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GENERAL TERMS AND CONDITIONS OF PURCHASE OF THE ZKW GROUP

0. Definitions

Order Acceptance of the offer by the Purchaser for the delivery of Goods or provision of services in written form. Orders via which the Supplier's offer is amended constitute counter-offers and must be accepted by the Supplier, which may also take place via implied acceptance.

Force Majeure Force Majeure is deemed to be any event that is beyond the control of the party that is unable to perform and which could not be prevented or foreseen by reasonable means, even with the utmost care. The following are in particular not considered to be cases of Force Majeure, although this list is not exclusive: general economic conditions (e.g. recession, inflation, etc.), strikes, labour disputes, power outages (unless caused by a Force Majeure event), cyber attacks, lack of raw materials, usual means of transportation or labour, or cases of Force Majeure that affect sub-suppliers.

Incoterms The terms of trade published by the International Chamber of Commerce in 2020 (also known as "Incoterms 2020").

Purchaser or ZKW Any company in the ZKW Group that has entered into a Supply Agreement with the Supplier.

Customer Customers of the ZKW Group (e.g. automobile manufacturers, OEMs)

Long Lead-Time Components Raw materials with delivery times of more than ten (10) calendar weeks

Delivery Call-Off Order A declaration from the Purchaser to the Supplier in which a specific quantity of Goods to be delivered is ordered from the Supplier and which includes the Delivery Deadline and if applicable the time and destination for the delivery of the Goods.

Supplier The party to whom an Order is addressed and the party that signs the Supply Agreement.

Delivery Deadline A fixed date for the delivery of Goods, which is specified in the Order or Delivery Call-Off Order or is otherwise agreed between the parties.

Supply Agreement Refers to an agreement that is typically (a) entered into based on an Order issued by the Purchaser to the Supplier based on a Long-Term Supply Agreement, or (b) by the Purchaser's written acceptance of a quote submitted by the Supplier, or (c) by the Supplier's explicit or implicit acceptance of an Order issued by the Purchaser which places the Supplier under an obligation to deliver Goods or provide services to the Purchaser over the period and under the conditions agreed in the Supply Agreement (e.g. nomination letter).

Long-Term Supply Agreement Refers to a framework agreement that grants the Purchaser the right to issue Orders to the Supplier for the supply of Goods over the entire Term Of The Project under the conditions agreed (including in particular prices, capacities, volume flexibilities) that are updated by mutual agreement over the Term Of The Project, and thereby to enter into Supply Agreements for the period and under the terms and conditions specified in the Order.

Term Of The Project: unless otherwise agreed, this refers to the entire series delivery phase for the respective vehicle from SOP (start of production) to EOP (end of production) to EOS (end of service) or the end of the obligation to supply spare parts.

In writing/written also means in text format, e.g. by fax, e-mail or electronic data interchange (EDI), unless the stipulation "written form as defined by the Austrian Civil Code (ABGB)" is expressly made.

Property Rights All patents, utility models, design rights, trademarks, copyrights, and ancillary copyrights, including rights to databases and other intellectual property rights, irrespective of whether these are at the application stage or are already registered, as well as technical trade secrets, in particular expertise and inventions.

Specifications Designs, requirement specifications, ZKW's standards and other requirements that define the characteristics that the Goods should have.

Goods Products, parts, components, systems and associated services or other services provided by the Supplier to the Purchaser.

Tools All tools, including systems, which also includes all accessories, such as templates, matrices, measuring instruments, devices, moulds, samples and associated software, drawings and other related documentation and other auxiliary equipment required to produce the Goods or to reproduce the Tools.

Purchaser's Tools All Tools paid for by the Purchaser or for which the Purchaser has paid contributions towards the costs, as well as all Tools in the possession of the Supplier that are owned by the Purchaser or the latter's Customers, in their form at the time that the Purchaser requests the Tools be returned from the Supplier. This includes in particular all accessories, maintenance and replacements, additions, attachments, equipment and materials.

ZKW Group ZKW Group GmbH as well as the companies and undertakings in which ZKW Group GmbH holds a direct and/or an indirect interest. For the purposes of clarification, it is noted that the companies and undertakings that for their part directly and/or indirectly hold an interest in ZKW Group GmbH do not belong to the "ZKW Group".



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1. General provisions

- a. All deliveries of Goods and services provided by the Supplier to the Purchaser shall be based exclusively on these General Terms and Conditions of Purchase ("Terms and Conditions of Purchase"), including the documents referred to in these, as well as the addendum applicable in each case.
- b. Any amendments and additions must be made in writing. The Purchaser shall enter into the contract based solely on these Terms and Conditions of Purchase. The Supplier's own general terms and conditions shall not apply, including in individual cases where they have not been expressly rejected.
- c. The Supplier has read and understood these Terms and Conditions of Purchase. It hereby declares that it accepts them as being legally binding upon acceptance of an Order or on commencement of the Order execution.
- d. To the extent that the following provisions refer to documents of the Purchaser, these are published at <https://zkw-group.com/home/partner/lieferanten/>; at the Supplier's request, the Purchaser shall also send them to the Supplier.
- e. The Supplier must provide current Supplier master data to the Purchaser at <https://supplier.ariba.com/> (referred to in the following as the "Supplier Database") and appoint a master administrator who is responsible for this. To the extent that the Supplier is under an obligation to submit certificates, declarations or other evidence in accordance with these Terms and Conditions of Purchase, the Supplier must submit these without delay via the Supplier Database, each with the current validity date. The Supplier must ensure that the Supplier master data, certificates, declarations, pieces of evidence, etc. are up to date and complete at all times.
- f. In the event that the Purchaser fails to inspect or request a certificate, declaration or other piece of evidence referred to in these Terms and Conditions of Purchase, this shall not constitute a waiver of any obligation stated in these Terms and Conditions of Purchase nor shall it constitute approval of the Supplier's conduct.
- g. The Supplier must inform the Purchaser without delay and in full of any changes in company name, change of legal form or any other change in its participation, shareholder or ownership structure or any other direct or indirect legal or commercial changes in the ability to exert influence on the Supplier.

2. Orders and order confirmations

- a. The Purchaser and Supplier shall communicate required information (forecasts, Orders, Delivery Call-Off Orders) and delivery notes for series requirements and technical exchanges preferably via direct EDI, or otherwise via web EDI or e-mail. The Purchaser and Supplier shall agree in a separate document as part of the onboarding process on the EDI formats and messages to be exchanged, as well as on the contact persons on both sides. The messaging standards used are the automotive industry's standard data formats (EDIFACT, VDA), whose specifications: EDI Documents – found at <https://zkw-group.com/home/partner/lieferanten/> must be adhered to.
- b. An Order may be cancelled by the Purchaser at any time before it has been accepted without giving rise to any liability towards the Supplier. An Order shall not constitute acceptance of an offer from the Supplier unless acceptance of this particular offer is expressly stated in the Order. The content of the Supplier's offer shall only become part of the contract to the extent that it is referenced by the Purchaser in its Order and does not contradict the other contents of its Order.
- c. The Order, any Delivery Call-Off Order and the Terms and Conditions of Purchase shall be deemed to have been accepted by the Supplier in their entirety and without amendment if the Supplier accepts an Order in writing or via electronic data transmission or begins to deliver the Goods or provide the services that form the subject matter of the Order. The Supply Agreement shall be based exclusively on these Terms and Conditions of Purchase and on any Long-Term Supply Agreement that may be applicable for these Goods. Any divergent terms and conditions shall only be binding following the Purchaser's written confirmation. The implicit acceptance of divergent terms and conditions through the unconditional acceptance of or payment for the Goods by the Purchaser shall be excluded. In the event of any discrepancy or contradiction between a Supply Agreement and these Terms and Conditions of Purchase, the Supply Agreement shall take precedence over these Terms and Conditions of Purchase.
- d. The Delivery Call-Off Order shall be communicated to the Supplier by the Purchaser for each order item (part number) via EDI in the standard format on a regular basis as well as in the event of changes. The latest (most recent) Delivery Call-Off Order shall replace all previous versions and shall be binding with regard to the next Order call-off. The Delivery Call-Off Order may be sent to the Purchaser by e-mail or fax as a backup solution in the event of disruptions to the EDI connection or in the event of short-term changes in requirements.
- e. Orders must be made in writing, Supply Agreements as well as any amendments and additions to these must be made in written form as defined by the Austrian Civil Code (ABGB). Delivery Call-Off Orders as part of a (Long-Term) Supply Agreement may also be submitted via remote data transmission.



