specified quantity of Goods, the Order requires Supplier to supply Buyer's reasonable requirements for the Goods in such quantities as identified by Buyer in delivery schedules, material authorization releases, manifests, broadcasts or similar releases ("Delivery Schedules") that are transmitted to Supplier during the term of the Order, and Supplier shall supply all such Goods on such dates and times, at the price and on the other terms specified in the Order. Delivery Schedules are part of the order and are governed by these General Terms and Conditions of Purchase. Supplier accepts the risk associated with lead times of required raw materials and/or components if they are beyond those provided in Delivery Schedules.

2.4 Buyer's quantity requirements for the Goods are determined by the needs of Buyer's customers and such needs may change from time to time. Any volumes provided by Buyer to Supplier, including, without limitation, volumes identified as projected or estimated or quantities noted as "planning", "forecast" or with words of similar meaning, including forecasted volumes in any requests for quotation, are for planning purposes only and do not represent a commitment or obligation to purchase a specified quantity. Unless otherwise stated in the Order or related Delivery Schedules, Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, whether express or implied, to Supplier with respect to Buyer's quantity requirements. Upon reasonable request by Buyer, Supplier shall assist Buyer in establishing an appropriate safety stock in accordance with Buyer's requirements, thereby reducing the supply cycle time. For the avoidance of doubt, the supply of the Goods by Supplier to Buyer shall not be exclusive, and Buyer may at its discretion at any time engage any third parties to supply it with similar goods.

2.5 Delivery times and quantities are of the essence under the Order. Supplier agrees to 100% on-time delivery of the quantities and at the times specified in the Order or related Delivery Schedules.

2.6 Unless otherwise provided in the Order or in any other written agreement between Buyer and Supplier, and without prejudice to any termination rights under these Terms and Conditions of Purchase, the term of the Order commences on the date set forth on the Order and continues until the end of production under the applicable OEM program(s) for which the Goods are supplied, including model refreshes or program extensions, as determined by the applicable OEM customer ("End of Production"). Supplier's right to terminate for good

cause ("Kündigung aus wichtigem Grund") remains unaffected.

2.7 Estimates of costs, initial samples and samples in general are binding and not to be remunerated unless otherwise explicitly agreed in writing.

2.8 Supplier declares that it is willing to conduct cost analysis and value analysis workshops in its company as initiated by Buyer and to support these with all the necessary means.

3. Payment

Section 3 of the ZF General Terms and Conditions of Purchase is amended to include the following provision:

3.4 Buyer can offset all the claims, in whole or in part, to which he is entitled against Supplier or its affiliated entities against all the claims that Supplier has against him or its affiliated entities.

4. Notice of defects

Section 4 of the ZF General Terms and Conditions of Purchase is amended to include the following provision:

4.1 Buyer shall inspect incoming goods only with respect to obvious damage, especially damage as a result of shipment, and discrepancies in terms of identity and quantity.

5. Delayed delivery

Section 7 of the ZF General Terms and Conditions of Purchase shall not apply. Statutory law shall apply for cases of late delivery.

6. Quality, documentation and environmental protection

Section 9 of the ZF General Terms and Conditions of Purchase is replaced by the following provisions:

9.1 In respect of his supplies, Supplier shall comply with the generally accepted technical procedures, safety regulations and the technical details agreed. Modifications to the delivery items require the prior written consent of Buyer. The procedure for cooperation in the field of quality, such as initial sampling and documentation, is specified in binding form in QD83 (Global Supplier Quality Directive) in the version applicable at the time the order is placed.

9.2 If governmental authorities responsible for vehicle safety, exhaust emission regulations or the like demand inspection of Buyer's production procedures and inspection records in order to verify certain requirements, Supplier shall, at Buyer's request, agree to grant to such authorities the same inspection rights on his own premises and to give them any reasonable assistance.

9.3 The document GLD (Global Logistic Directive), in the version applicable at the time the order is placed, and the supplementary logistics agreements concluded between the parties shall apply to the logistics processes.

The QD83 and the GLD can be found at www.zf.com (Materials Management).

7. Liability for defects

Section 10 of the ZF General Terms and Conditions of Purchase is replaced by the following provisions:

Supplier expressly warrants that the Goods: (i) will be fit and sufficient for the purpose intended; (ii) will be brand-new, intact and genuine products; (iii) will be of merchantable quality and free from all defects, including defects in material and workmanship, and in design (to the extent designed in whole or in part by Supplier or any of its subcontractors, agents or suppliers, even if the design has been approved by Buyer); (iv) will conform with all representations, descriptions, samples, drawings, plans, standards, specifications, and designs furnished to or by Buyer and identified on or incorporated into the Order; (v) will conform with all statements regarding the quality, grade, performance or use of the Goods made by Supplier or any of its subcontractors, agents or suppliers in advertisements or promotional materials; (vi) will conform to all applicable laws, orders, regulations and standards in countries where the Goods or products incorporating the Goods are to be sold; (vii) will be free of all liens, claims and encumbrances whatsoever, and will not impair, infringe, violate or misuse any patent right, utility model, industrial design, copyright, trademark, service mark, trade secret, know-how, or other intellectual property rights protected in countries where the Goods or products incorporating the Goods are to be sold. These warranties are in addition to those available to Buyer by law.

