



**General Terms and Conditions of Purchase and Contract
of Sika Automotive Frankfurt-Worms GmbH and
Sika Frankfurt Grundstücksgesellschaft mbH and
Sika Worms Grundstücksgesellschaft mbH**

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Part A: General Terms and Conditions of Purchase

I. General

1. All goods and services supplied to us by our Suppliers and all offers made to us shall be subject to these General Terms and Conditions of Purchase and Contract (hereinafter called "Terms and Conditions"). The Terms and Conditions shall apply exclusively unless we explicitly agree in writing to variations therefrom. The Supplier's General Terms and Conditions of Business shall not apply. Our Terms and Conditions shall even apply exclusively if we accept the consignment delivered by the Supplier without reservation knowing that the Supplier has General Terms and Conditions of Business that are contrary to or that differ from our Terms and Conditions. The Terms and Conditions shall also govern all future business relations with the Supplier, without any further reference to these Terms and Conditions being required.
2. The users of these Terms and Conditions are Sika Automotive Frankfurt-Worms GmbH and Sika Frankfurt Grundstücksgesellschaft mbH and Sika Worms Grundstücksgesellschaft mbH
3. If any individual terms should be invalid, this shall not affect the validity of the remaining terms.

4. Rights, obligations and in particular claims arising from business relations with us may not be assigned to third parties.
5. We are certificated in accordance with DIN EN ISO 9001, DIN EN ISO 14001, DIN EN ISO 50001 and TS16 949. These standards also apply to work and services performed by the Supplier. We must be provided with proof of this qualification on request.

II. Enquiries and offers

1. These Terms and Conditions also govern our enquiries. Our enquiries shall not be binding.
2. In the offer the Supplier shall keep to the terms stated in our enquiries and expressly draw attention to any variations in the offer. On submitting an offer in response to our enquiry the Supplier enters into a contractual obligation to expressly draw our attention to any variations from our enquiry in its offer. Offers shall be prepared and submitted free of charge and without any obligation for ourselves. We shall not be charged for visits, the preparation of plans, drawings and similar without a written agreement to the contrary. The offer prepared by the Supplier shall be binding on the Supplier and may be accepted by us within four weeks.

III. Purchase orders; prices

1. Only written purchase orders from our company shall be binding. Orders placed in any other form shall only be binding with our written acknowledgement. Fax, email or remote data transfer shall satisfy the requirement for the written form, but not SMS or MMS. The price shown in the purchase order shall be a binding fixed price (plus VAT) and shall exclude all later claims of any kind. In the absence of any other agreement the price shall be quoted delivery duty paid (DDP, Incoterms 2010) to the place specified in the purchase order. The return of packaging shall require a separate agreement.
2. Unless we have expressly waived the requirement for a confirmation of the order, every purchase order shall be immediately confirmed to us in writing indicating the binding time of delivery and/or performance. We reserve the right to revoke any orders which have not been confirmed by the Supplier within three working days. We may make such a revocation up until the time when we receive written confirmation of the order.
3. Additions and subsequent agreements must be confirmed in writing in order to be valid.

IV. Deadlines for delivery and performance; contractual penalty in the case of delayed delivery

1. The agreed deadlines shall be binding. The authoritative date for determining compliance with the deadline for delivery or performance shall be the date when we receive the goods or the timeliness of a successful acceptance test. The Supplier may only argue that necessary or agreed goods or services first

to be provided by us have not been forthcoming if the Supplier has requested them in writing and has not received them within a reasonable time. If the Supplier realises that the agreed deadlines cannot be kept, the Supplier shall notify us of this immediately in writing stating the reasons and indicating the probable duration of the delay.

2. The Supplier shall be obliged to compensate us for all direct and indirect damage caused by the delay. The acceptance of the delayed consignment or services shall not mean a waiver of claims for damages. If the Supplier is in default in relation to the goods and services to be supplied, we shall have the right to rescind the contract after a reasonable extended deadline that we have set, without prejudice to further statutory claims and requirements, and to claim damages due to non-performance. In this connection the Supplier shall also reimburse us for the additional costs that we incur due to a possible covering purchase.
3. If the delivery is effected earlier than agreed, we reserve the right to return the goods at the Supplier's expense. As an alternative, in the case of early delivery we shall store the goods on our premises at the Supplier's risk and expense until the delivery date. In this case the risk shall not pass to us until the agreed delivery date.
4. For each working day when delivery dates are exceeded the Supplier shall pay us a contractual penalty of 0.5% of the net order value for the delivery concerned. The contractual penalty due to default in relation to the same delivery shall be limited to a total of 5 % of the corresponding net order value. This shall not affect claims for damages in addition to the contractual penalty. However, any contractual penalty incurred shall be set off against such claims for damages.

V. Force majeure

1. If we lose our interest in performance in the case of events of force majeure (e. g. natural disasters, war, riot, interventions by the authorities, energy shortages, industrial disputes), for instance because we cannot use the goods or services due to damage to our production facilities, we may either rescind the contract in part or in full or demand performance at a later point in time, as we choose, in respect of the goods and services that have not yet been delivered or supplied. The Supplier may claim the reimbursement of the expenses already incurred in providing the work and services affected by such a rescission to the extent that the Supplier cannot otherwise use the result produced in incurring these expenses.
2. The Supplier shall immediately notify us in writing of any obstacles to delivery that are clearly recognisable or that have already occurred and provide us with all possible and necessary information and take all measures in order to comply with its contractual obligations.
3. If we are prevented from receiving and/or accepting the goods or services through events of force majeure, this shall not mean that we are in default of acceptance or of payment.

VI. Deliveries, passage of risk and place of performance

1. The Supplier shall strictly keep to the quantities specified in the purchase order. The Supplier is only entitled to make part-deliveries or perform partial work and services if we have first agreed in writing to the part-deliveries or partial work and services, if they have been agreed by contract or if they are reasonable in exceptional cases. If any certificates regarding quality should be agreed, they shall form an integral part of the consignment and must be handed over to us together with the goods.
2. To the extent that the subject matter of the contract is the delivery or manufacture of structural installations, machinery and technical equipment, the Supplier shall also supply us with the corresponding technical documentation, including circuit diagrams, function charts and design plans.
3. There may be no surplus deliveries or shortfalls in delivery without our agreement. The acceptance of goods is always subject to reservation with regard to their quality, condition and quantity.
4. The risk of accidental destruction or accidental deterioration of the goods shall pass to us on full and proper delivery and performance at the agreed place. The risk of transport shall in all cases be borne by the Supplier up until delivery to our reception plant or the place of destination.

VII. Relevant volumes and dimensions

1. If the purchase price depends on the quantity of the goods delivered, the units of measurements that we stipulate (e. g. kg, m², running metres) shall be used to calculate the purchase price.
2. If the quantities actually delivered are not officially measured at the place of despatch, the volumes and dimensions that we determine on delivery shall be authoritative. If it then transpires that the Supplier has delivered a larger quantity than that specified in the order, the Supplier may not claim any reimbursement for the surplus quantity. If it transpires that the Supplier has delivered less than the quantity ordered, we may either demand the delivery of the missing quantity or reduce the purchase price with regard to the missing quantity.

VIII. Freight, packaging, insurance

1. Delivery shall be effected delivery duty paid (DDP, Incoterms 2010) to the place specified in our purchase order. The goods must be properly packed in accordance with our specifications. The necessary shipping documents must be enclosed. We will not recognise separate charges for transport costs, packaging costs or transport insurance.
2. If it is agreed as an exception to this provision that we are to bear the freight costs, we will only pay the freight costs most favourable for us. If it is agreed that the Supplier is to commission the transport of the goods and we bear the costs in this connection, the Supplier must commission the carrier or forwarding agent that we specify. Such an agreement shall not alter the agreements regarding the place of performance and the passage of risk. All

costs incurred up until the time that the goods are handed over to the carrier, including loading and carriage, shall also be borne by the Supplier in this case.