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- f. The quantities stated in enquiries and Long-Term Supply Agreements shall merely be non-binding guide values, e.g. for price calculations, and shall not constitute any obligation on the part of the Purchaser to order or call off these quantities; accordingly, the Supplier does not guarantee at any time that these quantities will actually be purchased. The quantities specified in the latest Delivery Call-Off Order shall be the only quantities that are definitive.
- g. The Supplier shall have **no rights to refuse to withhold performance until counter-performance is effected** in relation to a claim on the part of the Purchaser or to enforce a claim of its own in connection with the Supply Agreement, unless the Supplier's claim has been recognised as final and absolute by a court of law. This applies in particular to the Supplier's obligation to deliver Goods, which the Supplier may not refuse or suspend by referring to its own unrecognised and legally unrecognised claims or to ongoing negotiations with the Purchaser.

3. Delivery and performance deadlines

- a. Quantities and Delivery Deadlines shall be specified exclusively in Orders or Delivery Call-Off Orders. The Supplier must ensure that it has the capacities required to fulfil the quantities, including forecast quantities, from Orders or Delivery Call-Off Orders.
- b. The Supplier must review the Delivery Call-Off Orders received without delay for plausibility and feasibility, in particular with respect to the quantities, deadlines and master data (delivery address, unloading station, etc.). The Delivery Call-Off Orders shall be deemed to have been confirmed unless the Supplier objects to them in writing within two (2) working days for good reason. Any deviations must be agreed individually in writing with the Purchaser's responsible scheduler.
- c. The Purchaser shall communicate the planned annual purchase quantities for the following calendar year to the Supplier as part of annual operational planning. This planning should be used by the Supplier as a basis for its material and capacity planning, particularly for Long Lead-Time Components, although it only represents a non-binding forecast that is not binding on the Purchaser. Within the agreed logistics parameters, the Supplier shall ensure continuous delivery in accordance with the Delivery Call-Off Orders through appropriate procurement and storage of primary materials. The Purchaser must be notified of any impending delays to delivery as soon as these become known.
- d. The Supplier shall be under an obligation to comply with the document "General logistics requirements of ZKW Group GmbH and all affiliated companies", (also known as the "Logistics guidelines"), which can be found at the following link: <https://zkw-group.com/home/partner/lieferanten/>.
- e. The Purchaser may postpone Delivery Call-Off Orders for up to twelve (12) months without the Supplier being entitled to amend the price of the Goods or to claim compensation for costs or damages.

4. Delays in delivery, partial deliveries

- a. Agreed delivery dates and Delivery Deadlines are binding. The date that the Goods are received by the Purchaser or at the destination specified by the Purchaser shall be decisive in determining compliance with the delivery date, the Delivery Deadline and the quantity delivered.
- b. The Supplier shall be under an obligation to take all measures that are necessary and reasonable to ensure that the Goods are delivered to the Purchaser in accordance with the contract. If the Supplier becomes aware of specific circumstances or events that will or could result in a failure to meet a Delivery Deadline or a delivery quantity ("**critical supply situation**"), the Supplier must implement all necessary and appropriate corrective actions and inform the Purchaser without undue delay. At the Purchaser's request, the Supplier must also inform the Purchaser of any abstract risks that could result in a critical supply situation and must outline backup and emergency plans.
- c. A party shall be released temporarily from its obligation to perform as long as and to the extent that it is unable to provide the respective service as a result of **Force Majeure**. This shall not affect the obligations under section 4.b.
- d. The Supplier must provide written notification without delay of any delays in delivery or performance, stating the reasons and the expected duration of the delay. If the agreed Delivery Deadline is not met for reasons for which the Supplier is responsible, the Purchaser shall be entitled at its discretion to either continue to insist on fulfilment and demand compensation or to withdraw from the (Long-Term) Supply Agreement and demand compensation. If the Purchaser withdraws from the (Long-Term) Supply Agreement, it shall be entitled to obtain a replacement from a third party and the Supplier must compensate the Purchaser for any damages. If the Supplier is released temporarily from its obligation to perform for more than four (4) weeks due to Force Majeure, the Purchaser shall be entitled to continue to insist on fulfilment or to withdraw from the (Long-Term) Supply Agreement at its discretion; if the Purchaser withdraws from the contract in any such case, it shall also be entitled to obtain a replacement from a third party.
- e. The following provisions apply in the development and pre-series phase: In each event of a default, the Supplier may be charged a contractual penalty of ten times (10 times) the contractual value of an Order, but in any case at least ten thousand (10,000) euros, without setting a grace period; this penalty / these penalties shall not be subject to the judicial right of mitigation. The



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contractual penalty must be claimed by the time of the series release of the product commissioned. It shall be possible to claim damages in excess of the contractual penalty. The contractual penalty will not be offset against any potential damages.

- f. If the delivery is at an earlier time than agreed, the Purchaser reserves the right not to accept the delivery and to return it at the Supplier's expense; the risk shall be borne by the Supplier. If no return takes place, the Goods shall be stored at the Purchaser's premises at the Supplier's expense and risk until the Delivery Deadline.
- g. Deliveries must generally be made during the Purchaser's business hours (Monday to Friday from 6:00 a.m. to 6:00 p.m.); any individual time window that has been agreed shall apply. Any deviations from the defined delivery times must be agreed with the scheduler responsible.
- h. Partial deliveries will only be accepted by express agreement with the scheduler responsible.

5. Packaging and shipping

- a. The Supplier must adhere to the "Packaging guidelines" document available at: <https://zkw-group.com/home/partner/lieferanten/>.
- b. Unless otherwise agreed in writing, the packaging used to package the Goods shall become the Purchaser's property at the same time as the Goods themselves.

6. Invoices, delivery notes and order confirmations

- a. The invoice must correspond with the Order and include the Order number, Order date and recipient, and must also comply with the VAT regulations. The invoice will be returned for correction or to be completed if this information is not included in the invoice. The delays arising from this shall be at the expense of the Supplier.
- b. It shall be mandatory to state the Order number and the Order and delivery dates on all documents (in particular on the order confirmation, delivery note and invoice).

7. Prices, terms of payment and delivery

- a. The terms of payment and delivery shall be specified in the (Long-Term) Supply Agreement or the Order.
- b. The Incoterm agreed in each individual case shall apply, or in the absence of any agreement shall be DAP delivery plant (in accordance with Incoterms 2020).
- c. Unless otherwise agreed in writing, the Purchaser shall pay the invoice in full and without deduction within ninety (90) calendar days of receipt.
- d. All payments shall be made subject to the implicit reservation of all rights due to any hidden defects that only become apparent once the Goods are processed or put to use. If the Goods are only delivered after the invoice, the payment period shall commence as of the date that the Goods are received. In the event of an early delivery, the payment period shall commence as of the agreed Delivery Deadline. In the event of an incomplete delivery, the payment period shall commence as of the date that the last partial delivery is received. In the event of a defective delivery, the Purchaser shall be entitled to withhold a proportion of the payment until proper fulfilment of the Order.
- e. Prices in a Supply Agreement are fixed prices and represent the total price for manufacturing and delivering the Goods. The Supplier shall not be entitled to adjust prices and/or demand additional costs of any kind without the Purchaser's prior express written consent.
- f. The Supplier must ensure that the Goods (including any stipulated materials) can withstand an objective comparison with competitors in terms of technical requirements, delivery quality and delivery reliability as well as price over the Term Of The Project. The Purchaser shall be entitled to review the competitiveness in this respect.

8. Value and cost analysis, disclosure of the supply chain

- a. The Supplier shall prepare value and cost analyses for the Goods at the Purchaser's request using staff who are appropriately qualified. For these purposes, it shall provide a detailed breakdown of costs to the Purchaser in accordance with the ZKW Cost Breakdown form which can be found at <https://zkw-group.com/home/partner/lieferanten/> and shall provide this breakdown to the Purchaser.
- b. Furthermore, the Supplier must also provide information on its purchased parts, sub-suppliers and costs, in particular for components that represent risks due to geopolitical and supply-related market conditions. The Purchaser shall be entitled to perform a value and cost analysis at any time after notifying the Supplier of this in advance.



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9. Transfer of risk and title to the Goods

- a. Title to the Goods and the risk of their accidental loss or damage shall be transferred at the time and place of performance agreed in the Supply Agreement as an Incoterm. Section 7.b. shall apply in all other respects. The Supplier may not change the location specified in connection with an Incoterm without the Purchaser's prior written consent.

10. Supply of materials and parts

- a. Material and parts supplied by the Purchaser to the Supplier shall remain the property of the Purchaser, must be stored by the Supplier free of charge and separately from its own goods, and must be clearly identified and managed as the Purchaser's property. The Supplier may use the materials and parts provided solely for the purposes of providing deliveries/services for the Purchaser. If claims are asserted by third-parties in relation to materials and parts provided, the Supplier must inform the Purchaser of this in writing without delay and take all measures to defend the Purchaser's title at its own expense.