Claims based on defects shall become statute-barred 36 (thirty-six) months after the registration of the vehicle or the installation of the replacement part, but not later than 48 (forty-eight) months after delivery to Buyer.

In any case of delivery by Supplier of defective or non-conforming Goods: (i) Supplier shall, at Buyer's election and Supplier's expense, promptly repair or replace all defective or non-conforming Goods; or (ii) in urgent cases and, if Supplier does not rectify the defect within a period of time adequate to

the individual circumstances in particular to avoid acute dangers, Buyer itself or a third party directed by Buyer may, at Supplier's expense, repair or replace defective or non-conforming Goods; Buyer will use reasonable efforts to inform Supplier before such actions are taken; and (iii) Supplier shall bear all costs and expenses required in connection with the replacement or repair of defective or non-conforming Goods, including without limitation the costs for inspection, testing storage, transportation, travel, labor, materials as well as the costs for disassembly/removal and reassembly/reinstallation. Furthermore, the costs for scrap disposal and any lost added value of business shall be borne by Supplier. Supplier shall reimburse Buyer for all such costs and expenses incurred by Buyer.

8 Liability

Section 11 of the ZF General Terms and Conditions of Purchase is replaced by the following provisions:

11.1 If a claim arising from product liability is made against Buyer under German or other law, Supplier will intervene on behalf of Buyer, in so far as he would be directly liable. A contractual liability of Supplier remains unaffected. Supplier is obliged to release Buyer from claims of this kind, if and as far as the damage has been caused by a defect of the contractual object supplied by Supplier. In cases of liability with fault, however, this does not apply if Supplier is not at fault. The Supplier bears the burden of proof in this respect. In these cases, Supplier takes over all the costs and expenditure including the costs of possible legal proceedings or recall actions. In addition, the legal provisions apply.

11.2 Buyer will inform Supplier in due course if he wants to assert a claim against him in accordance with the preceding paragraph. As far as it is reasonable to Buyer, he will give Supplier the opportunity to examine the claim and to come to an agreement with Buyer about the measures to be taken, e.g. negotiations about a settlement.

11.3 If, based on Buyer's or Buyer's customer's (or OEM's, if different) risk analysis of repeatedly occurring defects of Buyer's products into which the Goods are incorporated, Buyer reasonably determines that the root cause of the defects is attributable to the Goods, and that there is a relevant risk of potential loss or damage as a result of further defects occurring due to the same root cause, Buyer may take appropriate Precautionary Measures. Supplier will bear the cost of Precautionary Measures by Buyer and/or Buyer's customers, in particular of precautionary measures to avoid claims (e.g. recall) without there being a legal obligation for this, provided that the Precautionary Measure can at least also be attributed to defective supplies of Supplier.

11.4 "Precautionary Measures" under Section 11.3 are measures which relate to all Goods that implicate the risk of potential loss or damage as described in the preceding paragraph, whether the individual Goods have actually be found to be defective or not, and which may include, without limitation, recalls or warnings, replacement, remodeling or retrofit, or other product safety measures, serial defect campaigns or other service actions.

The provisions in sections 11.1 to 11.4 also apply after expiration of the agreed limitation period.

11.5 Supplier is obliged to take out a product liability and recall campaign cost liability insurance with a coverage for personal injury, damage to property and pecuniary loss in the amount of at least Euro 2.5 million per case, to maintain these insurances during the ongoing supply relationship without any disruption and provide evidence to Buyer at all times, if so requested.

11.6 Buyer will demand from Supplier to increase his insurance coverage on the merits or in terms of amount, based on the demands of Buyer's particular customer, Supplier's capability, the business relationship and liability risks. Supplier is obliged to study these demands and provide his agreement wherever possible. Such agreement shall not be unreasonably refused by Supplier.

11.7 In case that an insured event occurs, Buyer and Supplier are obliged to provide each other with information on all circumstances and events associated with the insured event.

11.8 At the change of the liability insurance company Supplier shall immediately provide Buyer with the corresponding supporting documents without delay and unrequested.

9 Proprietary Rights

Sections 12.3, 12.4 and 12.7 of the ZF General Terms and Conditions of Purchase do not apply.