IX. Delivery note and invoice

1. The consignment must be accompanied by a delivery note containing the number of our purchase order, the item number, the name of the article, the article number as well as the quantity or numbers of the unit of measurement ordered. If these details or the delivery notes are missing we may reject the consignment.
2. The Supplier shall issue a separate invoice in accordance with the legal requirements for each consignment and each delivery or service. The invoice shall particularly contain the complete number of our purchase order, the item number, the name of the article, the article number as well as the quantity or numbers of the unit of measurement ordered. If there has been any shortfall in delivery and we reduce the price due to the missing quantity in accordance with clause VII, the Supplier shall issue a corresponding credit note for this quantity. We shall have the right to refuse performance until we have received an invoice in accordance with the foregoing provisions.

X. Payment

1. The time allowed for payment shall commence on receipt of the invoice, but not before the time of the complete delivery of the goods or complete execution of the services to be provided. Unless otherwise agreed, the purchase price shall then be payable with a 3 % cash discount within 14 days or net within 30 days of the receipt of the invoice.
2. The timeliness of the payment shall depend on whether we have posted a crossed cheque or carried out the bank transfer in good time.
3. If the goods have been delivered before the agreed delivery date, the due date shall depend on the agreed delivery date rather than the date when the invoice is received.
4. We shall be entitled to the statutory rights of setoff and retention.

XI. Down payment guarantees

Down payment guarantees must cover the gross amount, be absolute, free of charge for ourselves, of unlimited duration and contain a waiver of the defences of setoff and appeal. They may not contain any deposit clause.

XII. Liability for defects

1. If the contract is a commercial transaction for both Parties, we shall inspect the goods after delivery if an inspection is feasible in the orderly course of business and, if a defect is found, we shall notify the Supplier within the agreed complaint period. In the case of larger quantities it shall be sufficient to inspect representative samples. If the representative samples show signs of defects we shall be entitled to return the entire consignment. Defects not found in the representative sample shall be deemed hidden defects. The Supplier shall

therefore waive the defence of a delay in giving notice of defects. If a defect should be found at a later date we shall give the Supplier notice of the defect within the agreed complaint period after discovering the defect.

2. The Supplier warrants that its goods or services shall be in functioning and flawless condition as well as free of material defects and defects of title. The Supplier additionally warrants that its goods and services shall be of the condition and in accordance with the technical delivery requirements, specifications, drawings, samples and/or descriptions agreed and in compliance with the applicable standards including DIN EN ISO 9001, DIN EN ISO 14001, DIN EN ISO 50001 and TS 16949. In addition the Supplier warrants that its goods and services shall be state of the art.
3. The Supplier shall execute the order in observance of the Technical Working Equipment Act (*Gesetz über Technische Arbeitsmittel*), the relevant accident prevention regulations, other health and safety regulations as well as the generally recognised safety-related and occupational health regulations valid in the Federal Republic of Germany. If this requirement is not disregarded, the goods or services shall be deemed properly provided.
4. We shall be entitled to our full statutory rights based on liability for defects. We shall particularly be entitled to require that the Supplier cures any breach by either eliminating the defects or supplying a replacement at our choice. The Supplier must cure the breach without delay.
5. If the Supplier is required to cure a breach it shall bear all expenses that are necessary in order to eliminate the defects or supply a replacement. If the defect does not occur until the goods have reached our customer's premises, the necessary expenses shall also include the costs of transport to and from our customer. If the defect does not occur until after the product has been fitted into other items, the necessary expenses shall also include the costs of removing the defective products and installing the products repaired or delivered as a replacement by the Supplier. Our approval of the Supplier's drawings and calculations shall not affect the Supplier's obligations in relation to the warranty.
6. If any goods or services supplied by the Supplier are defective we may rectify the defect ourselves after the expiry of a reasonable deadline set for the cure of the breach or have the defect rectified by a third party and claim compensation for the necessary expenses unless the Supplier is justified in refusing to cure the breach. Section 323 (2) of the German Civil Code (BGB) shall apply accordingly. It shall not be necessary to set a deadline if the attempt to cure the breach has proved unsuccessful or if this is unreasonable for us. We may request an advance payment from the Supplier for the necessary cost of rectifying the defect.
7. In the case of defects of title the Supplier shall also indemnify us against any existing claims of third parties unless the Supplier cannot be held responsible for the defect of title.
8. We may either store defective goods in safe custody at the Supplier's risk or return them to the Supplier at a charge and at its own risk and expense.

9. Unless expressly agreed otherwise, the warranty period shall be 36 months after delivery. The warranty period for all work on or in connection with buildings shall be five years unless otherwise agreed. If the Supplier is required to cure a breach, the limitation period for liability for the flawlessness of such work shall start to run anew after such work has been completed unless the Supplier has expressly and justifiably reserved the right to perform such work only as a gesture of goodwill in order to avoid disputes or in the interest of continuing the supply relationship.
10. If any claims are made against us due to a violation of public safety regulations or due to domestic or foreign product liability laws on the basis of the defectiveness of our product, which is due to a product supplied by the Supplier, we shall have the right to claim compensation for this damage from the Supplier insofar as this is due to the Supplier's products. In this case the Supplier shall also bear the costs and expenses incurred due to the type and scope of the necessary precautionary measures against claims due to product liability, e. g. public warnings or product recalls. We shall notify the Supplier in good time if such claims for damages are asserted.
11. The Supplier shall take out product liability insurance of the usual scope, which shall also cover the reasonable costs of a product recall and shall provide us with evidence of such insurance cover on request.

XIII. Complaint period for defects

If the contract is a commercial transaction for both Parties, the complaint period for defects reported by us shall be 10 (ten) working days after receipt of the consignment (in the case of obvious defects) or after the discovery of the defect (in the case of hidden defects).

XIV. Reservation of title – provision of materials – tools – confidentiality

1. We shall not recognise any reservations on the part of the Supplier that go beyond the ordinary reservation of title. Independently of the reservation of title, we shall have the right to use, process and sell the goods as well as to combine and mix them with other goods.
2. The Supplier undertakes to use material provided by us only in order to execute our purchase orders. The Supplier shall mark our material as such and shall store and manage it separately.
3. If the material we provide is processed or reshaped, we shall acquire the sole right of ownership of the new item. In this case the processing and reshaping shall be carried out on our behalf. The transfer of possession shall be replaced by the Supplier keeping the goods in safe custody free of charge for ourselves exercising the care and diligence that is appropriate in business dealings.
4. Insofar as we provide parts of materials for the Supplier we hereby reserve title to such items. Any processing and reshaping by the Supplier shall be carried out on our behalf. If the goods under reservation of title are processed with other items that do not belong to us, we shall acquire co-ownership of the new item in the same proportion as that between the value of our property

(purchase price plus VAT) and the value at the time of processing of the other items processed.

5. If the parts of material provided by us are inseparably mixed or combined with goods that do not belong to us, we shall acquire co-ownership of the new item in the same proportion as that between the value of the goods under reservation of title (purchase price plus VAT) and the value at the time of mixing or combination of the other items mixed or combined. If the mixing or combination is carried out in such a way that the Supplier's item must be regarded as the main item, it shall be deemed agreed that the Supplier shall assign co-ownership to us on a pro rata basis; the Supplier shall retain sole ownership or co-ownership on our behalf.
6. The Supplier shall be liable for the material provided and the goods that it is used to produce in relation to any possible damage, loss, theft, destruction, ruin and rejects that are not caused through fault.
7. Tools, models and other aids that are manufactured in order to execute our purchase order and that are charged separately by the Supplier shall become our property at the time of production. The Supplier shall be obliged to restore or replace the material in the event of any damage, loss or destruction.
8. Instead of the tools, models and other aids mentioned in para. (7) above being handed over, the Supplier shall keep them in safe custody free of charge for ourselves. The Supplier shall clearly mark the aforementioned items as our property and make third parties who raise claim to them aware of our right of ownership. The Supplier shall care for and preserve the aforementioned goods and repair any normal wear and tear; the necessary expenses for such work are included in the purchase price. The Supplier shall be obliged to restore or replace the goods in the event of any damage, loss or destruction.
9. Any samples, drawings, sketches, illustrations etc. handed over to the Supplier shall remain our property; the copyright and right of use in respect of such items shall remain with us. They may not be copied or duplicated without our written agreement. The documents must be returned to us with the offer.
10. The Supplier must treat all illustrations, drawings, calculations and other documents and information received as strictly confidential. They may only be disclosed to third parties with our explicit consent. The duty of secrecy shall continue after the performance of the contract in question; it shall expire if and to the extent that the manufacturing know-how contained in the illustrations, drawings, calculations and other documents has come into the public domain.
11. To the extent that the value of the liens to which we are entitled in accordance with para. (4) and/or para. (5) exceeds the purchase price of all unpaid goods under reservation of title by more than 10 %, we shall be obliged to release the liens as we choose at the Supplier's request.