11. Purchaser's Tools

- a. The Purchaser will commission the Supplier to produce the Purchaser's Tools, which will then be loaned to the Supplier. The Tools shall become the property of the Purchaser or its Customer as soon as the Supplier has produced these, unless otherwise agreed in writing. All Tools paid for by the Purchaser or for which the Purchaser makes a contribution towards the costs shall be deemed to be "the Purchaser's Tools" and shall be the Purchaser's property. Payment for the Tools shall be made via the price of the Goods; a separate payment is excluded unless otherwise agreed in writing.
- b. The Tools shall remain with the Supplier despite the transfer of title to the Purchaser (constructive possession). If the Tool is with a sub-supplier (which will require the prior written consent of the Purchaser), the Supplier must notify the sub-supplier in writing of the transfer of title to the Purchaser.
- c. The Supplier shall attach permanently and sufficiently visibly a label indicating that the Tool is wholly-owned (100 %) by ZKW or the Customer defined by ZKW. Evidence of this must be provided latest at the time of tool acceptance in the form of a digital photograph.
- d. The provisions under the ZKW Tool loaning Agreement and the latest applicable ZKW Tool Standard shall apply. If no tool loan agreement has been entered into and/or the ZKW tool standard has not yet been made available to the Supplier, the Supplier must request the documents from the Purchaser in writing. In the event of any discrepancies, the documents shall apply in the following order: (1) tool standard, (2) Terms and Condition of Purchase, (3) tool loan agreement.
- e. The Supplier may only use the Tools to produce Goods within the scope of a Supply Agreement with the Purchaser. The Supplier may not use the Tools for any other purposes or allow third parties to use them for any other purposes without the prior written consent of the Purchaser.
- f. The Tools must be stored securely and separately from the Supplier's own property. The Supplier shall maintain the Tools in good condition at its own expense and replace them if necessary. The Supplier shall bear the risk for the Tools as long as they are in the Supplier's safekeeping or under its control; the Supplier shall insure the Tools at its own expense and to an extent that covers their replacement in the event of loss. The Supplier hereby assigns all of its claims for payment against the insurer to the Purchaser and the Purchaser accepts this assignment. The Supplier shall notify the insurer of the assignment in writing. The Supplier shall handle the Tools carefully and with consideration. It shall indemnify the Purchaser against any claims, costs and damages that may arise from the installation, usage, storage or repair of the Tools. The Purchaser or its Customer may enter the Supplier's premises at any time during normal business hours in order to inspect the Tools and records relating to the Tools there. The Supplier shall carry out a physical inventory at the Purchaser's request.
- g. The Purchaser may demand that its Tools be returned at any time. If the Purchaser demands that these be returned, the Supplier must make them available for collection by the Purchaser without delay, or at the Purchaser's request must send them to a destination specified by the Purchaser in return for reasonable compensation of the costs. The Supplier shall have no right of retention over the Tools. In particular, the Supplier may not raise the following objections: (i) the objection that the termination of the (Long-Term) Supply Agreement is invalid or (ii) the objection of non-amortization of the allocation to the price of the Goods.
- h. The Supplier shall be under an obligation to pass on all of its obligations in full to any sub-suppliers that it employs.

12. Supplier's Tools

- a. The Supplier shall grant the Purchaser a right to purchase the Supplier's Tools. If the Purchaser exercises this purchase option, the purchase price will be calculated as follows: original acquisition/production costs less payments already made and depreciation up to the time of transfer of the Tool after exercising the purchase option. Depreciation for wear and tear shall



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only be taken into account if the Supplier has received compensation for this depreciation via the price (for the parts). The purchase price at the time of exercising the purchase option may not under any circumstances exceed the market value (replacement cost for a used Tool of a similar type). There shall be no right of purchase if the Supplier requires these Tools to produce its other standard products and has already disclosed this fact to the Purchaser in writing before entering into the contract.

- b. The Supplier shall provide all of the technical information to the Purchaser that the Purchaser requires for the installation, assembly and use of these Tools. The Purchaser may use and publish the technical information without restriction, subject to the Supplier's registered industrial Property Rights (e.g. patents). The Purchaser may only use design- or production-related information that is subject to a registered industrial Property Right (e.g. a patent) of the Supplier for its own purposes.

13. Quality

- a. In developing and producing the Goods, the Supplier must comply with the latest scientific and technical standards and all quality standards, legal regulations and all agreed requirements (including Customer requirements) that can normally be expected for Goods of this type.
- b. The Supplier shall in particular comply with the ZKW SUPPLIER QUALITY GUIDELINES and the following quality regulations: QV 800_00, QV 800_01 and QV 800_02, in the latest applicable version in each case and available at <https://zkw-group.com/home/partner/lieferanten/>, as well as with the other product/commodity-specific quality regulations stated in the (Long-Term) Supply Agreement.
- c. Within the scope of the initial sampling process, the Supplier shall enter all the required data into the International Material Data System (IMDS) (<http://www.mdsystem.com>) and if necessary into the systems of other organisations and shall comply with the associated requirements.
- d. The Supplier shall analyse and review the Specifications for the Goods before accepting the Order. It shall acknowledge that the Specifications are sufficient and suitable for the purposes of producing the Goods in accordance with the Supply Agreement. The Supplier must notify the Purchaser in writing without delay if it comes to the conclusion that the Specifications are not sufficient and/or suitable.
- e. The Purchaser shall be entitled to inspect and audit the Supplier's production processes on site at any reasonable time and to a practical extent, subject to prior notification. The Supplier shall ensure that the Purchaser is also entitled to inspect and audit the Supplier's sub-suppliers.
- f. The Supplier must be certified according to the latest applicable edition of IATF 16949 and must comply with this certification, as well as maintain the valid certificate; evidence of the certification must be provided to the Purchaser by presenting the corresponding certificate. Deviations are only permitted in compliance with the procedure set out in the ZKW SUPPLIER QUALITY GUIDELINES. The Supplier must notify the Purchaser without delay of any loss of the certification.
- g. Upon request, the Supplier must provide information to the Purchaser regarding its supply chain (in particular its subcontractors) to a reasonable extent. The Supplier must ensure that it is informed in advance of any relocation or other changes (such as a change of subcontractor) in its supply chain and keep the Supplier notified of any relocation or other changes without undue delay, whereby any relocation or change of subcontractor will in all cases require prior written consent from the Purchaser.

14. Service and spare parts

- a. The Supplier has been made aware that spare parts obligations have been promised to the Purchaser and its Customers. Unless agreed otherwise in writing in the Long-Term Supply Agreement, the Supplier must supply spare parts to the Purchaser for a minimum of 15 years following the end of series production and shall ensure that its sub-suppliers also fulfil this obligation.
- b. If requested by the Purchaser, the Supplier shall provide service literature and other materials required for use of the Goods or Tools at no additional charge.

15. Warranty

- a. The Supplier warrants that the Goods delivered by it (i) comply with the technical Specifications (including in particular but not exclusively: samples, drawings, 3D data, requirement specifications, functional specification documents) and other requirements (e.g. ZKW quality regulations) imposed on it by the ZKW Group, (ii) are free from defects (including in particular but not exclusively: in design, production and material), (iii) are suitable for the specific purposes for which they are purchased to the extent that the Supplier is aware of these purposes, (iv) are developed and produced according to the state of the art, (v) have received all of the approvals required for the global sales markets in accordance with the respective applicable laws, such as licences, (vi) comply with all legal and official requirements applicable in the global sales markets (for the Goods and



