

**BUTZEL LONG**  
**Toyota Terms (10/1/21) Change Analysis**

New §	Old §	Section Heading	Change	H/M/L
<b>SECTION 1: RELATIONSHIP</b>				
1.1	1.9 / Recital C	Guiding Principles	<ul style="list-style-type: none"> <li>No material difference from prior Toyota Terms.</li> </ul>	Low
1.2	1.8	Good Faith	<ul style="list-style-type: none"> <li>No material difference from prior Toyota Terms.</li> </ul>	Low
1.3	None	Supplier Expertise	<ul style="list-style-type: none"> <li>New provision</li> <li>Supplier agrees that: <ul style="list-style-type: none"> <li>it has the requisite technical expertise and experience</li> <li>Toyota is relying on its expertise and experience</li> <li>the Items Supplied will be perform safely, properly and adequately under all foreseeable conditions and meet Toyota’s expectations, even if Toyota does not communicate the relevant specifications and requirements <ul style="list-style-type: none"> <li><i>This is among the most important additions to the Terms. Although not labelled as “warranties,” they arguably function as warranties.</i></li> <li><i>The quasi-warranties are broader even than the express warranties contained in the Terms or typical in the industry</i></li> </ul> </li> </ul> </li> </ul>	High
1.4	None	Information and Cooperation	<ul style="list-style-type: none"> <li>Largely new provision</li> <li>Supplier must satisfy all Toyota requests for information, including certifications and questionnaires, relating to compliance with the Terms, Legal Requirements or Toyota Requirement.</li> <li>Supplier must cooperate with Toyota and provide all requested information in connection with any Investigation. <ul style="list-style-type: none"> <li><i>Although very broad, these obligations were arguably legally implicit and commercially necessary under the prior terms.</i></li> </ul> </li> </ul>	Medium
1.5	1.6	Continuous Improvement	<ul style="list-style-type: none"> <li>No material difference from prior Term</li> </ul>	Low
1.6	1.7; 2.3(e)	Access, Audit, Record Retention	<ul style="list-style-type: none"> <li>Similar to prior Toyota Terms</li> <li>Modified record retention requirement: <ul style="list-style-type: none"> <li>5 years for bookkeeping / financial records</li> <li>10 years from last delivery for records relevant to compliance with agreement <ul style="list-style-type: none"> <li><i>10 year requirement is new; 5 year requirement is similar to old terms.</i></li> </ul> </li> </ul> </li> </ul>	Medium

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<b>SECTION 2: AGREEMENT TO SUPPLY ITEMS</b>				
Recital A	2.1	Items	<ul style="list-style-type: none"> <li>• Largely new provision</li> <li>• Supplier must provide requested assistance re incorporation of Item into the Product or Vehicle</li> <li>• Supplier must provide Toyota with any information that Toyota “reasonably ought to know” regarding the Item, packaging, labelling or instructions.</li> <li>• If requested, Supplier must prepare instructions and train Toyota personnel.                             <ul style="list-style-type: none"> <li>○ <i>These provisions seemingly give all suppliers potential integration, training and other advisory responsibilities, even if not otherwise in scope</i></li> <li>○ <i>Potential liability is inherent in providing such assistance</i></li> </ul> </li> </ul>	High
1.1	2.2	Acceptance	<ul style="list-style-type: none"> <li>• Similar to prior Toyota terms</li> <li>• Specifies that New Terms are effective as to any Items delivered on or after 10/1/21                             <ul style="list-style-type: none"> <li>○ <i>In other words, Items shipped on 9/30/21 are subject to the old terms and those shipped on 10/1 to the new terms, regardless of the time of contracting.</i></li> </ul> </li> <li>• Confidentiality obligations (§5.6) appear to apply retroactively, <i>i.e.</i>, to confidential information disclosed prior to 10/1/21, although meaning is not entirely clear.</li> </ul>	High
1.4	2.3	Contract Documents	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low
1.5	2.4	No Requirements / Output Contract	<ul style="list-style-type: none"> <li>• Similar to prior Terms</li> <li>• Contract is non- exclusive, <i>i.e.</i>, Toyota can buy the same part from others                             <ul style="list-style-type: none"> <li>○ <i>Prior Terms already said contract was not a requirements contract unless the PO or other contract document says otherwise, so this probably belt and suspenders.</i></li> </ul> </li> </ul>	Medium