XV. Legal requirements, minimum wage, employee secondment

1. If the delivery item should be subject to export control regulations, the Supplier shall explicitly draw our attention to this in the contract.

2. Within the framework of our contract the Supplier undertakes to comply with all legal requirements, including the Act Regulating a General Minimum Wage of 11 August 2014 (Minimum Wage Act, MiLoG) and the Act on Mandatory Conditions of Employment for Cross-border Secondment and Regular Domestic Employment (Employee Secondment Act, AEntG) and to pay its employees at least the statutory minimum wage as from 1 January 2015.
3. The Supplier shall indemnify us against all claims brought against us under our contract with the Supplier due to any breach of section 13 of the Minimum Wage Act (MiLoG) and/or section 14 of the Employee Secondment Act (AEntG) on the part of the Supplier or its subcontractors. This also applies to any necessary costs that we incur as a result of claims made by employees or third parties (e. g. social insurance carriers).
4. To the extent that the Supplier performs work or services on our behalf we may demand written confirmation of compliance with the Minimum Wage Act (MiLoG) and the Employee Secondment Act (AEntG) at any time, both on the part of the Supplier and on the part of its subcontractors and any personnel leasing agencies engaged by the Supplier or the subcontractor. At our request the Supplier shall prove that the Supplier, its subcontractors and any personnel leasing agencies engaged by the Supplier or a subcontractor are paying the minimum wage. Insofar as the Supplier, its subcontractors or a personnel leasing agency engaged by the Supplier or a subcontractor are subject to section 17 of the Minimum Wage Act (MiLoG) the Supplier, on request, shall furnish us with evidence of compliance with the obligation to keep documentation imposed under this section of the Act.
5. If any claims are brought against us in connection with the provision of the Supplier's services under section 13 of the Minimum Wage Act (MiLoG) and/or section 14 of the Employee Secondment Act (AEntG), the Supplier shall support us in the defence against such claims and supply us with the necessary information.

XVI. Legal venue, choice of law

1. The contract shall be exclusively governed by German law; the Hague Convention on the Law Applicable to Contracts for the International Sale of Goods and the UN Convention on Contracts for the International Sale of Goods shall not apply.
2. The sole legal venue shall be the court competent for the district where Sika Automotive Frankfurt-Worms GmbH has its principal place of business. However, we shall also have the right to bring an action before the competent court in the district where the Supplier has its place of residence.

Part B: Special Terms and Conditions for the Provision of Work and Services

I. Scope of application

The provision of work and services shall primarily be governed by the Special Terms and Conditions set out in this Part B. Within this area of application they shall have precedence over the General Terms and Conditions of Purchase and Delivery in Part A in the event of any contradiction between the two. The General Terms and Conditions of Purchase and Delivery in Part A shall apply in addition to work and services supplied by our Suppliers.

II. Special Terms and Conditions for the Provision of Work (with a contractual obligation to produce a certain outcome)

1. Scope of the Supplier's obligations

- a) The Supplier shall execute all work, services and deliveries agreed by contract that are necessary for the complete production and assembly of the contractual item at the agreed installation site, so that it is free of defects, fully functional and ready for operation.
- b) The Supplier must be able to supply us with any necessary spare parts and wearing parts for the contractual item within a reasonable time during a period of ten years from the date of acceptance. If the Supplier or its own Supplier plans to discontinue the production of spare parts and wearing parts for the contractual item, the Supplier shall notify us of this with one year's lead time and either provide us with the manufacturing documents for the spare parts and wearing parts free of charge or inform us how we can procure the spare parts and wearing parts elsewhere and particularly provide us with the specifications for the spare parts and wearing parts.

2. The Supplier's duty to cooperate and duties of inspection as purchaser

- a) We shall have a duty to cooperate insofar as this is part of the agreement with the Supplier.
- b) The Supplier must verify the accuracy of the documents provided and our statement of work immediately after they have been handed over. The Supplier must also check the quantities of material and assess the practicality of using them and shall notify us in writing without delay and, if possible, before entering into the contract, of any calculation errors in the documents or any defective installation plans.

3. Modifications to the scope and content of the work and services

- a) We may request modifications to the scope and content of the work and services. This also applies to parts already supplied and delivered.
- b) If the modifications are not merely insignificant, the Supplier shall calculate the delays and the additional or reduced costs resulting from the desired modifications; the Parties shall then agree on an appropriate amendment to the

contract. If the Parties cannot reach an agreement, the Supplier shall have the right to refuse our request for a modification.

- c) The Supplier cannot demand any additional remuneration for modifications to work and services which we have not requested.

4. Acceptance of the Supplier's work

- a) There will be a formal, technical and legal acceptance of the Supplier's entire work and all goods delivered by the Supplier. The aim shall be to achieve the smooth operation of the contractual item. Minutes shall be taken of the acceptance procedure. They shall describe the state of the goods delivered up until the time of acceptance. The Supplier must make a record in the minutes of any defects that are obviously recognisable at this time.
- b) If all conditions for acceptance have been fulfilled, the Supplier shall request a formal acceptance test by writing to us at least five days before the intended date.
- c) To prepare the formal acceptance test Supplier shall, at least five days before the date of the acceptance test, provide us with all necessary attestations, test certificates, revision protocols, necessary plans for the documentation of the actual implementation, operating instructions, functional descriptions, commissioning reports and the template for the minutes of the acceptance test as well as all other necessary documents that we need in order to assess whether the work and goods supplied by the Supplier are complete and free of defects.
- d) No fictitious acceptance shall take place. There shall be no implied acceptance. There shall be no legal partial acceptances.
- e) The Supplier shall perform any subsequent improvement work with the aim of rectifying any defects that we ascertain at the time of acceptance and shall do so within the reasonable deadlines that we stipulate.

III. Special Terms and Conditions for the provision of services

- 1. To the extent that the Supplier is not responsible for the outcome of the work on the basis of an express contractual agreement or a pure service has been agreed, the Supplier shall provide the service in accordance with the agreements set out in the contract according the state of the art at the time that the contract was formed and through personnel who are qualified to provide the agreed services.
- 2. If the service is not provided as agreed in the contract or is defective and the Supplier can be held responsible for this, the Supplier shall be obliged to provide the service for us as agreed by contract within a reasonable time and without any additional costs for us. The precondition for this is that we submit any complaint no later than within ten working days after becoming aware of the defect. If significant elements of the service cannot be provided as agreed in the contract for reasons that are the Supplier's fault, and not within a reasonable time, we shall have the right to terminate the contract without notice. In this case the Supplier shall be entitled to remuneration for the services provided as

agreed by contract up until the time when notice of termination becomes effective. There shall be no remuneration for services where we can prove that they are of no use to us and of no interest for us.

3. This shall not affect the extraordinary right of termination for an important cause. The Supplier shall be entitled to remuneration for the services provided as agreed by contract up until the time when notice of termination becomes effective. There shall be no remuneration for services if we can show that they are of no interest to us.

Part C: Special Terms and Conditions for the Provision of Services in the field of IT

I. General rules for the provision of services in the field of IT

1. Scope of application

The provision of services in the field of IT shall primarily be governed by the Special Terms and Conditions set out in this Part C. Within this area of application they shall have precedence over the Terms and Conditions contained in Parts A and B in the event of any contradictions. The General Terms and Conditions of Purchase and Delivery contained in Part A and the Special Terms and Conditions for the Provision of Work and Services contained in Part B shall apply in addition to work and services provided by our suppliers in the field of IT.