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- vehicles), in particular with regard to safety and the environment, and (vii) are free from rights of lien or other rights of third parties.
- b. The Supplier must inspect any defective Goods in order to uncover the faults. The scope and depth of the inspection must be agreed with the Purchaser. Unless proven otherwise, the defect shall be presumed to have been present at the time of delivery if the defect becomes apparent within two years following handover. The results of the inspection including the agreed corrective measures must be submitted to the Purchaser as soon as possible in the form of an 8D report following careful examination. If no conclusive result of the inspection is available within fifteen (15) working days of receipt of the complaint and the Goods by the Supplier, the complaints regarding the Goods concerned shall be deemed to be defects caused by the Supplier. This period will be extended in writing in justified cases.
 - c. The Supplier will review the measures regularly to ensure their effectiveness and report on this to the Purchaser. The warranty shall be processed and billed and compensation under the warranty shall be settled between the Purchaser and the Supplier or by representatives authorised for this purpose by the parties.
 - d. At its discretion, the Purchaser may demand that the Supplier repair the Goods at the Supplier's expense and risk or replace these with Goods that are free from defects. If the Goods are already in the production process of the Purchaser or its Customer and it is unreasonable for the Purchaser to have the Supplier rectify the defect for operational reasons, in particular for reasons relating to production technology, or if the Supplier is unable to do this, the Purchaser may replace or repair the Goods itself or have them replaced or repaired by third parties at the Supplier's expense and risk.
 - e. If the quality defects in the Goods supplied impair the Purchaser's production processes to such an extent that compliance with the delivery obligation to the Purchaser's Customer is in jeopardy, or if hidden defects lead to failures in the field, the Supplier undertakes to appoint an employee (at the Supplier side) to solve the problem without delay upon a first request from the Purchaser. This employee shall receive the resources and decision-making authorities (capability and authorisation) over all affected organisational units at the Supplier side for the measures required.
 - f. If the Goods have already been installed in a product and delivered to the Purchaser's Customer, the Purchaser will provide the Supplier with a representative quantity of defective Goods for inspection at the Supplier's risk and expense (see the latest applicable version of the [VDA Volume Field Failure Analysis & Audit Standard](#)). The Supplier shall raise no objections regarding the reference market agreed between the Purchaser and its Customer or the respective sample size. If the Purchaser's Customer does not submit the defective Goods to the Purchaser for inspection, the Supplier shall recognise any defect determined by the Purchaser's Customer or a third party commissioned by the Purchaser's Customer (e.g. a workshop) as evidence of the defect, including in cases where the defective Goods are not submitted.
 - g. Furthermore, the Supplier shall reimburse the Purchaser for all costs incurred by the Purchaser in connection with the supply of defective Goods (such as costs arising from customs, shipping, handling, sorting, installation/removal, material and labour), regardless of whether they incurred before the start of production (0 km failures) or afterwards (in the field). For the avoidance of doubt, this also includes costs incurred by the Customer.
 - h. The Purchaser reserves the right to charge a flat fee of five hundred (500) euros to the Supplier for each inspection report created for a recognised complaint.
 - i. The warranty period for all markets shall be 6 years from either the date of first registration of the vehicle in which the Goods were installed or the date of installation of the spare parts (whichever is earliest), but no longer than 7 years from the date of handover to the Purchaser. If the laws or other official regulations of the countries in which the Goods or spare parts are sold provide for longer warranty periods, or if the Purchaser in its capacity as an automotive supplier is under an obligation to provide its Customers with a longer warranty period, the respective longer periods shall apply in each case.
 - j. The rights of the Purchaser as agreed in this section shall apply in addition to any other statutory and/or contractual claims.
 - k. If there is a valid [warranty agreement](#) in place that is applicable to the Supply Agreement, this warranty agreement shall apply in addition to this section 15; the warranty agreement shall take precedence in the event of any contradictions.

16. Repurchase agreement

- a. The Supplier shall be prepared to agree a percentage repurchase price based on the series price for Goods damaged internally by the Purchaser, provided that the Goods in question are system components that can be repaired in a cost effective manner. These Goods shall then be repaired by the Supplier and returned to the Purchaser at the agreed series price.

17. Notice of defects

- a. Due to the quality assurance provided by the Supplier, the incoming goods inspection by the Purchaser shall be limited to damage that can be identified externally (in particular shipping and packaging damage) and to adherence to the requirements concerning quantity and identity of the Goods. The identity check shall be carried out based on the delivery documents. The



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Purchaser must notify the Supplier without delay in writing of any obvious defects of the delivered Goods as soon as these are determined in the ordinary course of business. The Supplier waives the defence of late notification of defects in this respect. There are no further inspection obligations in accordance with section 377 of the Austrian Commercial Code (UGB). Payment does not constitute acceptance of defective Goods. The inspection by the Purchaser or its Customer does not constitute an acknowledgement that the Goods are in accordance with the contract nor does it constitute a waiver of fulfilment of the contract in the proper form and does not release the Supplier from liability. Approval for a development by the Purchaser shall not exclude or limit any warranty and/or product liability claims.

18. Recall, owner notification programme and other actions in the field

- a. If series damage (i.e. when comparable Goods exhibit defects frequently that manifest themselves through the same or comparable fault patterns, consistently show quality defects, or consistently or significantly exceed quality limits) and/or a product defect necessitates a recall, an owner notification programme or another action in the field to comply with a law, regulation, order or other state requirement, or as a safety measure in order to avoid personal injury or death, or if a field or service action takes place based on a decision by the ZKW Group's Customer (referred to collectively in the following as a "field action"), the Supplier will indemnify the ZKW Group with respect to all costs, damages, expenses and claims of any kind whatsoever that arise in connection with a field action or that are asserted against the ZKW Group in connection with the field action.
- b. Furthermore, the Supplier undertakes to provide Goods that are free from faults or defects for the series and for the field without delay in the event of a field action.

19. Liability and insurance

- a. The Supplier shall be under an obligation to compensate the Purchaser for any damage that the Purchaser incurs directly or indirectly as a result of delayed or defective deliveries, failures to deliver, infringement of official safety regulations or for any other reasons that can be attributed to the Supplier. If a claim is made against the Purchaser by third parties for this type of damage, the Supplier shall indemnify the Purchaser to the extent that the Supplier would also be directly liable.
- b. The Supplier will take out and maintain appropriate global insurance cover (in particular, business liability, product liability and recall insurance) with insurance companies acceptable to the Purchaser, together with additional reasonable sums insured and coverage demanded by the Purchaser or (to the extent directed by the Purchaser) by Customers, whereby in each case the company of the ZKW Group acting as the Purchaser must be named in the policy as the "loss payee(s)" and "additional insured(s)". The Supplier shall provide either a certificate of compliance with all insurance requirements under these Terms and Conditions of Purchase or certified copies of all insurance policies to the Purchaser within ten (10) working days following a request by the Purchaser. The certificate must clarify that the Purchaser will be notified in writing by the insurer thirty (30) working days in advance of any termination or reduction in the amount or scope of the insurance cover. Submitting insurance certificates and taking out insurance policies shall not limit the Supplier's obligations or liabilities under these Terms and Conditions of Purchase nor shall they release it from these obligations or liabilities.
- c. If the Supplier's services also include work on the Purchaser's business premises or those of one of its Customers, the Supplier shall take all necessary precautions to avoid personal injury and damage to property when carrying out this work. The Supplier shall reimburse the Purchaser for all costs and damage caused by its work on the business premises and shall indemnify the Purchaser against all claims in this regard. In cases of liability based on culpability, this shall not apply if the Supplier proves that its actions were not intentional or negligent (slight negligence would suffice for liability to apply).
- d. The Supplier shall be liable for its representatives, subcontractors, sub-suppliers and other agents to the same extent as it would be liable for its own conduct.

20. Compliance and adherence to laws

- a. The Supplier shall comply with the ZKW Code of Conduct for Business Partners, which is available at <https://zkw-group.com/home/partner/lieferanten/>, and which forms an integral part of these Terms and Conditions of Purchase. Furthermore, the Supplier shall ensure that each of its subcontractors is contractually obliged to comply with equivalent provisions and that this obligation is passed on along the supply chain. To the extent required or advisable by law (including based on "soft law" such as non-binding guidelines from authorities), the Supplier hereby undertakes to comply with a ZKW Code of Conduct for Business Partners as amended in accordance with reasonable discretion.
- b. The Supplier shall comply with all relevant laws, regulations or orders and industry standards of all countries of the world in fulfilling the Supply Agreement. The Goods must comply in particular with the relevant product safety, environmental and



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employment regulations. Upon request, the Supplier will provide the Purchaser without delay with all information regarding the Goods that the Purchaser needs to comply with statutory regulations (e.g. consumer protection, conflict minerals, etc.).

- c. The Supplier is under an obligation based on IATF16949 to comply with the statutory and official requirements for the Goods in all countries of the world. Furthermore, the Supplier undertakes to comply with the statutory and official requirements for production processes in the respective country of production. The Supplier is also under an obligation to pass on all requirements for the product and the processes as applicable along its supply chain.
- d. The Supplier shall provide suitable installation, operating and maintenance manuals as well as relevant material safety data sheets to the Purchaser. These documents must contain all specific warnings and/or instructions in the Purchaser's language and in English or in the language specified in the Supply Agreement.

21. Confidentiality

- a. The Supplier is under an obligation to treat all commercial and technical details that are not in the public domain and of which it becomes aware as a result of the business relationship as trade secrets. Any data, information, drawings, models, Tools, samples and similar items provided by ZKW may not be surrendered or otherwise made accessible to unauthorised third parties. This shall also apply to all data, information, drawings, models, Tools, samples and similar items of which the Supplier becomes aware through the business relationship or that the Supplier creates or develops for ZKW based on the business relationship. The reproduction of any such items and data shall only be permitted within the framework of business requirements and the laws on copyright. Sub-suppliers must be placed under a similar obligation. The Supplier may only refer to its business relationship with the Purchaser if the Purchaser has expressly agreed to this in writing. This provision shall continue to apply even after the contractual relationship has ended.
- b. The rights as agreed in this section shall apply in addition to any other statutory or contractual agreements.