6.5	2.5	Toyota Networks	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low
1.3	2.6	Agency Relationship	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low
1.2	2.7	Third Party Beneficiary	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low
<b>SECTION 3: GENERAL TERMS AND CONDITIONS</b>				
2.1(a)	3.1.1	Sale of Items Generally	<ul style="list-style-type: none"> <li>• Similar to prior Terms</li> <li>• If requested by Toyota, new obligation to review and correct active parts list and provide an active parts list annually</li> </ul>	Medium
2.1(a)	3.1.2	Sale of Items Forecast Volumes	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low
2.1(b)	3.1.3	Sale of Items Third Party Sales	<ul style="list-style-type: none"> <li>• Similar to prior terms</li> <li>• Clarifies that prohibition on sales to 3<sup>rd</sup> parties extends to anything that utilizes the specifications, not only the Items</li> </ul>	Medium
2.2(a)	3.2.1	Price Price of Items	<ul style="list-style-type: none"> <li>• Similar to Prior Terms</li> <li>• Clarifies that Supplier bears all costs of performance, <i>i.e.</i>, the price is all inclusive</li> </ul>	Low
3.5(a)	3.2.2	Price	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low

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		Price of Tooling		
2.2(a)	3.2.3	Price Interim Toyota Price	<ul style="list-style-type: none"> <li>Simplified to prior Terms</li> <li>The interim price and the applicable time period will be stated in a contract document</li> </ul>	Low
2.2(b)	3.2.4	Price Price Adjustments	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
2.2(c)	3.2.5	Price Price Review	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
2.3(a) 3.5(a)	3.3.1	Payment Supplier Payables	<ul style="list-style-type: none"> <li>Material Changes</li> <li>Payment process expanded to include tooling and development payables, not only Items</li> <li>Tooling will be paid in a single payment, upon acceptance</li> <li>Expenses may not include mark-up.</li> </ul>	Medium
2.3(a)	3.3.2	Payment Conforming Invoice	<ul style="list-style-type: none"> <li>No material changes</li> </ul>	Low
2.3(b)	3.3.3	Payment Payment Terms	<ul style="list-style-type: none"> <li>No material changes</li> </ul>	Low
2.3(c)	3.3.4	Payment Payment Obligations	<ul style="list-style-type: none"> <li>Material changes</li> <li>Toyota will not pay for Tooling unless Supplier invoices within 60 days of the later of: (i) Toyota accept an Item manufactured by the Tooling; or (ii) issuance of the Tooling PO. <ul style="list-style-type: none"> <li><i>Read together with 3.3.1, this appears to mean that Supplier will not be paid for Tooling unless Toyota accept Tooling not later than 60 days from SOP</i></li> </ul> </li> <li>Reimbursable development (PDAD) Items will not be paid unless Supplier submits an invoice within 30 days of Toyota approving the production and shipment of the Item.</li> <li>If Toyota disputes an invoice, it will notify Supplier of the reason.</li> </ul>	High
New	3.4	Payment End of Production / All Time Buys	<ul style="list-style-type: none"> <li>New provision</li> <li>Allows Toyota to make a one time purchase at the end of production by placing a firm order 30 days prior to end of production <ul style="list-style-type: none"> <li><i>Not clear if this supersedes service part obligations if Toyota exercises this right</i></li> </ul> </li> <li>Supplier may not end production absent Toyota consent <ul style="list-style-type: none"> <li><i>Intent is unclear, but this may prohibit Supplier from ending production even if it otherwise has lawful right to do so</i></li> </ul> </li> </ul>	Medium
Various	3.5	Payment Set-Off	<ul style="list-style-type: none"> <li>Material Changes</li> <li>Consolidates numerous provisions scattered in a number of section in the prior Terms <ul style="list-style-type: none"> <li><i>New Terms are more specific than prior terms, but it arguably the New Terms do not create new substantive set-off rights, except as noted below.</i></li> </ul> </li> <li>Adds set-off rights for disputed amounts if dispute is not resolved within 90 days</li> </ul>	High