2. Definitions

The following definitions apply in Part C of our General Terms and Conditions of Purchase and Contract:

Bypass solution	Temporary bypass of a defect and/or an error
Confidential information	Information that a reasonable third party would regard as being worthy of protection or that is marked as confidential. This may also be information that becomes known during an oral presentation or discussion. Confidential information may only be used for the purpose of performing the obligations under the contract. The duty of confidentiality does not apply to information that is already lawfully known to the Parties or that becomes known outside the contract without any breach of a duty of confidentiality.
Consumables	Parts of system components that are substantially consumed and thus used up within the probable lifetime of the system components, even in the case of proper use
Customising	Adaptation of system components on a level other than that of the source code

Data backup	All technical and organisational measures to ensure the availability, integrity and consistency of the data and software stored in the IT system and used for processing purposes
Error	Impairment of the suitability of the IT system or of system components as opposed to those agreed by contract or, in the absence of such an agreement, for the assumed use or otherwise for usual use. This shall apply independently of responsibility for the error and independently of whether or not this abnormality was already present at the time of the acceptance or delivery of the original work and services.
Harmful software	Software with a function that has not been agreed with us, which at least also has the purpose of endangering or impairing the availability of data, resources or features, the confidentiality of data or the integrity of data (e. g. viruses, worms, Trojan horses (among others)).
Individual software	Software programs, program modules, tools etc. that the Supplier prepares for our needs and in order to perform the contract, including the accompanying documentation and adaptations of standard or individual software on source code level. However, this does not include customising and the adaptations of standard software that have become part of the standard.
Loss of data	Loss (deletion) or loss of integrity and consistency of data
Object code	Interim result of a compiler or translation process of a program's source code
Patch	Temporary repair of a bug and/or a fault in the software without altering the source code
Pre-existing parts	All components of the individual software and the adaptations to standard software made on source code level, but not included in the standard and which the Supplier or a third party has developed independently of this contract.
Program status	General term for patches, updates, upgrades and new release(s)/version(s).
Proprietary rights	Industrial property rights or copyrights
Reaction time	Period of time in which the Supplier has to start to provide the services. This period starts on receipt of the corresponding message or on the occurrence of an agreed event within the agreed service periods and runs only during the agreed service periods. If a report

	is received or an event occurs outside the agreed service periods, the reaction time starts at the beginning of the next service period. Readiness for operation Trouble-free functioning of the IT system
Replacement items	General term for wearing parts and consumables
Release/version	New development level of a software that significantly differs from the previous release or the version in the functional and/or data spectrum
Rights of use	Rights granted to us by the Supplier
Service period	Times when we are entitled to the services that the Supplier is obliged to perform under the contract
Software	General term for standard software and individual software
Source code	A program's code in the version of the programming language
Standard software	Software programs, program modules, tools etc. that have been developed for the needs of a majority of customers in the market and not specifically for us by the Supplier, including the accompanying documentation
System component	Part of the IT system, e. g. hardware and software, including new program statuses provided on the basis of the contract, with the exception of patches
System environment	Technical, physical and professionally organised environment of the IT system, consisting of hardware, software, communication systems and communication services as well as the supply facilities necessary for the operation of the IT system
Teleservice	Services involving the use of technical facilities for telecommunication from a location outside the place where the IT system is used
Ticket system	IT system enabling the receipt, classification, confirmation and processing of reports and enquiries with the aim of answering the enquiry or solving the problem and whose progress can be observed and monitored (also known as the Trouble Ticket system)
Time for execution	Period of time in which the Supplier has to successfully complete the services. The period commences on the receipt of the corresponding report or on the occurrence of an agreed event within the agreed service periods and runs only during the agreed service periods. If a report is received or an event occurs outside the agreed service periods, the time for

execution shall start at the beginning of the next service period.

Tool	A resource for the development processing and maintenance of the software.
Update	Concentration of several fault rectification and/or troubleshooting processes as well as slight functional improvements and/or adjustments to the software in a single consignment
Upgrade	Concentration of several fault rectification and/or troubleshooting processes and more than slight functional improvements and/or adaptations of the software in a single consignment
Version/release	See release/version
Wearing part	Parts of system components that lose their functional capacity within the probable lifetime of the system component, even in the case of proper use and this does not represent a defect unless the wearing part would lose its functional capacity before the end of its probable lifetime.

3. Scope of delivery

- a) The documentation of the hardware and software shall be delivered in German and in printed or printable form unless otherwise agreed.
- b) The Supplier shall deliver the hardware and the software free of harmful software. This shall be verified in suitable form at an appropriate time prior to delivery. The Supplier shall declare that this verification has produced no indication of harmful software. This provision shall apply each time that software is provided, also provisionally and in advance, such as for test purposes. Furthermore, the Supplier guarantees that the hardware and software that is supplied shall not have any functions that endanger the integrity, confidentiality and availability of the hardware and software, of other hardware and/or software or of any data and that is therefore contrary to our interests in confidentiality or security.

4. Rights of use in respect of software

- a) Unless another proper use has been agreed, the Supplier, on entering into the contract, shall grant us an exclusive right to use the individual software as well as a non-exclusive right to use standard software; these rights shall in all cases be transferrable, permanent, irrevocable and non-cancellable, locally unrestricted and exercisable in any hardware and software environment; this particularly means the right to permanently or temporarily store, load, display and run the software. This shall also apply if duplications are needed for this purpose.

- b) We have an obligation to take suitable technical and organisational measures in order to ensure the proper use of the software.
- c) If we exercise our right to transfer the right of use, we must impose our contractual obligations in relation to the content and scope of the rights of use on the third party. Only if we have no equity interest in the third party under company law shall we no longer be entitled to use the software ourselves after transferring the rights of use to the third party. Copies of the software that are not handed over to the third party must then be deleted. However, we shall not be obliged to delete any duplications of the software that have been made for purposes of proper data backup. In addition, we shall have the right to keep one copy solely for testing and archiving purposes, unless otherwise agreed.
- d) We have the right to make a copy of the software for data backup purposes. The duplications of the software that serve the distribution of the software for proper use or for making proper data backups are part of the proper use of the software.
- e) As we have subsidiaries abroad to whom we regularly have to grant rights of use in respect of the software within the framework of cooperation within the Group, the Supplier gives us the right to grant our affiliated companies a right of use in respect of the contractual software. This particularly applies to our subsidiaries abroad. The Supplier shall ensure that it also has the right to grant this right of use to third parties abroad and that this will not give rise to any accusations that our subsidiaries abroad are breaking the law; if applicable the Supplier shall indemnify us and our subsidiaries abroad against any liability in our internal relationship.

5. Data privacy, non-disclosure and security

- a) In the event that personal data is collected, processed or used by the Supplier under a contract, the Parties shall enter into an agreement regarding contract data processing that satisfies the legal requirements.
- b) The Supplier shall ensure that all persons that it entrusts with processing or performing the contract observe the legal requirements concerning data privacy. On request we must be provided with evidence of compliance with the obligation to maintain data secrecy under data protection law.
- c) The Parties must treat as confidential all confidential information, business secrets and trade secrets obtained within the framework of the contractual relationship and shall particularly not disclose it to third parties or use it for any purposes other than the contractual purpose.
- d) The Supplier is entitled to pass on confidential information only to subcontractors whom we have explicitly approved if and to the extent that this confidential information is necessary in order for the subcontractors to perform their various work and services (the "need-to-know" principle). This only applies if the subcontractor

has first given us an undertaking to observe confidentiality to at least the same extent as the Supplier has done. The disclosure of the confidential information by the subcontractor must not be allowed unless we have first explicitly agreed to its disclosure.