Section 12 of the ZF General Terms and Conditions of Purchase is amended to include the following provision:

12.8 In the event Buyer instructs Supplier to use Buyer's trademarks in connection with the Goods, Buyer will not pay a royalty for such trademark use, and Buyer will issue an affidavit acknowledging such lack of royalty at the request of Supplier.

14 Reservation of ownership

Section 14 of the ZF General Terms and Conditions of Purchase does not apply.

15 General conditions

New Section 15.1 of the ZF General Terms and Conditions of Purchase does not apply.

16 Section 16:

The ZF General Terms and Conditions of Purchase are amended by the following provision:

16.1 The parties acknowledge that the Goods represent components that will be incorporated into motor vehicles, railways, marine equipment, medical equipment, elevator equipment and other electronic equipment, and that any disruption in the supply of Goods would materially and irreparably harm Buyer and Buyer's customers, and that any re-sourcing of the Goods by Buyer to alternative supply sources would require significant time, effort, cost and resources. Accordingly, in the event the Order expires or is terminated, Supplier agrees to cooperate in the transition of supply, including without limitation the following: (i) Supplier shall continue production and delivery of all Goods as ordered by Buyer, at the prices and other terms stated in the Order as of the date of termination or expiration, without premium or other condition, for a reasonable phase-out period following the expiration or termination, taking into account the period reasonably needed by Buyer to complete the transition to any alternate supplier(s) including, at Buyer's reasonable request, providing a sufficient stock of Goods covered by the Order; (ii) against appropriate reimbursement by Buyer to Supplier, Supplier shall provide all reasonably requested information and documentation regarding and access to Supplier's manufacturing process, including on-site inspections, bill-of-material data, tooling and process detail and samples of Goods and components; (iii) when requested by Buyer, Supplier shall, at no cost to Buyer, return to Buyer all Buyer's Property in as good condition as when received by Supplier (reasonable wear and tear excepted).

17 New Section 17:

The ZF General Terms and Conditions of Purchase are amended by the following provision:

17.1 Supplier commits itself to conduct a systematic risk management process with the aim, as far as possible, to identify and mitigate existence-threatening or other major risks with material impact on Buyer's business related to the delivery of Supplier's Goods to Buyer. The risk management process shall be aligned with Buyer. Supplier commits itself to carry out this process exercising due care, containing all required preventive actions to avoid the aforementioned risks to Buyer. The process must also include Supplier's sub-suppliers. On request, Supplier agrees to give Buyer insight into the risk management process, the applied methods, actions and results and commits itself to support surveys in connection with the risk evaluation and risk safeguarding.

17.2 Any measures necessary to avoid and mitigate the aforementioned risks, which are standard procedures in the industry, shall be borne by Supplier. Any financial contribution of Buyer to other measures, which are not standard in the industry, need to be agreed with Buyer in advance. Costs in connection with the risk evaluation and risk safeguarding shall be borne by the respective party.

18 New Section 18:

The ZF General Terms and Conditions of Purchase are amended by the following provisions:

18.1 Supplier is responsible to act and produce goods in accordance with the current laws and regulations regarding product compliance including but not limited to, applicable product safety and environmental standards employment, environmental protection, and work safety, and to avoid any criminal offenses concerning the order, and to that effect, it is responsible to follow and comply with the Business Partner Principles found in the attachments or at www.zf.com in the version applicable at the time the order is placed. Supplier must ensure through its supply chain that its sub-suppliers are obligated and responsible to adhere to the Standards in the Business Partner Principles found in the attachments. In the case of any breach against the aforementioned principles, Buyer reserves the right to rescind and accordingly terminate the

contract without prior notice. Should Buyer suffer any damages due to the breach, Supplier is obligated to hold Buyer harmless.

18.2 Supplier shall immediately notify Buyer of any indication, in relation to Buyer business, of unlawful conduct or conduct resulting in Goods failing to comply with any laws or regulations referenced in this section or violation of the ZF Business Partner Principles by any of Supplier's executives, employees, agents or sub-contractors ("Breach"). In the event of a Breach, Buyer may rescind any existing Order and may assert its rights under the section "Product Indemnification." Other sections of this agreement shall remain unaffected.

18.3 Supplier shall pay to Buyer as liquidated damages 8 % of the net invoice amount of the supplies affected by any culpable illegal conduct of Supplier, which constitutes an unlawful restraint of competition according to applicable antitrust laws. Supplier has the right to prove that Buyer suffered only less or no damages. Buyer has the right to prove that Buyer suffered higher damages. In such cases, Supplier shall indemnify and hold Buyer harmless from any and all actually suffered damages. The foregoing obligations shall not prevent Buyer from any additional contractual or statutory rights, which shall remain unaffected by this provision. The obligation of this provision shall survive even if the Order is fulfilled or terminated.