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			<ul style="list-style-type: none"> <li>○ <i>This means that Toyota may rightfully set-off disputed amounts, even if it is ultimately determined that Toyota was wrong on the underlying dispute</i></li> <li>● Toyota's determination of set-off amounts are "final, absent demonstrable error."</li> <li>○ <i>Unclear how a court would interpret this provision</i></li> </ul>	
2.4(a)	3.6.1	Payment Delivery: Supplier Obligations	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
2.4(b)	3.6.2	Payment Delivery: Delivery Terms	<ul style="list-style-type: none"> <li>● Limited changes, principally relating to delivery of Software</li> <li>● Supplier has custody and control of Items until loaded onto carrier and bill of lading delivered</li> <li>● Software to be delivered by EDT in the form specified by Toyota                             <ul style="list-style-type: none"> <li>○ <i>Prior terms did not address delivery of software</i></li> </ul> </li> </ul>	Medium
2.4(e)	3.6.3	Payment Delivery; Expedited Shipments	<ul style="list-style-type: none"> <li>● Limited changes</li> <li>● Supplier may only recover "out of pocket" expenses related to Expedited Shipments for which Supplier is not responsible                             <ul style="list-style-type: none"> <li>○ <i>Out of pocket limitation not in prior terms</i></li> </ul> </li> </ul>	Low
2.4(f)	3.6.4	Payment Delivery; Over shipments / Undershipments	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
2.4(d)	3.6.5	Payment Delivery; Manufacturing Returnable Packaging	<ul style="list-style-type: none"> <li>● Limited changes, but extensive reorganization</li> <li>● New express obligation to manage returnable in conformance with Toyota Logistics Manual</li> </ul>	Low
2.5	3.6.6	Payment Delivery; Inspection Period	<ul style="list-style-type: none"> <li>● Limited changes</li> <li>● Specifies that Supplier is responsible for inspection and other quality control prior to shipment</li> <li>● Specifies that Toyota's testing or other operation of an Item ≠ acceptance                             <ul style="list-style-type: none"> <li>○ <i>Prior terms only addressed payment ≠ acceptance</i></li> </ul> </li> </ul>	Medium
2.6(a)	3.7.1	Rejected or Non-conforming Items; Replacement Items	<ul style="list-style-type: none"> <li>● Limited Changes</li> <li>● If payment precedes rejection, Supplier will refund shipping and other expenses, in addition to payment</li> <li>● Supplier responsible for any disposal expenses                             <ul style="list-style-type: none"> <li>○ <i>Not clear if these new provisions reflect a change in practice or a documentation of existing practice</i></li> </ul> </li> <li>● If Toyota directs repair, the Item is not deemed accepted until Toyota expressly agrees in writing.</li> </ul>	Medium
None	3.7.2	Rejected or Non-conforming Items; Software	<ul style="list-style-type: none"> <li>● New</li> <li>● If Software is rejected, Supplier must refund all amounts paid, unless Toyota directs Supplier to repair the software</li> <li>● If correction is directed, Supplier has not more than 5 days to do so.</li> </ul>	High (for Software Suppliers)

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None	3.7.3	Rejected or Non-conforming Items; Notice of Non-Conforming Items	<ul style="list-style-type: none"> <li>Supplier must notify Toyota within 48 hours of discovery of any defect or non-conformity, together with a preliminary root cause.</li> <li>Supplier must provide a subsequent notice identifying the actual root cause and advising whether and when the problem can be remedied <ul style="list-style-type: none"> <li><i>Not clear if these new provisions reflect a change in practice or a documentation of existing practice</i></li> </ul> </li> </ul>	High
2.7(a)	3.8.1	Delay; Notification of Delay	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
2.7(a)	3.8.2	Delay; Substitute Items or Providers	<ul style="list-style-type: none"> <li>If Toyota consents to a substitute Supplier providing delayed Items, Supplier remains liable for any breach by the substitute supplier</li> </ul>	Medium
2.7(b)	3.8.3	Delay; Right to Acquire Alternative Products	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
2.7(c)	3.9	Force Majeure	<ul style="list-style-type: none"> <li>Limited Changes</li> <li>Only material change is that if Force Majeure Event requires allocation, Supplier may not provide Items to Toyota later than similar goods are provided to other customers. <ul style="list-style-type: none"> <li><i>This is more restrictive than the allocation provision of the Uniform Commercial Code.</i></li> </ul> </li> </ul>	Medium