22. Information security and data protection

- a. Unless otherwise agreed in writing, the Supplier must comply with the [information security requirements for Suppliers](https://zkw-group.com/home/partner/lieferanten/) – available at <https://zkw-group.com/home/partner/lieferanten/> – (referred to in the following as the “information security requirements for Suppliers”).
“ZKW Information” for the purposes of this section 22 relates to physical and digital information of the Purchaser which the latter provides and/or which is created by the Supplier on behalf of the Purchaser and that must be protected in accordance with information security and/or data protection requirements in order to ensure its availability, integrity and confidentiality, including personal data.
- b. The software used or supplied in connection with a Supply Agreement must not contain any features that the Supplier could have recognised based on state-of-the-art technology and that could jeopardise the integrity, confidentiality and availability of the Goods agreed by contract (in particular software), other hardware and/or software or ZKW Information, in particular no features (i) for the undesired transmission/extraction of ZKW Information, (ii) for the undesired modification/manipulation of ZKW Information or process logic or (iii) for the undesired introduction of data or undesired feature enhancements. In the event that software is supplied, the Supplier shall (i) inform the Purchaser without delay and with the level of detail required of any security gaps or other information security risks caused by the software that may subsequently arise and (ii) rectify these security gaps or other information security risks caused by the software as soon as possible through software updates. This obligation shall apply for the entire period of time that the software is used by the Purchaser.
“Undesired” for these purposes means a feature that (i) the Purchaser has not requested, (ii) the Supplier has not offered including a specific description of the feature and its effects, and (iii) which the Purchaser has not accepted in writing in the individual case.
- c. The Supplier shall be under an obligation to secure ZKW Information and its own data required for the supply of the Goods from unauthorised access, modification, destruction and other misuse using state-of-the-art technology (referred to in the following as “information security”). The Supplier must in particular keep ZKW Information (with the exception of e-mail communication) strictly separate from data belonging to other contractual partners and treat this separately, as well as implement appropriate protective mechanisms to prevent other contractual partners from gaining access to this ZKW Information.
- d. Depending on the type of the ZKW Information and need for protection related to this or the significance of the Supplier's deliveries of Goods for the ZKW Group's business operations, the Purchaser may require the Supplier to implement appropriate security measures and to provide evidence of an appropriate level of information security in the Supplier's operations as specified by the Purchaser, in particular by presenting suitable certificates (e.g. ISO/IEC 27001 “Information security – Information security management systems – Requirements”) or a certificate in accordance with the VDA model “TISAX”



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("Trusted Information Security Assessment Exchange"). The parties may agree on a reasonable period of time for the initial testing of a site in accordance with "TISAX".

- e. The Supplier must ensure that no software that is potentially harmful (e.g. viruses, worms or Trojans) is used in connection with the Supply Agreement, e.g. in drivers or firmware supplied with the Goods. The Supplier must review this using state-of-the-art technology and confirm in writing that it has found no evidence of malicious software during this review if so requested by the Purchaser.
- f. If the Supplier becomes aware of an incident that involves a breach of information security (e.g. security gaps, data losses, incidents, hazards, infection by malicious software, data misuse) and that could affect the Purchaser, in particular in the form of unauthorised access by third parties to ZKW Information (e.g. a data leak or cyber attack), or if the Supplier has any indications that give rise to the suspicion of such an incident based on a reasonable assessment, the Supplier shall without delay and free of charge (i) inform the Purchaser of this, and (ii) implement all steps required to clarify the circumstances and to limit the damage as well as to support the Purchaser in this regard and, (iii) if the breach of information security causes an interruption or delay to the supply of the Goods, a reduction in operational efficiency or the loss of data, to support the Purchaser in restoring the data, and (iv) to provide a security report for a specified period of time if so requested by the Purchaser. The content required for any such report shall in particular include the results of security audits, the information security risks identified, as well as the information security incidents identified and the process for handling these. Following a request from the Purchaser, the Supplier must also allow the Purchaser without delay and free of charge to verify for itself that the information security and agreed guidelines are being complied with (in particular the information security requirements for Suppliers) - (referred to in the following as "**audits**"). The Supplier must tolerate the Purchaser's audits and provide assistance with these, e.g. by providing information, to the extent that this is required for the audit. The Purchaser shall be entitled to have the audits conducted by an external qualified company that is bound to secrecy in relation to third parties, provided that this is not a competitor of the Supplier. The Purchaser's statutory rights of inspection and information shall not be restricted or excluded by this; the Purchaser may also demand an audit pursuant to this section without an incident/suspected incident.
- g. The Supplier shall be under an obligation to communicate a central point of contact for information security to the Purchaser before the first delivery and to inform it of any changes without delay.
- h. The Supplier must ensure that its subcontractors are subject to a contractual obligation towards it to comply with the provisions of this section 22 through appropriate contractual regulations.
- i. If the Supplier processes personal data for the Purchaser, then the Supplier is a processor pursuant to Article 28 GDPR. In this event, the parties will enter into a supplementary processor agreement as soon as possible which will be based on a template from ZKW.

23. Development

The following provisions shall apply if the agreement also includes development of the Goods:

- a. The development and implementation of the development result shall take place based on the Specifications provided by the Purchaser (drawing, requirement specifications, documents referenced in these, etc.), state-of-the-art technology and with due regard to the diligence that is standard for the industry and to usual automotive practices. The Supplier must in particular take into account the design of the required components, assemblies and Tools, the installation space and the implementation of the statutory and order-specific requirements and inspections. The Goods must be developed to the point of series production while adhering to the schedule, with the result that the Supplier is able to start series production and series delivery to the Purchaser following a positive process series and initial sampling, provided that the Purchaser has commissioned it to do so.
- b. In the case of automotive-specific product-related software or of Goods with integrated software, the Supplier shall be under an obligation to establish and maintain a quality assurance process for its Goods. The Supplier must apply methods to evaluate the software development in order to evaluate the software development process (e.g. Automotive Spice - minimum level 2). The Supplier shall be under an obligation to retain documented information on the results of self-assessments related to software development skills, prioritising according to risks for and potential impact on the Purchaser. The Supplier shall in particular comply with the ZKW SUPPLIER QUALITY GUIDELINE and Quality Requirement QV 400 19 in the latest applicable version and available at <https://zkw-group.com/home/partner/lieferanten/>.
- c. The Supplier may only use sub-suppliers and/or development partners with the prior written consent of the Purchaser. However, the Supplier alone shall remain responsible to the Purchaser for the development result.
- d. The parties must provide to each other in good time the information, documents, components or other contributions required for the development work to be performed. The qualification inspections required shall be performed in accordance with the



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- Supplier's development and product test plan, based on the Purchaser's specifications. If this means that changes are required to the development result, the Supplier will implement these changes free of charge.
- e. The Supplier shall be responsible for the development result. This also includes the integration of components provided by the Purchaser and the implementation of information and documents provided by the Purchaser within the scope of the development project. In the event that circumstances for which the Purchaser is responsible jeopardise the implementation of the development result, the Supplier shall be under an obligation to inform the Purchaser of this in writing without delay.
 - f. Duties of the Supplier:
 - The Supplier will perform the development work in close consultation with the Purchaser in order to achieve an optimal result with respect to quality, functionality and price. The Supplier must report to the Purchaser on the status of the development work on a regular basis and transmit the corresponding documentation. The Supplier must provide the entire project documentation and the development result to the Purchaser once the development result has been completed according to schedule.
 - For the purposes of the series production, the Purchaser shall receive the technical documentation and drawings with test dimensions and special features for SPC tests. A detailed functional description of the development and the documentation must also be included with the documentation.
 - The Purchaser must be informed without delay of any circumstances that could impair the development project or completion of this on time. The Supplier undertakes to provide the staff capacities required for timely development of the subject matter of the order. Changes in the number of personnel or the staffing situation shall have no impact whatsoever on the price or on adherence to the schedule.
 - The Supplier shall take part in relevant discussions and meetings with the Purchaser or its Customers to a reasonable extent at any time without charging additional costs.
 - g. The Purchaser's intention shall be to release or (partially) accept the development result within fourteen (14) working days, taking into account internal capacities.
 - h. Approval for a development by the Purchaser shall not exclude or limit any warranty and/or product liability claims.
 - i. The order to produce the development result shall be deemed to have been fulfilled once the required technical documents for the completion of series parts have been created and made available to the Purchaser and approved by the latter, whereby the approval may not be unreasonably refused. Furthermore, a successful initial sampling or process series must take place at the Purchaser side, taking into account the special features according to the applicable documents, and the subject matter of the development must be free from any defects.
 - j. If the Supplier fails to meet important milestones in the schedule, the Purchaser shall be entitled to withdraw from the (Long-Term) Supply Agreement or to continue to insist on fulfilment. The development order may only be terminated once a reasonable grace period has been set and an escalation meeting has been held between the Supplier and the Purchaser. The withdrawal shall not be justified if the delay was caused by the Purchaser or is based on causes for which the Purchaser bears the risk. If the Purchaser withdraws from the (Long-Term) Supply Agreement on justified grounds, the Supplier must reimburse the Purchaser for all payments made by the Purchaser so far and compensate the Purchaser for any additional expenses and costs incurred in this context, as well as for any other claims for damages.
 - k. The Supplier alone shall be responsible for any sub-suppliers. It shall be responsible for ensuring that the sub-suppliers are securely able to achieve the quality level required by the Purchaser and its Customers by series start-up and can maintain this level continuously in the series. Data from sub-suppliers, production locations, delivery sections and the results of audits at the sub-supplier side must be disclosed on request. The Purchaser reserves the right to demand a change to an alternative sub-supplier in justified cases.
 - l. To the extent that the order placed also includes (development) work and services and no divergent written agreement has been made, the following shall apply:
 - i. The Supplier shall be responsible for ensuring that (i) the services provided are not subject to third-party industrial Property Rights that exclude or impair the use of the service by the Purchaser and/or the ZKW Group and (ii) it has the unrestricted authority to transfer or grant corresponding rights of use to the ZKW Group.
 - ii. The Supplier shall indemnify the ZKW Group against all third-party claims, including those of any copyright holders involved, that are asserted against the ZKW Group due to the use of the services under contract that are provided by the Supplier. The Supplier will wherever possible conduct any required legal disputes on its own behalf and at its own expense. This shall not affect the ZKW Group's right to claim damages in accordance with the statutory provisions and to withdraw from the (Long-Term) Supply Agreement.
 - iii. If the Supplier is aware of third-party Property Rights that may conflict with the intended development result, it must notify the Purchaser of this fact without delay upon becoming aware of this fact and obtain a decision from the Purchaser regarding the next steps.