6. The Supplier's personnel, subcontractors

- a) The Contracting Parties' contacts are exclusively the responsible persons mentioned in the contract. Any changes in the contacts must be notified to the other Party with a reasonable lead time.
- b) The Supplier shall provide the work and services through suitably qualified personnel as agreed by contract. Communication with us shall be in German unless otherwise agreed.
- c) The Supplier may only exchange persons in agreed key positions if we have given our agreement. We will immediately give our agreement if the replacement is of urgent necessity and the Supplier offers a qualified person as a substitute. The replacement shall be deemed of urgent necessity if further deployment is impossible. The Supplier may exchange personnel who do not occupy key positions even without our agreement if the substitute is suitably qualified as required under the contract. The induction of the new personnel shall take place at the Supplier's expense.
- d) We may demand that a person whom the Supplier has deployed to perform the contract is replaced if this person acts in gross breach of his/her obligations, performs any work or services to a poor standard or if the person no longer has the personal qualifications required under the contract, e. g. if information from a security declaration under the Security Screening Act (Sicherheitsüberprüfungsgesetz) no longer corresponds to the facts. The induction of the new personnel shall take place at the Supplier's expense. We shall also have the right to demand the replacement of the person deployed to perform the contract for different reasons. In this case the Supplier may claim the reimbursement of reasonable expenses as long as the Supplier provides us with binding information concerning these costs in advance and we nevertheless insist that this person is replaced.
- e) The Supplier may only engage subcontractors to perform the work and services or replace subcontractors that have been engaged if we have given our express agreement. We will agree without delay if the new subcontractor would have been equally suitable as the former subcontractor when the award decision was made, and there is otherwise no objective reason to oppose the engagement of the new subcontractor. The induction of the new subcontractor shall take place at the Supplier's expense. We shall be deemed to have agreed to the engagement of the subcontractors that the Supplier designates in the offer.

- f) We shall send our requests regarding the work and services to be provided only to the responsible contact designated by the Supplier and shall not issue any instructions to any other persons deployed by the Supplier. The persons deployed by the Supplier shall not enter into an employment relationship with us, even if they are working on our premises. The Supplier shall take organisational measures to guarantee that the employees it uses to provide the work and services are exclusively subject to the relevant employer's right to issue instructions and disciplinary authority. Instructions shall be issued solely within the framework of the agreed division of tasks.

7. Proprietary rights of third parties

- a) If a third party asserts claims against us on grounds of a violation of proprietary rights due to the use of the software and if this impairs or impedes our use of the software, the Supplier shall be liable as follows without prejudice to our other rights:

The Supplier may either alter or replace the work and services at its own expense so that they no longer violate the proprietary right, but nevertheless essentially correspond to the agreed functional and performance features in a way that is reasonable for us, or indemnify us against the claims of the owner of the proprietary right.

If it is impossible for the Supplier to cure the breach or only on unreasonable conditions, the Supplier shall have the right to take back the work and services affected in return for a refund of the remuneration that has been paid. The Supplier shall grant us a reasonable expiry period unless this is only possible under unreasonable legal conditions or other conditions.

This shall not affect our rights, for example to the rescission of the contract, a reduction in price and damages.

- b) The Parties shall immediately notify each other of any claims asserted by third parties. We shall not recognise an alleged breach of a proprietary right and either allow the Supplier to conduct every dispute, including an out-of-court settlement, or only conduct such a dispute in agreement with the Supplier. The Supplier shall reimburse us for any necessary costs of defence and other damages if we remain responsible or have to remain responsible for the suitable defence measures and settlement negotiations for legal reasons. In this case we shall be entitled to an advance equivalent to the sum of the estimated costs of defence.
- c) If we ourselves are responsible for the violation of proprietary rights, no claims may be asserted against the Supplier.

8. Documentation

- a) The Supplier shall prepare and provide us with technical documentation in German concerning the work and services performed. This shall also contain an overview of all installed program statuses of the hardware and/or software as well as a list of the serial numbers and accompanying documents (e. g. system certificate) of newly deployed replacement items. If the Supplier has prepared an inventory or survey of the IT system or if we provide the Supplier with a system description, this shall be updated by the Supplier. If the Supplier does not keep any inventory lists itself, the Supplier shall immediately provide us with the necessary information in suitable form so that they can be updated.
- b) The Supplier shall prepare and provide us with application documentation in German for the work and services it has performed. This shall contain all information that the end user needs in order to use the work and services.
- c) If the Supplier performs any services or work to correct defects at a later point in time, the Supplier shall at the same time prepare an appropriate update or addition to the documentation (technical documentation and application documentation) and hand it over to us. The Supplier shall list all changes in chronological order in a list of modifications. The update or addition shall be prepared with at least the same degree of detail and in the same quality as the original documentation.
- d) The Supplier shall grant us the exclusive, irrevocable, permanent, transferable right to use the documentation, including the updates and additions.

9. Test system of the IT system

- a) Insofar as it has been agreed, system services that lead to modifications to the IT system shall initially be provided in the test system of the IT system instead of in its productive part. In this case we shall provide the test system as part of the IT system and the Supplier shall support it within the framework of the agreed services.
- b) Unless otherwise agreed, the Supplier shall test the system services in the test system. Before doing so, the Supplier shall inform us of the service provided and give us the opportunity to take part in the test. On the completion of the test the Supplier shall inform us of the result. If the test is successful, we will incorporate the work and services into the productive part of the IT system.
- c) Unless otherwise agreed, the Supplier shall guarantee that the test system is up to date insofar as the Supplier's area of work and services is affected. In this area the Supplier must also particularly ensure that the software on the test system corresponds to the productive part of the IT system. Unless otherwise agreed, the Supplier shall also ensure that sufficient and, if necessary, current data is available in the test system in order to ensure meaningful tests. In agreement with us the Supplier may use data from the IT system which it shall make anonymous or – if the data is not personal data – which it shall mask.

- d) If faults only occur after the incorporation into the productive part of the IT system, the Supplier will not be held responsible for any delays provided that they are based on unknown and unforeseeable differences between the test system and the productive part of the IT system and the Supplier has complied with its obligation to provide the services.

II. Special conditions for the purchase of hardware and/or software

1. The sale of hardware and/or standard software also includes the sale of the associated technical documentation and user documentation as well granting the necessary and usual rights of use in respect of the standard software and documentation.
2. On the agreed delivery date the Supplier shall set up the hardware and install the standard software unless otherwise agreed.
3. The Supplier shall be responsible for disposing of and recycling the packaging in accordance with the applicable legal requirements, without any separate remuneration, and, at our request, also of the hardware supplied or parts of the hardware after their useful life, unless otherwise agreed (e. g. remuneration for disposal). The disposal or recycling shall be performed to professional standards. Disposal by the Supplier must be carried out in such a way that stored data is neither legible nor reconstructable. We shall have the right to remove parts of the hardware before it is collected for disposal.
4. Before concluding the contract of sale the Supplier shall notify us of any locks on use which could impair the use of the hardware or the standard software for the contractual purpose.

III. Special conditions for maintenance and updating

1. Area of application, provision of work and services
 - a) If the subject matter of the contract is the provision of IT maintenance and updating work (hereinafter called "services") the scope of the Supplier's work and services shall particularly include the restoration of the system's readiness for operation (troubleshooting), the maintenance of its readiness for operation (preventative measures), the provision of new program statuses and the modification or expansion of the IT system and other individually agreed services, without prejudice to a special contractual agreement.
 - b) The services involve the performance of work to achieve a specific outcome. The Supplier is therefore responsible for the outcome of the agreed work.

- c) Unless otherwise agreed, the Supplier shall install and customise all system components delivered, adapted or newly produced and integrate them into the IT system.
- d) The Supplier is only entitled to provide the services with the aid of automated processes, e. g. a licence management or monitoring software, if the Supplier designates the product to be used in the offer and at the same time guarantees, in accordance with the facts, that this product has no communication functions with third parties and no other functionality contrary to our interests. The product must particularly not contain any functionalities for data espionage and must not transmit any information concerning the IT system, its data, its licensing or user behaviour to third parties for any purpose other than the provision of the services, nor store this information in such a way that it could be accessed by third parties. The replacement of the product or the use of a new version of the product shall require our express agreement in the individual case. We will give our agreement if the Supplier has given us the aforementioned assurance with regard to the new product to be used. If there are in fact sufficient indications that the product does not meet the aforementioned requirements and the Supplier cannot refute such indications, we may refuse to allow the product to be used.

2. Type and scope of the services

- a) Restoration of readiness for operation (troubleshooting)

The restoration of the IT system's readiness for operation or that of its system components includes all measures taken by the Supplier that are necessary for troubleshooting. These may include repair work on the hardware and maintenance work for software in order to eliminate bugs. The latter, for instance, may include the preparation or procurement of a debugged version of the individual software and its provision as well as the provision of a program status of the standard software that eliminates the error.