<b>SECTION 4: TOOLING</b>				
3.1(b)	4.1.1	Acquisition of Tooling Tooling Authorization	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
3.7(a)	4.1.2	Acquisition of Tooling Tooling Completion Date	<ul style="list-style-type: none"> <li>Material changes</li> <li>Supplier obligation to meet Tooling Completion Date is excused by force majeure event only if the event effects the toolmaker, not supplier. <ul style="list-style-type: none"> <li><i>This could be a significant risk for the supplier if, for example, the Completion Date is missed because of force majeure related transportation or PPAP delays.</i></li> </ul> </li> </ul>	Medium
3.7(b)	4.1.3	Acquisition of Tooling Rescheduling	<ul style="list-style-type: none"> <li>No material changes</li> </ul>	Low
3.7(c)	4.1.4	Acquisition of Tooling Cancellation	<ul style="list-style-type: none"> <li>No material changes</li> </ul>	Low
3.1(f)	4.2	Ownership of Tooling;	<ul style="list-style-type: none"> <li>Limited Changes</li> <li>Price of replacement Tooling to be negotiated <ul style="list-style-type: none"> <li><i>Prior terms were silent on topic.</i></li> </ul> </li> </ul>	Medium
3.2	4.3	No Sale of Tooling	<ul style="list-style-type: none"> <li>No material changes</li> </ul>	Low
3.3	4.4	Supplier Owned Toyota Production Tooling	<ul style="list-style-type: none"> <li>Material Changes</li> <li>Compensation for Supplier owned tooling is limited to “amount paid.” <ul style="list-style-type: none"> <li><i>Prior terms were less clear that compensation was limited to amount paid.</i></li> </ul> </li> <li>Compensation to be paid on same terms as Toyota owned Tooling</li> </ul>	High

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			<ul style="list-style-type: none"> <li>○ <i>Prior terms contemplated recovery of cost through piece price surcharge.</i></li> </ul>	
3.8	4.5	Status of Tooling	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
3.11	4.6	Use. Removal of Tooling	<ul style="list-style-type: none"> <li>● Limited Changes</li> <li>● Supplier “represents, warrants and covenants” that it will not use tools for any other customer. <ul style="list-style-type: none"> <li>○ <i>Prior terms also prohibited use of tools for other customers. Addition of “represents, warrants and covenants” will likely not make a practical difference in the event of a dispute.</i></li> </ul> </li> </ul>	Low
3.12	4..7	Additional Remedies	<ul style="list-style-type: none"> <li>● Limited Changes</li> <li>● Toyota Tooling remedies apply if there is a breach or termination <ul style="list-style-type: none"> <li>○ <i>Prior terms only addressed breach</i></li> </ul> </li> </ul>	Medium
<b>CONTINUING TERMS AND CONDITIONS</b>				
4.1(a)	5.1.1	Changes to Items Required changes	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
4.1(b)	5.1.2	Changes to Items Adjustment for required changes	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
New	5.1.3	Changes to Items No Supplier Changes without consent	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Supplier may not make any changes to an Item without Toyota consent <ul style="list-style-type: none"> <li>○ <i>This restriction is arguably likely implicit in a number of other provisions of the prior terms. The new provision merely makes it explicit</i></li> </ul> </li> </ul>	Low
4.2(a)	5.2.1	Service Parts Current Model Service Parts	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
4.2(b)	5.2.2	Service Parts Past Model Service Parts	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
4.2(c)	5.2.3	Service Parts Price for Service Parts	<ul style="list-style-type: none"> <li>● No material changes</li> </ul>	Low
4.2(d)	5.2.4	Service Parts Responsibility for Production Expenses and Other Matters	<ul style="list-style-type: none"> <li>● No material changes</li> </ul>	Low
New	5.2.5	Service Parts Service Parts Literature	<ul style="list-style-type: none"> <li>● No material change</li> <li>● Although the provision is new, it simply consolidates in one section obligations that were previously scattered</li> </ul>	Low
4.3(a)	5.3.1	Compliance with Legal Requirements and Toyota Requirements Compliance with Applicable Laws	<ul style="list-style-type: none"> <li>● Material Changes</li> <li>● Supplier “represents, warrants and covenants” that it will comply with laws. <ul style="list-style-type: none"> <li>○ <i>Prior terms also required compliance. Addition of “represents, warrants and covenants” will likely not make a practical difference in the event of a dispute.</i></li> </ul> </li> <li>● Toyota may expand territorial scope of compliance obligation to include any jurisdiction designated by Toyota, on terms to negotiated.</li> </ul>	High