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- iv. The ownership of the Supplier's Property Rights that existed or were acquired before the start of or outside the project ("legacy Property Rights") will remain unaffected by this agreement.
- v. The Supplier will disclose its legacy industrial Property Rights to the Purchaser without delay if these are used in the prospective development result. It shall also notify the Purchaser as to whether there are any restrictions on the use of these legacy Property Rights.
- vi. Unless otherwise agreed, all tangible and intangible results ("work results") arising within the scope of performance of the services shall pass to the Purchaser without further conditions and without any additional remuneration. If it is not possible to transfer these rights in law, the Supplier shall grant the Purchaser an exclusive, transferable, sub-licensable, global, irrevocable licence to these free of charge, which is unlimited in terms of time and content. The Purchaser shall be entitled in particular to use the work results in all forms of exploitation known currently or in future without restrictions related to time, subject matter or location, including in particular the right to reproduce, distribute, lease out and lend, to transmit or broadcast wirelessly or by wire, to present, perform, and display, and to make available, as well as to transfer all rights to the work results to third parties, whether for a fee or free of charge, or to grant sub-licences, whereby the third parties may use the work results to the same extent. The Purchaser shall also be entitled to process the work results itself or via third parties and to turn the processing to account to the same extent or to transfer it to third parties.
- vii. To the extent that Property Rights can be registered for the work results, the Purchaser shall be entitled in particular to register such rights in its own name at its own discretion at home and abroad, to pursue these as well as to abandon them at any time. The Supplier will provide the Purchaser with the information that is required for the pursuit and registration of Property Rights and support the Purchaser as necessary with the registration. The Supplier will have an unlimited claim to inventions by its employees in implementing this development project; the Supplier will transfer the right to the invention to the Purchaser as soon as the Supplier is able to dispose of it and the Purchaser accepts this transfer.
- viii. Unless otherwise agreed and to the extent required by the ZKW Group for commercial exploitation of the services provided (including any result of the work), the Supplier hereby grants the Purchaser a non-exclusive, transferable, global, irrevocable right to use the legacy Property Rights required for this which will be unlimited in time and scope and free from royalties, which may be sublicensed to third parties for the purposes of delivering products or providing services to the ZKW Group, as well as to companies within the ZKW Group. The Purchaser shall be entitled in particular to use the legacy Property Rights for this purpose in all forms of exploitation known currently or in future without restrictions related to time, subject matter or location, including in particular the right to reproduce, distribute, lease out and lend, to transmit or broadcast wirelessly or by wire, to present, perform, and display, and to make available, as well as to transfer all rights to the legacy Property Rights for this purpose to third parties, whether for a fee or free of charge, or to grant sub-licences, whereby the third parties may use the legacy Property Rights to the same extent. The Purchaser shall also be entitled to process the legacy Property Rights for this purpose itself or via third parties and to turn the processing to account to the same extent or to transfer it to third parties.
- ix. If the Supplier creates or adapts software within the scope of its services, the rights of usage under section 23 shall not be limited to the object code, but will also extend to the source code and documentation for the programmes that have been created and adapted.
- x. The provisions in this section 23 shall take precedence over any provisions regarding confidentiality or reservation of title.

24. Change management

- a. The Purchaser shall be entitled at any time to demand changes to the Goods or development services and/or to initiate change requests. The Supplier shall be under an obligation to put forward proposals to the Purchaser in relation to any changes that it considers necessary or expedient in view of changes to the statutory or other mandatory regulations, potentials for process improvements, cost reductions or to increase sustainability or for other reasons. The Purchaser must be notified in writing without delay if any changes have consequences in terms of costs, weight, deadlines, quality, quantities, functionality, packaging, shipping methods, reliability, assembly or styling. The Supplier must provide notification of any additional costs within 5 (five) working days of the change request being logged. The Supplier must also provide an estimate of the feasibility and impact on the schedule within 5 (five) working days. The details regarding costs and the schedule must be specified and the plausibility of these reviewed (cost breakdown) within 10 (ten) working days of the change request being logged, otherwise the Supplier shall not be entitled to reimbursement of any costs.
- b. The Supplier shall have no authority to make any changes to the Goods or development services (in particular with respect to Specifications, additional functionalities that have not been agreed, drawings, design software, designs, production processes and locations, time and place of delivery, packaging, quality, quantities or shipping methods) without the Purchaser's prior consent.



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- c. Any changes implemented without the Purchaser's consent shall not give rise to claims for costs by the Supplier. The Supplier shall be responsible for any unauthorised changes that result in costs, expense or damage for the Purchaser.
- d. The following provisions shall apply in general:
 - Change requests by the Supplier must be set out in the Supplier Change Request document, available at <https://zkw-group.com/home/partner/lieferanten/> and addressed to the purchasing agent responsible on the Purchaser side.
 - The Supplier is requested to provide evidence of the performance capability and effectiveness of the change (e.g. performance studies, dimensional reports, reliability tests, etc.).
 - Quotes for these change requests must be sent by the Supplier to the purchasing agent responsible on the Purchaser side.
 - The Supplier undertakes to maintain a complete history of part costs, which must be submitted to the Purchaser on a regular basis.