If troubleshooting has been agreed for standard software and it contains a bug, the Supplier must provide a program status that eliminates the bug, if such a program is already available. If this is not the case, the Supplier must provide a bypass solution. If the Supplier cannot be reasonably expected to do so, the Supplier shall request the manufacturer of the standard software to provide a program status as soon as possible that eliminates the bug. The Supplier must provide us with information in this respect at our request. Within the context of the obligation to provide a bypass solution we cannot generally demand any interference with the object code or source code of the standard software, but we may request individual programming - as long as this is reasonable.

If the same error re-occurs within 30 days after the system has been declared ready for operation, the bug shall not be deemed to have been removed.

If a flat fee has been agreed for troubleshooting and if the IT system has not been built by the Supplier, the Supplier may demand an additional fee for the elimination of a bug within three months after the commencement of the contract if the Supplier proves that the bug was already present before the commencement of the contract. If an inventory has been agreed, this right shall only exist in relation to the bugs found during the inventory and notified to us in the report and only to the extent that there has been no adjustment of the remuneration due to these bugs.

Instead of this, we may have the bug eliminated through any claims we may have due to defects or under a warranty. The Supplier shall support us in this.

If we have caused a bug intentionally or through gross negligence and if a flat fee for troubleshooting has been agreed, the Supplier may demand reasonable remuneration from us as a result.

b) Maintenance of readiness for operation (preventative measures)

All measures that the Supplier takes to avoid future errors, e. g. as part of a maintenance concept, shall serve to maintain the readiness for operation of the IT system or its system components. This shall include, for instance, the regular exchange of wearing parts and of the IT system's hardware in good time before the end of its life cycle. It also includes the provision of new program statuses of the standard software insofar as these are available to the Supplier without paying licence fees for use by us and, if agreed, the preparation and provision of a debugged program status of the individual software, in each case to the extent that these are necessary in order to maintain the system's readiness for operation.

c) Acceptance of new system components

Unless otherwise agreed, we shall accept new system components if they serve to eliminate or avoid faults. We shall not be obliged to accept a new system component if this is unreasonable for us, for instance because the new system component significantly differs from the system component to be replaced or if the scope of our rights would be reduced in the case of software. If we do not accept a new system component for this reason, the Supplier shall suggest a different solution at our request as long as this is possible and reasonable. If we accept a new system component, the following shall apply:

- If the new system component contains more functionalities than the system component mentioned in the service contract ("additional features"), we shall only be obliged to pay an additional fee if we wish to use these additional features. This also includes a case where we use the additional features, although we could use the new component in accordance with the contract without the additional features, but not a case where we can only use the previous functionality together with the additional features. No additional fee is payable if the provision of the new system

component is already the subject of another obligation to supply work and services on the part of the Supplier.

- If we incur higher costs than previously due to the use of the new system component, these shall be borne by the Supplier. This shall not apply if these higher costs are attributable to the fact that we wish to use additional features that are available. Sentence 2 of the first alternative above shall apply accordingly.

d) Provision of new program statuses

New program statuses shall each be provided immediately once the new program status becomes available.

Without prejudice to special contractual agreements, the obligation to provide new program statuses particularly includes the obligation to provide program statuses for the implementation of amendments to legal provisions and technical standards that influence the ability to use the IT system for its intended purpose, including adjustments to amended administrative rules, tariffs or interface adjustments. If such program statuses are not available, the Supplier shall produce them or make arrangements to have them produced.

The Supplier shall provide us with the program statuses that it is obliged to supply in good time before the relevant rule or standard comes into force and before the time of the intended amendment or adjustment. If the program status is not provided by these dates at the latest, the Supplier must provide us with an interim solution, irrespective of this. If the provision of the program status or the interim solution cannot reasonably be expected by these dates, they must be provided within a reasonable time.

The Supplier must notify us if and from when such a program status will be available. The Supplier shall install and customise the program status and integrate it into the IT system unless otherwise agreed. If standard software of the IT system has been adjusted to source code level by the Supplier or a third party, this also includes making these adjustments for us in the new program status. The Supplier must draw attention to the consequences of the aforementioned work before carrying it out. This also includes changes to the usability of the software.

The Supplier must first give us the opportunity to request that the Supplier does not immediately install and customise these program statuses, if applicable adjust them on source code level and integrate them into the IT system, but does so at a later point in time that we request during the term of the service contract or only in observance of reasonable conditions that we set or not at all. We will only give our agreement if the update is necessary for debugging purposes and is reasonable for us. If new program statuses of the software result in the fact that the IT system can no longer be used free of faults, the Supplier must take all troubleshooting measures

that are necessary. In addition to other, also individual adjustments to the IT system, this may also include adjustments to other software. If necessary, these adjustments must also be made on source code level and integrated into the IT system.

Without prejudice to a special contractual agreement, the Supplier shall install and customise new program statuses that we provide and integrate them into the IT system. Before carrying out the work the Supplier shall draw attention to the consequences for the IT system entailed by the use of the new program status. This also includes, for instance, known incompatibilities and known errors as well as changes in the usability of the software.

e) Hotline

- aa) If a hotline has been agreed, the Supplier shall record fault reports communicated by telephone and questions concerning the use of the IT system. As far as possible, the Supplier shall eliminate the fault reported by giving guidance over the telephone or, insofar as it has been agreed, through teleservice during the telephone call and shall answer any questions concerning the use of the IT system. If this does not succeed within a reasonable time, the Supplier must clarify the questions concerning the use of the system in another way and communicate the answers by telephone or by email or pass on the fault report within its support organisation in order for the fault to be eliminated. If it has not been agreed that the system's readiness for operation is to be restored, the Supplier shall make us an offer for troubleshooting on the basis of the agreed rates or, if no such rates have been agreed, on reasonable conditions. Irrespective of whether or not the fault report has already been dealt with during the telephone call, the Supplier shall be obliged to enter the fault report into a ticket system along with explanatory information if the use of such a system has been agreed.
- bb) Unless otherwise agreed, every user on our premises shall be entitled to use the hotline.
- cc) The Supplier shall only use personnel to man the hotline that are qualified to record and initially clarify the fault report. The hotline must be manned by German-speaking personnel.
- dd) The use of automated interactive voice response systems is only permitted in order to accept calls and for their initial classification.
- ee) The Supplier must man and technically equip the hotline in such a way that its constant availability is guaranteed during the service periods. The Supplier shall take account of the expected traffic, consisting of questions regarding the use of the system and trouble reports, and ensure that it is possible to accept telephone questions and trouble reports in parallel operation. If the elimination of an error or the answering of complex questions from users cannot be continually handled by

the same employee of the Supplier until the successful conclusion of the matter, the matter and the progress made in handling it must be recorded in such a way that there is neither a loss of time nor a loss of quality due to a change of personnel.

ff) Each Party shall bear its own telecommunication costs. The Supplier is not entitled to offer the hotline through added value services, mobile phone numbers or foreign telephone numbers.

f) On-call service

Insofar as it has been agreed, the Supplier must maintain an on-call service. The Supplier must be contactable by telephone during the agreed times. The purpose of the on-call service is to ensure that the agreed, particularly qualified personnel are available at the agreed times to give advice and for troubleshooting (by telephone or through the teleservice) and that the agreed, particularly qualified personnel provide the agreed services on site at the agreed times.

g) On-site service, regular presence on our premises

Insofar as it has been agreed, the Supplier shall provide us with an on-site service at the agreed times in the agreed scope. The on-site service serves to handle the agreed service work and to advise users on site at their workplace.

h) Licence management

aa) Inventory

If an inventory has been agreed, the Supplier shall initially be obliged to determine the exact use of the agreed software, especially its places of deployment and installation, and to present these in an electronic database (licence database). We shall be obliged to grant the Supplier access to the system components relevant for the use of the software insofar as this is absolutely necessary for data capture.

In addition, the Supplier is obliged to determine the type and scope of our existing rights of use in respect of the agreed software and, if necessary, to determine the associated requirements of the licensor in question and to supplement the licence database accordingly. This shall particularly include a note as to where the relevant information concerning rights of use, original data carriers and back-up copies are to be found. We shall be obliged to give the Supplier access to the relevant documents available on our premises, especially software licensing agreements, software licence certificates and similar documents as well as any original data carriers and backup copies of the software. Insofar as it is agreed, the Supplier shall additionally store the information concerning rights of use, including any licence keys and/or the data carriers of the software, in the form agreed (archiving).