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			<ul style="list-style-type: none"> <li>○ <i>Prior terms limited territorial scope to the US, countries of vehicle destination and jurisdictions where Items (or components of Items) are manufactured, produced or acquired. There was not an express provision allowing Toyota to expand that scope.</i></li> <li>● Compliance obligation with respect to laws of the jurisdiction where Items (or components of Items) are manufactured, produced or acquired, is expanded to include the jurisdictions of processing, delivery or supply.</li> </ul>	
None	5.3.2(a)	Compliance with Legal Requirements and Toyota Requirements Trade Laws; Compliance	<ul style="list-style-type: none"> <li>● New provision <ul style="list-style-type: none"> <li>○ <i>Many of the provisions in §5.3.2 and its subparts are new and are technical and more detailed than can be reasonably summarized in this document. Suppliers engaged in trade related activities should carefully study and obtain advice regarding Toyota’s requirements.</i></li> <li>○ <i>The prior Terms did not separately address trade laws, although compliance with trade laws would likely be subsumed in the general obligation to comply with laws.</i></li> </ul> </li> <li>● Supplier must notify Toyota of non-compliance or “obstacles” to compliance with Trade Laws.</li> <li>● Supplier will not export or transfer Items, software or technology to any country subject to applicable sanctions without obtaining required US licenses authorizations.</li> <li>● Supplier will not conduct business with a Prohibited Person.</li> <li>● Supplier represents, warrants and covenants that it will not provide or facilitate the provision of any Payment to any Foreign Official or related person if the Payment “could be construed” as unlawful. <ul style="list-style-type: none"> <li>○ <i>“Could be construed” is obviously a nebulous and risk fraught standard. Supplier could be in breach of conduct for lawful behavior if it could be construed as unlawful</i></li> </ul> </li> </ul>	High
5.7(b)	5.3.2(b)	Compliance with Legal Requirements and Toyota Requirements Trade Laws; License, Authorizations, Certifications and Related information	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
None	5.3.2(c)	Compliance with Legal Requirements and Toyota Requirements Provision of Export Controlled Items or Information	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Supplier must give Toyota notice before transmitting Items or information which are: (i) classified greater than EAR99; designated for control other than for Anti-Terrorism under the EAR; or (iii) found on the USML.</li> </ul>	Medium
5.7(b)	5.3.2(d)	Compliance with Legal Requirements and Toyota Requirements Imports	<ul style="list-style-type: none"> <li>● Limited changes</li> <li>● Supplier must notify Toyota of errors in documentation relevant to duty deferral or free trade programs</li> </ul>	Medium

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None	5.3.2(e)	Compliance with Legal Requirements and Toyota Requirements Supply Chain Security	<ul style="list-style-type: none"> <li>• New provision</li> <li>• Supplier must participate in C-TAPT and other governmental supply chain security programs and obtain necessary certification in each jurisdiction where it manufactures, assembles, produces or exports Items</li> </ul>	Medium
None	5.3.2(f)	Compliance with Legal Requirements and Toyota Requirements Notification	<ul style="list-style-type: none"> <li>• New provision</li> <li>• Supplier must notify Toyota of any supply chain changes that might effect compliance with Trade obligations</li> </ul>	Medium
4.3(b)	5.3.3	Compliance with Legal Requirements and Toyota Requirements Testing; Certification	<ul style="list-style-type: none"> <li>• Limited changes</li> <li>• Toyota's determination of what testing and certification of Items are needed to comply with Legal Requirements does not relieve Supplier of its compliance obligations.</li> </ul>	Medium
4.3(c)	5.3.4	Compliance with Legal Requirements and Toyota Requirements Ongoing Compliance	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	None