25. Patent infringements, Property Rights, (free) software

- a. The Supplier warrants that no third-party Property Rights will be infringed when the Goods/the development result are/is used by the Purchaser as intended. The Supplier shall be liable for claims arising from the infringement of third-party Property Rights and Property Right applications when the Goods/development results are used in accordance with the contract. The limitation period for claims for defects shall be three (3) years from the transfer of risk; the statutory limitation period for third-party claims for the return of property shall remain unaffected by this. Claims arising from defects of title shall not be subject to limitation in any case provided that the third party is still able to assert the right against the Purchaser, in particular in the absence of a limitation period.
- b. The Supplier shall indemnify the Purchaser and its Customers against all claims asserted or alleged by third parties in or out of court arising from the use of any such Property Rights and will reimburse it for all damages and/or costs (including reasonable costs of any legal action). This claim shall apply irrespective of any culpability on the part of the Supplier.
- c. The Supplier must eliminate any third-party Property Rights without delay. Instead, it may replace the Goods/development result with work of equal value that is free from third-party Property Rights and is reasonable for the Purchaser. If a court recognises the claims alleged by a third party, including if this is only on a provisional basis and without the decision being legally binding, these claims shall be deemed to be justified in the legal relationship between the parties until a decision to the contrary becomes legally binding.
- d. In the event of disputed third-party Property Rights, the Supplier may proceed in accordance with section 25.c. The Purchaser may set a deadline in writing for it to eliminate the problem. Once this deadline has passed, the Purchaser may satisfy the third-party claims subject to reservation and will be provisionally indemnified by the Supplier to this extent, conditionally upon counter-performance of assignment of the Purchaser's claims for restitution against the third party to the Supplier. This shall not apply if the suspicion of the legal defect appears so unlikely at the time of the Purchaser's decision that claims by the third party would be rejected based on current foresight.
- e. The parties undertake to notify each other without delay of any risks of infringement that become known and of any alleged cases of infringement, and to provide each other with the opportunity to counter any corresponding claims by common accord. The parties will support each other free of charge in every reasonable and appropriate manner and to the extent necessary (e.g. with any investigation, analysis, by forwarding information, witness statements, etc.) in defending against claims asserted by third parties due to an alleged infringement of Property Rights, unless legitimate confidentiality interests of the respective party are in conflict with the specific support measure.
- f. At the Purchaser's request, the Supplier will notify the Purchaser of any use of published and unpublished proprietary and licensed Property Rights to the Goods/development result.
- g. **Right to emergency production:** In the event that the Supplier does not deliver for any reason whatsoever, the Supplier also grants the Purchaser the right to reproduce the Goods/development result itself or via a third party. If the Supplier is responsible for the failure to deliver, the right shall be granted free of charge, otherwise for an appropriate fee.
- h. If **software** is the subject of a Supply Agreement, the Supplier shall grant the Purchaser an unrestricted, freely transferable right to use this software – including source code, which must also be disclosed to the Purchaser – for any conceivable purpose. The Supplier shall provide the required software (including source code) to the Purchaser free of charge. The Supplier warrants that the software is free from viruses or similar defects.
- i. **Free or open source software:** The Supplier must also state to the Purchaser whether or not the Goods/development result contains free or open source software. If the Supplier uses free or open source software or intends to do so, use of this will generally only be permitted if the Supplier informs the Purchaser of this in accordance with the requirements stated in the document ZKW REGULATIONS ON THE USE OF FREE SOFTWARE (available on request from the Purchaser's responsible purchasing agent). The Purchaser shall be under no obligation to accept the use of free or open source software in the Goods/development result due under the contract. The information from the Supplier will not constitute acceptance of the use



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of free or open source software by the Purchaser. The Purchaser may refuse the use of free or open source software in particular in order to avert security or legal risks. The regulations regarding Property Rights shall also apply in addition.

26. Termination

- a. The Purchaser shall be entitled to terminate all (Long-Term) Supply Agreements in whole or in part at any time without giving reasons, subject to a notice period of six (6) months.
- b. The Purchaser shall also be entitled to terminate all contractual relationships with immediate effect for good cause, without prejudice to the statutory grounds for termination and other reasons for termination set out in the General Terms and Conditions of Purchase. The following reasons in particular shall be deemed to be good cause: (i) a significant deterioration in the Supplier's financial circumstances, in particular if there is a threat of insolvency or over-indebtedness or if an application for the opening of insolvency proceedings has been rejected or the opening of proceedings has been refused; (ii) circumstances that make proper fulfilment of the delivery/service impossible; (iii) the product is no longer competitive from a technical, qualitative or economic point of view compared with the contractor's relevant competitors; (iv) the Supplier itself or a person employed by it to fulfil the delivery/service breaches material contractual provisions or duties of confidentiality; (v) the direct or indirect legal or economic influence over the Supplier changes (change of control) - this applies in particular if one of the Purchaser's competitors acquires a share in the Supplier's company or if the Supplier acquires a share in the company of the Purchaser's competitor; (vi) the Supplier continues to violate the ZKW Code of Conduct for Business Partners after being requested to remedy this violation and despite a deadline being set for this and no agreement can be reached with the Purchaser on effectively addressing the grievance within a reasonable time; and/or (vii) the Supplier does not accept or comply with legally required or advisable adjustments to the provisions applicable to the contractual relationship with the Supplier (including those based on "soft law", such as non-binding guidelines of authorities), such as those under the ZKW Code of Conduct for Business Partners.

This shall not affect the parties' other and further rights of termination, such as those based on legal grounds.

- c. In the event of a partial termination of a Supply Agreement that has not yet been fulfilled in its entirety, the Supplier shall remain under an obligation to fulfil the part of the Supply Agreement that has not been terminated.
- d. The following provisions shall apply if the Purchaser terminates a (Long-Term) Supply Agreement for any legal reason whatsoever and irrespective of whether the (Long-Term) Supply Agreement is terminated in whole or in part:
 - i. If the Purchaser lawfully terminates the contractual relationship with the Supplier, the Supplier shall not be entitled to compensation for any Goods, unfinished products or materials.
 - ii. In all other cases, the Purchaser shall be under no obligation to pay for Goods, unfinished products or materials that exceed the upper limit defined below. The same shall apply to Goods, unfinished products or materials that are part of the Supplier's normal inventories or are to be marketed elsewhere. The upper limit for all payments by the Purchaser shall be the maximum amount that would have been payable by it if it had not cancelled the Supply Agreement, but in any case not more than one (1) month's requirement of Goods, unfinished products or materials.
 - iii. The Supplier shall not be entitled to any claims beyond this (claims for damages/performance).
 - iv. The rights and obligations of the parties arising prior to the termination taking effect, as well as the express or implied (continued) validity of any such provisions following the termination, shall remain unaffected by the termination.

27. Place of performance, applicable law, jurisdiction

- a. The place of fulfilment for deliveries shall be the Incoterm agreed for each individual case, or in the absence of any agreement shall be DAP delivery plant (in accordance with Incoterms 2020). The place of fulfilment for payments shall be the address specified by the Purchaser.
- b. These Terms and Conditions of Purchase and (Long-Term) Supply Agreements are subject exclusively to Austrian law; the application of the United Nations Convention on Contracts for the International Sale of Goods of 14 April 1980 is expressly excluded.
- c. The court of jurisdiction agreed for all disputes arising from or in connection with these Terms and Conditions of Purchase and (Long-Term) Supply Agreements is exclusively the court with subject-matter jurisdiction in Vienna.
- d. However, the Purchaser shall be entitled to bring proceedings against the Supplier at any other permissible place of jurisdiction.

28. Customs, conformity, origin, export controls and security of the supply chain

- a. The Supplier must enclose a commercial invoice in English and in duplicate with the accompanying documents for customs purposes. Any deviation from this provision shall only be permitted following the Purchaser's prior written consent.



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- i. The following items must also be stated separately on the invoice in the case of deliveries subject to customs duties: (i) costs not included in the price (e.g. commissions, brokerage fees, licence costs, production costs); (ii) costs included in the price (e.g. assembly and freight costs); (iii) the value of repair services according to material and labour costs; and (iv) the value of other provisions supplied related to the Goods delivery.
 - ii. Free deliveries must also include a statement of the value which must reflect a standard market price and include the notice "For Customs Purposes Only". The reason for a free delivery must be stated on the invoice or delivery note (e.g. shipment of free samples).
 - iii. If further official documents or documents from accredited testing centres (e.g. CCC or InMetro certification) are required for imports or exports or for type approvals or for proof of product conformity in order for the Goods to be used in accordance with the Purchaser's Specifications (particularly the requirements specifications), the Supplier shall be under an obligation to procure these documents for the Purchaser at its own expense without delay and to make them available via the transmission system specified by the Purchaser (e.g. post, e-mail, exchange server, IT system).
- b. The Supplier shall be under an obligation to provide binding information to the Purchaser on the non-preferential and preferential origin of its Goods, either: (i) by transmitting the required origin details electronically using the applications provided (preferred option), or (ii), by way of exception, by providing the origin details in writing within fourteen (14) working days of receipt of the request letter. The origin details must be provided in written form as defined by the Austrian Civil Code (ABGB) by the time of the first delivery to the Purchaser at the latest. Declarations of origin on the Supplier's own business forms will not be recognised by the Purchaser without the Purchaser's prior written consent, unless this is required by law. The Purchaser must be notified in writing without delay of any changes to the origin of the Goods. If the Supplier delivers Goods that are eligible to receive preferential treatment in the country of import, the Supplier must enclose a corresponding certificate of origin (e.g. form A, EUR 1) with the delivery. This certificate will be required for any such delivery in a format that is accepted for legal purposes by the customs authorities of the country of import. If a certificate of origin is required as a result other local import regulations in the country of import, the Supplier shall provide this certificate to the Purchaser.
- c. The Supplier must use all means necessary to support the Purchaser in reducing or minimising the Purchaser's payment obligations with regard to customs duties. Following a request from the Purchaser, the Supplier undertakes to act in close consultation with the Purchaser to implement customs procedures of economic significance in accordance with Article 210 of Regulation (EU) No. 952/2013 (European Customs Code), in particular in the EU, or to submit declarations (affidavits) in accordance with the customs laws of third countries. If the Supplier participates in a US Foreign Trade Zone, MX IMMEX or comparable programme (referred to in the following as a "programme"), the Supplier shall be under an obligation to comply with all applicable legal standards and regulations in connection with these programmes and to provide the Purchaser with all information required to fulfil its obligations in a timely manner, in the correct form and with complete and correct content.
- d. The Supplier must contact the Purchaser's customs department for all questions and instructions relating to customs duties and declarations of origin. Unless otherwise agreed, customs clearance shall be completed by the Supplier in the country of export and by the Purchaser in the country of import. If the Supplier completes customs clearance in the country of import without the prior written consent of the Purchaser, it will have to pay any costs incurred as a result.
- e. The Supplier shall guarantee supply chain security and shall comply with the corresponding legal requirements. Following a request by the Purchaser, the Supplier undertakes to provide appropriate documentary evidence to the Purchaser, e.g. in the form of certificates or declarations (e.g. AEO security declarations, declarations within the scope of C-TPAT or similar programmes), to support the Purchaser in the event of official audits, and to ensure a comparable level of diligence towards its business partners. If the Supplier delivers Goods via air freight (including as a substitute for a normal sea freight process) from a delivery location or via an airport that is located in an EU Member State to a production or logistics location of the Purchaser, the Supplier shall be under an obligation to hand over the Goods to a regulated agent appointed by the Purchaser pursuant to Article 3(26) of Regulation (EC) No 300/2008, with the result that they can be transported on a passenger aircraft in accordance with Attachments 6.1.1 and 6.3.2 to Regulation (EU) No 1998/2015 without being screened in accordance with Attachment 6.2 to Regulation (EU) No 1998/2015. The Supplier must notify the Purchaser if the Supplier's delivery location is certified as a known consignor pursuant to Article 3(27) of Regulation (EC) No. 300/2008 or as a regulated agent pursuant to Article 3(26) Regulation (EC) No 300/2008; the Supplier shall be under an obligation to notify the Purchaser (customs or purchasing department) without delay of any foreseeable changes or any threat to this status.
- f. The Supplier must
 - i. indicate to ZKW any possible import and export restrictions with regard to the Goods and technologies (e.g. entries in accordance with the Dual-Use Regulation or comparable provisions), ensure that these are complied with and provide any evidence of this as necessary (e.g. separate declaration, in the product data sheet, in the Supplier declaration, technical test report or similar documentary evidence),