On the completion of the inventory the Supplier shall provide us with a written report on the result, especially on any under-licensing, over-licensing or any other defective licensing. At the same time, the Supplier shall make suggestions for any necessary follow-up licensing, a possible meaningful alteration to the licence model (e. g. change from individual licensing to volume licensing or organisation-wide licences) and the alternative use of superfluous licences, and shall draw attention to other potential for optimisation.

bb) Management of the existing system

The management of the existing system includes the acceptance or own recording and processing of changes vis-à-vis the information collected during the inventory, e. g. concerning additional, changing or expiring rights of use in respect of the agreed software as well as its places of deployment and installation and the corresponding updating of the licence database. The management of existing systems also includes compliance with the licensor's conditions and, if they are to be fulfilled by us alone, the monitoring of these conditions.

The management of the existing system also includes a regular inventory to be carried out at least once a year, unless otherwise agreed.

If the archiving of the rights of use and/or the data carriers of the software has been agreed, the inventory shall also include the ongoing updating of the archive.

cc) Other work and services in the context of licence management

The Supplier is furthermore obliged to advise us at our request in the case of intended extensions and reductions in the extent of use (e. g. regrouping) and to support us in the case of licence audits. These services shall be provided at the rates agreed in the contract or, in the absence of such rates, on usual market terms.

i) Settlement of our claims against third parties

- aa) Insofar as it has been agreed, the Supplier shall support us in the technical and organisational settlement of claims under service contracts and claims due to defects (warranty) and guarantee claims from contracts of sale, contracts for labour and materials and contracts for work and services between ourselves and third parties with regard to the IT system which is the subject matter of this contract. For this purpose we must grant the Supplier the necessary degree of access to the corresponding documents. Insofar as it has been agreed, the Supplier shall also notify our company in good time of any time limits and deadlines of relevance for the contract, e. g. for the termination, renewal or amendment of these contracts. Unless otherwise agreed, the Supplier, however, shall not have the right to amend, terminate or re-conclude these contracts in our name nor to exercise our rights without our consent.

bb) The Supplier shall only be obliged to provide legal services to the extent that they are to be regarded as an ancillary service to the other activities to be performed under the contract.

j) Data backup services

Insofar as it has been agreed, the Supplier shall be responsible for ongoing and proper data backups in accordance with the agreed data backup concept in order to protect against loss of data. In the context of proper data backup practice the Supplier must particularly check the data backups on a regular basis through data safety backups/data restore measures, evaluate backup protocols, regularly exchange data carriers for preventative reasons, take the data carriers to the agreed place and store them there. All data backup measures must be recorded in detail. The protocols must be sent to us at any time on request, independently of this, but at least once a year in electronic form. The details concerning the data backup measures and the protocols of such measures are governed by the data backup concept.

k) Training

aa) If training measures have been agreed, the Supplier shall carry out such measures on its own responsibility. If nothing else has been agreed, all training measures shall be carried out in German. Training measures shall take place on our premises unless otherwise agreed. If training measures do not take place on our premises, the Supplier shall be responsible for providing the rooms and the appropriate training infrastructure. A training day shall comprise eight hours of instruction lasting 45 minutes as well as reasonable breaks. The training fee covers adequate preparation of the training measure as well as the granting of the agreed rights of use in respect of the training documents.

bb) The training documents shall be supplied in German, in electronic form and, on our request, on paper in accordance with the number of participants. The copies that are supplied shall become our property. The training documents also include tools such as electronic presentation files and samples used for training. At our request the Supplier shall issue certificates for the training participants showing the contents and the scope of the training measure that has been carried out. The Supplier shall grant us a non-exclusive, irrevocable, permanent and transferrable right in respect of training documents that have not been prepared for us so that we can use them for our own purposes unless otherwise agreed. If training documents or any parts thereof have been prepared for us, the Supplier shall supply these documents in addition in one of the usual, editable file formats determined by us and shall grant us rights of use in accordance with clause I. 4. a) for training measures and also solely for our own purposes, unless otherwise agreed.

3. Keeping stocks of replacements

- a) Insofar as it has been agreed, the Supplier shall keep stocks of replacements in order to ensure the restoration of the IT system and the system components at short notice or the maintenance of their readiness for operation. Unless otherwise agreed, the stocks shall be kept on the Supplier's premises. Replacement items must be of at least the same quality and as good as new at the time of replacement.
- b) If the Supplier keeps stocks of replacements, the Supplier shall exchange the IT system affected, the system components affected or the affected part of the system components for an appropriate replacement in the case of a fault that cannot otherwise be eliminated in good time and, on exchanging the item, shall grant us the right of ownership to the item in question. If replacement items which were initially added to the stocks are paid for on the commencement of the services, the transfer of ownership shall already take place at the time when these items are added to the stocks; in this case the Supplier shall be obliged to store the replacement items in safe custody. The Supplier shall send us the information needed in order to identify the items. This particularly includes the names of devices, their place of storage and their serial numbers. Remuneration for the safe custody is included in the price of the replacement items.

This also applies if a threatened malfunction can only be avoided by exchanging an item for a replacement item in order to maintain the system's readiness for operation. In this case, however, the Supplier, shall be obliged to first agree on the replacement with us unless the malfunction is imminent and no agreement is therefore possible.

- c) The Supplier shall subsequently repair the replaced item as long as this is technically possible and makes economic sense and shall continue to stock it as a replacement item. The Supplier shall otherwise add an appropriate new device to the stocks.
- d) The Supplier shall dispose of the replaced items free of charge at our request. This also applies to the disposal of the packaging of the replacement item. The disposal must be professionally carried out. On the exchange of the item or immediately thereafter the Supplier shall request notification of whether we require disposal.

If the item to be disposed of contains data carriers, the Supplier shall particularly draw our attention to this when exchanging the item and offer to send us the data carrier before disposal. If we do not make use of this possibility, the Supplier must dispose of the data carrier in such a way that the stored data is neither readable nor reconstructable. Before disposal we must be given the opportunity to remove parts of the item.

4. Relocation and modification of system components by us

- a) We shall have the right to relocate system components to a place other than the location agreed by contract and to modify the components; we must notify the

Supplier of this in good time. Each Contracting Party may request an amendment to the contract in accordance with the modifications that the new location or the modification of the system components causes for the Contracting Parties' rights and obligations.

- b) If the dismantling and reassembly or the modification is to be carried out by the Supplier, a separate agreement must be made.

5. Reaction times and times for execution

- a) If no reaction times have been agreed, the services shall be commenced immediately after receipt of the corresponding report or the occurrence of the agreed event within the agreed service periods. If no times for execution have been agreed, the services must be completed within a reasonable time.
- b) If the Supplier does not comply with the agreed reaction times and/or times for execution, the Supplier shall be in default after overstepping these deadlines, even without a reminder, unless the Supplier cannot be held responsible for overstepping the deadline.
- c) In the case of services under a contract for works and services (where the outcome is of importance) a declaration of completion shall suffice in order to comply with the time limit if the work has been successfully completed on time, e. g. the declaration that the system is ready for operation if an error has been eliminated.

IV. Special conditions in the case of IT advice

If the Supplier is not responsible for the outcome under the express contractual agreement or a pure IT service has been agreed, the Supplier shall grant us a non-exclusive, permanent, irrevocable and non-transferrable right to use the embodied results of the service provided under the contract insofar as this results from the purpose of the contract and the area of deployment. These rights include the agreed interim results, training documents and tools. Any departures from these rules of use need to be agreed in the contract.

V. Special terms and conditions for individual software / control technology in machines and systems

1. Area of application, provision of work and services

If the Supplier has undertaken to prepare and adjust the software on the basis of the contract for work and services (where a certain outcome is to be achieved), the following special conditions shall apply.

The work and services to be provided by the Supplier particularly include the adaptation on source code level of software licensed or provided, the customising

of software licensed or provided and the creation and licensing of individual software on a permanent basis unless the order involves a different scope of performance.

The work and services shall form an objective economic and legal unit.

The Supplier shall be responsible for the outcome of the agreed work and shall be liable for the work of its subcontractors in the same way as it is liable for its own work.