4.4(a)	5.4.1	Compliance with Legal Requirements and Toyota Requirements Environmental Reports; Other Information; Environmental Reports	<ul style="list-style-type: none"> <li>• Material changes</li> <li>• Supplier must provide Toyota with applicable Environmental Reports by the earlier of shipment, 30 days from Toyota's request, or a contractually required date.</li> <li>• If Items are shipped to Mexico, Environmental Reports must be translated into Spanish. Supplier bears the risk of any mistranslation</li> </ul>	Medium
4.4(b)	5.4.2	Compliance with Legal Requirements and Toyota Requirements Environmental Reports; Other Information; Additional Information	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low
4.5(a)	5.5.1	Compliance with Legal Requirements and Toyota Requirements Property of the Parties; Supplier Property	<ul style="list-style-type: none"> <li>• No material changes</li> </ul>	Low
4.5(b)	5.5.2	Compliance with Legal Requirements and Toyota Requirements	<ul style="list-style-type: none"> <li>• Limited change</li> <li>• Toyota Property includes property either provided or reimbursed by or on behalf of Toyota, except for Supplier-Owned Toyota Production Tooling (see § 4.4, above).</li> </ul>	Medium



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		Property of the Parties; Toyota Property	<ul style="list-style-type: none"> <li>○ <i>Prior terms did not address reimbursement, but change is likely a resolution of an ambiguity, not a change of intent.</i></li> <li>○ <i>Much of the content of prior § 4.5(b) is now divided between new §5.5.2 and 5.5.3.</i></li> </ul>	
4.5(b)	5.5.3	Compliance with Legal Requirements and Toyota Requirements Property of the Parties; Identification of Toyota Property	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
4.5(c)	5.5.4	Compliance with Legal Requirements and Toyota Requirements Property of the Parties; No License	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
4.5(d)	5.5.5	Compliance with Legal Requirements and Toyota Requirements Property of the Parties; Return of Toyota Property	<ul style="list-style-type: none"> <li>● Limited changes</li> <li>● Toyota Property that has previously been consumed or disposed of is excluded from return obligation <ul style="list-style-type: none"> <li>○ <i>Merely a clarification of an ambiguity in the prior Terms</i></li> </ul> </li> </ul>	Low
4.6(a) 4.6(c)	5.6.1	Compliance with Legal Requirements and Toyota Requirements Confidential Information; Protection and Non-Disclosure of Confidential Information	<ul style="list-style-type: none"> <li>● Material changes</li> <li>● Information is Confidential if it is marked as such, or would be reasonably understood to be confidential; or it includes personal or financial information or a long list of other types of information <ul style="list-style-type: none"> <li>○ <i>Confidential Information is defined in the definitions Appendix included at the end of the Terms, rather than in § 5.6.1 itself.</i></li> </ul> </li> <li>● Confidential Information may not be disclosed unless the recipient has a professional (e.g., an attorney) or written contractual obligation to maintain confidentiality. <ul style="list-style-type: none"> <li>○ <i>Prior terms did not specify that confidentiality obligation must be in writing</i></li> <li>○ <i>If Supplier does not currently have written agreements with its employees, subcontractors or other third parties with which it shares Confidential Information, it would be prudent to do that.</i></li> </ul> </li> <li>● New Terms prohibit a recipient from reverse engineering, decompiling or disassembling the other party's property that reflects the discloser's Confidential Information</li> <li>● The recipient must reproduce any proprietary rights notices (e.g., "Property of Toyota") on any approved copies of Confidential Information.</li> <li>● Unless permitted in §5.6.2, Supplier may never disclose Toyota's Confidential Information to a Toyota competitor.</li> </ul>	Medium