19 New Section 19:

The ZF General Terms and Conditions of Purchase are amended by the following provisions:

19.1 Buyer may terminate the Order at any time for its convenience by giving at least ten (10) days written notice to Supplier.

19.2 Upon receipt of notice of termination under this Section 19, and unless otherwise directed by Buyer, Supplier shall: (i) promptly terminate all work under the Order on the effective date of termination set forth in the notice; (ii) transfer title and deliver to Buyer the finished Goods, the work in process, and the parts and materials that Supplier reasonably produced or acquired according to the quantities firmly ordered by Buyer and that Supplier cannot cancel or return without cost or use in producing goods for itself or for others; (iii) promptly stop subcontracting or ordering any material, service or facility under the Order; (iv) verify and settle any claims by Supplier's subcontractors or sub-suppliers for actual and reasonable costs incurred directly as a result of the termination and ensure the recovery of materials in subcontractors' or sub-suppliers' possession; (v) take actions reasonably necessary to protect property in Supplier's possession in which Buyer has an interest; and (vi) upon Buyer's request, cooperate with Buyer in any transition of supply of Goods to a different supplier pursuant to Section 16.

19.3 Upon termination by Buyer under this Section 19, Buyer will pay to Supplier only the following: (i) the Order price for all finished Goods in the quantities ordered by Buyer that conform to the Order for which Supplier has not been paid; (ii) Supplier's reasonable actual cost of merchantable and useable work-in-process and the parts and materials transferred to Buyer under Section 19.2 (ii) above; (iii) Supplier's reasonable actual costs of settling claims regarding its obligations to its subcontractors or sub-suppliers required under the Order, to the extent directly caused by the termination, but limited to raw materials/components necessarily required in order to manufacture the quantities firmly ordered by Buyer and then currently outstanding; (iv) Supplier's reasonable actual cost of carrying out its obligation under Section 19.2 (v) above; and (v) if applicable, amounts due in connection with transition of supply under Section 16.

19.4 Notwithstanding any other provision in these Terms and Conditions of Purchase, Buyer's obligation upon termination under this Section 19 will be limited to the payments set forth in Section 19.3 above, and shall in no event exceed the obligation Buyer would have had to Supplier in the absence of termination. In the event of a termination of the Order by Buyer as a result of Buyer ceasing to be a supplier to the customer for the program in respect of which Buyer issued the Order, Buyer shall only be obligated to compensate Supplier for any costs under this paragraph if, and to the extent that the customer reimburses Buyer specifically for such costs.

19.5 Supplier shall furnish to Buyer, within one month after the date of termination (or such shorter period as may be required by Buyer's customer), any termination claim under this Section 19. Buyer may audit Supplier's records before or after payment to verify amounts requested in Supplier's termination claim.

19.6 Buyer will have no obligation for payment to Supplier under this Section 19 if Buyer terminates the Order for cause. Any

termination shall be without prejudice to any claims that Buyer may have against Supplier.

19.7 Buyer may terminate all or any part of the Order upon written notice to Supplier with immediate effect, and without liability to Supplier, in the following circumstances: (i) Supplier repudiates, breaches or threatens to breach any of the terms of the Order; (ii) Supplier fails or threatens not to deliver Goods or perform services in connection with the Order; (iii) Supplier's financial situation deteriorates or extrajudicial composition proceedings are initiated with respect to Supplier; (iv) Supplier files for bankruptcy, liquidates or dissolves; (v) Supplier ceases or claims to cease its business; (vi) Supplier has a change of control; (vii) upon the occurrence of any other event which causes reasonable doubt as to Supplier's ability to perform under the Order; or (viii) Supplier fails to remain competitive with respect to quality, technology, delivery, service or pricing of the Goods; or (ix) there is a reasonable suspicion that a Breach has occurred or is likely to occur.

19.8 If, after termination pursuant to this Section 19, it is determined that termination was not for cause, the rights and obligations of Buyer and Supplier will be the same as if the termination were for convenience pursuant to Section 19.1.

20 Data Protection

The ZF General Terms and Conditions of Purchase are amended by the following provisions:

20.1 The Parties shall obey applicable data protection legislation.

20.2 As a general rule, the Parties assume that neither party will process personal data on behalf of the other party in connection with the agreement. In the event that either party anticipates that a party will process personal data on behalf of the other party in connection with the agreement, that party shall inform the other party without undue delay. In this case, a data protection agreement shall be concluded as an attachment to the agreement where necessary according to applicable data protection laws. Without such data protection agreement, neither party shall process personal data on behalf of the other.

20.3 If and to the extent that applicable data protection laws include transparency obligations that either party may have towards employees and individuals representing the other party, this other party shall reasonably cooperate upon request of the obliged party and by mutual agreement.