2. Type and scope of the work

Unless otherwise agreed in the individual contract, the Supplier, on delivering or licensing the software, shall grant us the agreed rights in respect of the agreed work, subject to the condition precedent that an instalment payment or final payment is made following the respective delivery or licensing, that the work is accepted or that we terminate the contract for cause.

- a) The Supplier shall produce the individual software in accordance with the agreements and shall make it available to us.
- aa) In principle, provided that the individual software has been produced, the non-exclusive, sub-licensable, locally unrestricted exercisable in any hardware and software environment and that is transferable, permanent, irrevocable and non-cancellable shall pass to us so that we may use the individual software in the original or in modified, translated, processed or redesigned form, which particularly means the right to permanently or temporarily store and load it and to display and run it, also if duplications are necessary for this purpose, to modify, translate, process or to redesign it in any other way and to store it on any known medium or in any other way, to duplicate, issue, publish and distribute it in physical or non-physical form, particularly in private and, with the exception of the source code, publicly, also through image, sound and other information media, to deploy it in databases, data networks and online services, including the right to make the individual software, but not the source code, available to the users of the aforementioned databases, networks and online services for purposes of research and for retrieval by means of tools that we select and for downloading, to allow it to be used by third parties or to have it operated for us, not only for our own purposes, but also to use and distribute it in order to provide work and services for third parties.

The right of use relates to the individual software, especially its object code and source code in all development stages, intermediate stages and final stages and to the accompanying documentation as well as other materials necessary in order to exercise the rights of use, such as analyses, requirements specifications and technical specifications, concepts and descriptions.

If we exercise our right to transfer the right of use in respect of the individual software in part or in full or allow it to be used by third parties within the framework of our

duplication, sublicensing or distribution right, we shall be obliged to impose our contractual obligations in relation to the content and the scope of the rights of use on the third party. The Supplier's liability towards third parties in connection with sub-licensing or further distribution shall be excluded. This also applies to claims due to defects and also to the extent that we assert claims against the Supplier that the third party has asserted against us due to the individual software.

If we have transferred our rights of use to a third party who is not affiliated with us within our Group, we shall not longer have the right to use the software. However, we shall be entitled to keep and use one copy solely for testing and archiving purposes.

- bb) The foregoing provision applies in principle also to pre-existing parts, but on no account shall exclusive rights of use be granted in respect of these parts.

The distribution and sub-licensing of the pre-existing parts shall be paid for if the Supplier has given notice of their use in the offer, the remuneration for granting these rights has been specified there and we have awarded the contract on the basis of this offer. As long as we do not exercise these rights in respect of the pre-existing parts, the remuneration for their distribution or sub-licensing shall not become due.

The right to modify the pre-existing parts shall be excluded if the following conditions are fulfilled: The Supplier has stated in its offer that instead of the source code for the pre-existing parts only their object code will be provided and exercises this right. The Supplier puts us in a position where, with appropriately qualified personnel, we can generate the executable individual software from the parts of the individual software provided in the source code and the pre-existing parts that are only provided in the object code.

The distribution and sub-licensing of the pre-existing parts is only permitted together with the individual software in the licensed form or in a modified, translated, processed or redesigned form.

- cc) In the event that the Supplier uses or has developed tools for the production of the individual software that are not available on the market and the processing and redesign of the individual software is either not possible at all or only with unreasonable effort without these tools, the Supplier shall provide us with a duplicate of this tool at the latest when the system is available for partial or total acceptance and shall grant us a non-exclusive, locally unrestricted right exercisable in any hardware and software environment, only together with the individual software which it is intended to process or redesign, and also a transferable, permanent, irrevocable and uncancellable right to use the tool in the original and exclusively for the purpose of debugging and further development for the processing and redesign of the individual software and to use the tool for this purpose, which particularly means to permanently or temporarily store and load it, to display and run it, also if duplicates

are necessary for this purpose, to allow it to be used or operated for us by third parties and to use it not only for our own purposes, but also to in order to provide work and services for third parties.

We are furthermore entitled to produce a further duplicate and to distribute this together with the individual software in question and to grant the third party the rights arising from the foregoing provision with the exception of the sublicensing, distribution and duplication rights. Instead of the tool used by the Supplier the Supplier may give us a reduced version of this tool and grant us the said rights in respect of this tool if it is equally suitable for processing and redesigning the individual software.

The Supplier shall not be obliged to provide the tool if it can prove that the individual software works equally well with another tool available on the market and can be redesigned in the same way as with the tool it uses and if the Supplier informs us where this tool can be sourced.

- dd) The Supplier may freely dispose of inventions and the ensuing rights in this connection and apply for the invention to be patented or registered as an utility model. The Supplier hereby grants us free of charge an ordinary, non-exclusive, transferable, sub-licensable right of use with effect in rem in respect of any patents and utility models registered or granted now and in the future in connection with the use of the work affected by the invention. If this is not sufficient in the individual case, the Supplier grants rights of use to the extent necessary so that we or an entitled third party can exercise the rights to the products of the work in accordance with the terms of the contract.

At its own expense the Supplier shall ensure that neither the Supplier nor the inventor nor a possible legal successor can have a detrimental influence on our rights of use in respect of the products of the work. For this purpose the Supplier shall lay claim to any employee inventions.

- b) If adjustments are made to the standard software on source code level, the Supplier shall inform us, no later than when submitting the offer, of whether it will incorporate the adjustments into the standard software. If the Supplier makes such a declaration, the Supplier shall be under an obligation to include the adjustments in the program status of the standard software following the time when the system is made available for acceptance. If no such declaration is made or if the adjustments have not been incorporated into the standard, the Supplier shall be under an obligation to hand over the adjustments on source code level in the source code and the adjusted parts of the standard software in the object code in such a way that we are able to produce the adjusted standard software with appropriately qualified personnel. We shall be given rights for individual software in respect of the source code to be handed over.

- c) If the customising of software has been agreed, the Supplier shall grant us the rights to the relevant work results and to the protocols and other materials, *sui generis* database rights and databases in this connection. To the extent that pre-existing materials such as templates, concepts and documentation are protected by copyright, we shall, however, be given no processing right and no sub-licensing right unless one of these exclusions is impermissible according to the legal requirements.
- d) Unless otherwise agreed, the Supplier shall be obliged to install the software in the agreed system environment.

3. Handing over of and deposit of the source code

- a) Unless otherwise agreed, the Supplier must hand over the latest version of the source code of the individual software and any adjustments to the standard software on source code level on the acceptance of the work and after the acceptance of every new program status of the individual software or the standard software affected. This shall not apply if the Supplier declares that it will incorporate the adjustments into the standard and proceeds to do so as agreed by contract. The source code includes professional comments and a description of the necessary system parameters as well as other necessary information that enables us to process the source code with qualified personnel in order to be able to independently develop the individual software and the adjustments to the standard software on source code level. The source code shall be handed over in electronic form on a data carrier and will be protocolled. We shall be given an extensive right of use in respect of all versions of the source code and the documentation at the time when they are created in accordance with clause I. 5. a). We shall treat the source code in the same way as our own confidential information and only make it accessible to third parties within the framework of its proper use and shall also commit these third parties to maintain confidentiality.
- b) If it has been agreed that the source codes of certain software are to be deposited, this shall be done at the agreed depository on the basis of the deposit agreement to be made in the individual case. The obligation to deposit the source code relates to the last modified version of the source code of a program status that has been provided, including the removal of bugs. We shall have extensive rights to all versions of the source code of individual software. We shall have the right to process all versions of the source code of standard software to be deposited in order to remove bugs, to maintain its usability and to generate new, executable program versions to which we shall have the same rights as we had to the version of the standard software that was originally licensed, subject to the condition precedent that the source code is surrendered. In the case of source codes of individual software the aforementioned rights shall be granted when the software is produced and in the case of source codes of standard software they shall be granted when the executable program versions are made available.

- c) If the delivery of new program statuses has been agreed for the standard software deposited, the obligation to deposit the source code shall also apply to the source code of the program statuses already provided.
- d) We shall bear the costs of depositing the source code.

Worms, January 2019

Sika Automotive Frankfurt-Worms GmbH, Germany