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4.6(a)	5.6.2	Compliance with Legal Requirements and Toyota Requirements Confidential Information; Permitted Legal Disclosures	<ul style="list-style-type: none"> <li>• Material changes</li> <li>• § 5.6.1 does not prohibit the disclosure of Confidential Information if the recipient is legally required to disclose it.</li> <li>• If Toyota or Supplier is legally required to disclose the other’s Confidential Information, it must provide the other with advance written notice and an opportunity to protect the information from disclosure, unless doing so would itself violate the law.</li> <li>• If the recipient is legally prohibited from giving advance notice and an opportunity to protect the information, then the recipient will itself undertake to protect the confidential information. <ul style="list-style-type: none"> <li>○ <i>The requirements of this §5.6.2 are sufficiently complex and the consequences of wrongful disclosure sufficiently severe that it would be prudent to involve legal counsel before disclosing Toyota’s Confidential Information in response to a subpoena or other legal process.</i></li> </ul> </li> </ul>	High
New	5.6.3	Compliance with Legal Requirements and Toyota Requirements Confidential Information; Item Specifications and Data	<ul style="list-style-type: none"> <li>• “Item Specification” is defined in Section 1.3 as “Supplier’s designs, drawings, and specifications for the Items.”</li> <li>• “Item” is broadly defined in Section 2.1. It means the Products that are supplied, designed, developed, engineered, manufactured, ...by Supplier and provided to Toyota.</li> <li>• Item Specifications and information and data regarding a Toyota requested customization of an Item or the integration of the Item into the Vehicle is Toyota’s Confidential Information and Intellectual Property</li> <li>• <i>Any information or data (e.g. testing, validation) regarding the Products or Items is also Toyota’s Intellectual Property and Confidential Information.</i> <ul style="list-style-type: none"> <li>○ <i>This section and the intellectual property provisions in §5.7 should be read together to understand Supplier’s rights in Supplier Intellectual Property</i></li> <li>○ <i>Any information or data (e.g. testing, validation) regarding the Products or items is Toyota’s Intellectual Property and Confidential Information.</i></li> </ul> </li> </ul>	High
New	5.6.4	Compliance with Legal Requirements and Toyota Requirements Confidential Information; Breach; Remedies	<ul style="list-style-type: none"> <li>• The recipient must promptly notify the discloser of any actual or threatened confidentiality breach.</li> <li>• Toyota and Supplier are responsible for any confidentiality breach by their respective third parties. <ul style="list-style-type: none"> <li>○ <i>For example, if Supplier rightfully discloses Toyota Confidential Information to a sub-supplier and that sub-supplier wrongfully discloses it, Supplier is responsible to Toyota</i></li> </ul> </li> </ul>	Medium
4.6(a)	5.6.5	Compliance with Legal Requirements and Toyota Requirements Confidential Information; Survival or Obligations	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low

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New	5.6.6	Compliance with Legal Requirements and Toyota Requirements Confidential Information; Return or Destruction of Confidential Information	<ul style="list-style-type: none"> <li>On request, each party will return the other's Confidential Information, except that a party may retain a copy as required by its record retention policies or Legal Requirements.</li> </ul>	High
4.6 (d)(1)	5.7.1	Intellectual Property; Data Toyota Intellectual Property	<ul style="list-style-type: none"> <li>Limited changes</li> <li>Modifications to any Toyota Intellectual Property, even if recommended or made by Suppliers, is Toyota's Intellectual Property</li> </ul>	Moderate
4.6 (d)(2)	5.7.2	Intellectual Property; Data Supplier Intellectual Property	<ul style="list-style-type: none"> <li>Material Changes</li> <li>The definition of Supplier's Intellectual Property does not include Item Specifications. <ul style="list-style-type: none"> <li><i>In §1.3 "Item Specifications" is defined as Supplier's detailed designs, drawings, and specifications for the Items.</i></li> </ul> </li> <li>Toyota may use Supplier's IP and grant sublicenses to any other Toyota Party for use on the Items that are the subject of the Agreement. <ul style="list-style-type: none"> <li><i>The 2009 terms did not have the restriction of use only on Items subject to the Agreement</i></li> </ul> </li> <li>Provision includes a Production License; Software License and Rights to Supplier IP Upon Supply Delay.