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- ii. inform ZKW if and of the extent to which the Goods and technologies are subject to an export/re-export licence under US law/US regulations and provide the relevant classification number (e.g. the ECCN Export Control Classification Number for US products, the "AL number" of the Goods and technologies listed in the German export list, the "dual-use number" for Goods and technologies in accordance with the Dual-Use Regulation, etc.),
- iii. inform ZKW of any possible exemptions for Goods and technologies.

The Supplier must send the advice and information stated to the Purchaser's customs department.

29. General provisions

- a. The Supplier shall not be entitled to assign claims arising from a Supply Agreement or to transfer its obligations under the Supply Agreement to third parties without the Purchaser's prior written consent.
- b. In addition to the rights granted by statute, the ZKW Group shall be entitled to offset claims from other Supply Agreements with the Supplier or its affiliated companies.
- c. The Supplier shall not be entitled to offset claims against the Purchaser.
- d. In the event that one or more provisions in these General Terms and Conditions of Purchase and/or the (Long-Term) Supply Agreement entered into based on these are or become ineffective, unfeasible or unenforceable, any such defect shall not affect the validity of the remaining provisions of the General Terms and Conditions of Purchase or the (Long-Term) Supply Agreement. The defective provision will be replaced by a valid, effective, feasible and enforceable provision that comes closest to the economic and legal effects that were expected from the defective provision.
- e. Any implied waiver of rights by the Purchaser (including through the failure to exercise a right) is excluded. Any waiver of a right declared in an individual case shall be effective only in that individual case.
- f. In the absence of any agreements to the contrary, only the Supply Agreement and these General Terms and Conditions of Purchase shall be authoritative and binding. They shall replace all previous agreements between the parties. Amendments and/or additions to a Supply Agreement must be confirmed in writing or electronically in order for them to be valid. Amendments and/or additions to these General Terms and Conditions of Purchase must be in written form as defined by the Austrian Civil Code (ABGB) in order for them to be valid. Confirmation of the change shall only be valid if this is signed by the Group Vice President for Purchasing of the ZKW Group. This also applies to any amendment to this clause itself.
- g. In the event of any contradictions between the German version of the General Terms and Conditions of Purchase and any other language version, the German version shall prevail.
- h. The Supplier warrants to the Purchaser that only products from original equipment manufacturers have been purchased for the delivery and undertakes to enclose the following written declaration with the delivery note for each delivery as confirmation of this: "**Certificate of Conformity** The products contained in this delivery have been purchased solely from our contractual partners and were processed in strict accordance with our documented integrated management system. The storage, handling and distribution of the electrical components take place in accordance with the standards DIN EN ISO 9001: 2015 Dry Pack packaging system in accordance with J-STD 033, J-STD 020, JEP 113 "



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ADDENDUM TO THE GENERAL TERMS AND CONDITIONS OF PURCHASE

The following sections shall prevail over the Terms and Conditions of Purchase to the extent that they involve changes to the Terms and Conditions of Purchase. All other provisions of the Terms and Conditions of Purchase shall remain unchanged by this.

ADDENDUM FOR CHINA

The following special regulations for China shall apply if the Purchaser is a company of the ZKW Group that is based in China (e.g. for Orders placed by ZKW Lighting Systems (Dalian) Co., Ltd.).

27.b and 27.c are replaced by the following section:

The law of the People's Republic of China shall apply to entering into a Supply Agreement, to these General Terms and Conditions of Purchase, their validity, termination, interpretation, execution and to any legal dispute in this regard. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (UN CISG) and the conflicts of law rules under private international law are explicitly excluded.

Any disputes arising out of or in connection with a (Long-Term) Supply Agreement or in relation to these General Terms and Conditions of Purchase should be resolved by mutual accord through discussions between the parties. In the event that disputes are not resolved by mutual accord through discussions within 60 days of a written assertion of claims by one of the parties, all such disputes arising out of or in connection with these General Terms and Conditions of Purchase or the (Long-Term) Supply Agreement, including disputes regarding their validity, breach, rescission or nullity, shall be submitted to the China International Economic and Trade Arbitration Commission (CIETAC) and shall be subject to a final settlement under the Rules of Arbitration of the CIETAC in force at the time of the commencement of the arbitration proceedings by three arbitrators appointed in accordance with these Rules. The place of arbitration shall be Beijing. The decision on an arbitration tribunal shall be final and binding upon both parties. The arbitral award determines which party shall bear the cost of the arbitration proceedings. The parties shall continue to exercise their respective rights and fulfil their respective obligations during the arbitration proceedings. The language of the proceedings shall be Chinese, although each party shall have the right to English translations of all documents relating to the arbitration proceedings and to English interpreters during hearings of the arbitration tribunal. The costs incurred in this context shall be divided between the parties.

ADDENDUM FOR NAFTA (NORTH AMERICA, MEXICO AND CANADA)

The following special regulations for NAFTA shall apply if the Purchaser is a company of the ZKW Group that is based in the NAFTA region (e.g. for Orders placed by ZKW Mexico S.A. de C.V.).

27.b and 27.c are replaced by the following section:

The laws of Mexico City, Federal District, Mexico shall apply to the interpretation and fulfilment of these Terms and Conditions of Purchase and (Long-Term) Supply Agreements. Application of the United Nations Convention on Contracts for the International Sale of Goods dated 14 April 1980 is hereby expressly excluded. The parties submit to the jurisdiction of the local courts of Mexico City, Federal District, for all disputes regarding the enforcement, interpretation and performance of these Terms and Conditions of Purchase and (Long-Term) Supply Agreements, and hereby explicitly waive any other legal venue that might be derived from any present or future grounds.

The following arbitration clause shall apply if the amount in dispute exceeds EUR 500,000: All disputes or claims arising out of or in connection with the General Terms and Conditions of Purchase or the (Long-Term) Supply Agreement, including in particular all issues regarding validity, termination and subsequent amendments, shall be subject to a final settlement under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with these Rules. The place of arbitration shall be Mexico City, Mexico. The language of the arbitration proceedings shall be English.

ADDENDUM FOR REPUBLIC OF KOREA

The following special provisions for REPUBLIC OF KOREA shall apply if the Purchaser is a company of the ZKW Group that is based in the Republic of Korea (e.g. for Orders placed by ZKW Lighting Systems Korea Co., Ltd.).

27.b and 27.c are replaced by the following section:

These Terms and Conditions of Purchase and (Long-Term) Supply Agreements shall be governed exclusively by the laws of the Republic of Korea; the application of the United Nations Convention on Contracts for the International Sale of Goods dated April 14, 1980 is expressly excluded. The Seoul Central District Court shall be the exclusive place of jurisdiction for all disputes arising out of or in connection with these Terms and Conditions of Purchase and (Long-Term) Supply Agreements.