</li> <li>The Production license grants Toyota Parties an expansive royalty-free license to use Supplier IP for Tooling manufactured, designed or developed by Supplier or for use with Items. <ul style="list-style-type: none"> <li><i>While limited to the program, it is not limited to use only with Supplier. If business was resourced, Toyota could use with new Supplier</i></li> </ul> </li> <li>Supplier grants Toyota Parties expansive Software License that is non-exclusive, paid-up, royalty-free, transferrable, perpetual, irrevocable, worldwide, with rights to sublicense. <ul style="list-style-type: none"> <li><i>The license provides Toyota Parties with the perpetual use of the Software on any of its program, including future programs</i></li> </ul> </li> <li>If Toyota determines there is a substantial likelihood that production will be imminently interrupted as a result of an actual or perceived threat, Supplier grants a non-exclusive, paid-up, royalty-free, worldwide license, with rights to grant sublicenses until threat is over or supply relationship is terminated</li> </ul>	High
	5.7.3	Intellectual Property; Data RDDP Activity	<ul style="list-style-type: none"> <li>New provision.</li> <li>See Schedule A, RDDP Activity below.</li> </ul>	High
	Sch. A	Intellectual Property; Data RDDP Activity	<ul style="list-style-type: none"> <li>New attachment</li> <li>Used where Supplier will provide engineering services for Research, Design &amp; Development of Parts (RDDP).</li> </ul>	High

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			<ul style="list-style-type: none"> <li>○ Allows Toyota to amend simply after “consultation” with Supplier. Supplier agreement to the amendment is not required.</li> <li>● All jointly developed IP will belong to Toyota and Supplier escrowand the terms of the ownership will be set forth in a Supplemental Development Agreement <ul style="list-style-type: none"> <li>○ See Section 5.7.4 below</li> </ul> </li> <li>● Secondary Intellectual Property</li> </ul>	
	5.7.4	Intellectual Property; Data Supplemental Development Agreement	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Used when Toyota requests that Supplier develop or the parties jointly develop, a design or other proprietary Item for Toyota. <ul style="list-style-type: none"> <li>○ The Supplemental Development Agreement will be mutually agreed by the parties</li> <li>○ Any conflicting terms will control of the general terms</li> </ul> </li> </ul>	Moderate
	5.7.5	Intellectual Property; Data Other Information	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Requires Supplier to provide a Toyota Party with any other Supplier information and data, subject to Section 5.6. <ul style="list-style-type: none"> <li>○ Section 5.6.3 provides Toyota with broad rights to Item Specifications. Item Specifications is defined as Supplier’s detailed designs, drawings, and specifications for the Items. §1.3</li> </ul> </li> </ul>	High
	5.7.6	Intellectual Property; Data Rights in Data	<ul style="list-style-type: none"> <li>● New provision</li> <li>● All data created, collected, generated, stored and transmitted (“Item Data”) is owned by Toyota and Supplier has no rights to the data except as permitted in the parties’ Agreement.</li> </ul>	Moderate
	5.7.7	Intellectual Property; Data Bankruptcy and Intellectual Property	<ul style="list-style-type: none"> <li>● New provision</li> <li>● In the event of Supplier bankruptcy or similar action, Toyota retains all rights and remedies in the IP pursuant to the bankruptcy code and laws.</li> </ul>	Moderate
	5.7.8.	Intellectual Property; Data Software Escrow Requirement	<ul style="list-style-type: none"> <li>● New provision</li> <li>● If a Toyota Party requests, the Supplier must place the Software Deposit Materials into escrow.</li> <li>● Software Deposit Material is defined to mean the Source Code for software licensed from Supplier pursuant to the Agreement, as well as, any associated documentation, specifications, third party dependencies, related libraries, internal repositories, and other components or information necessary to create a live production environment, build the software binary, and verify the software’s functionality.</li> <li>● Upon any Triggering Event, Supplier must deliver the Software Deposit Materials to the Toyota Party. During the period of the Triggering Event and a period afterwards, the Software Deposit Materials will be licensed to the Toyota Parties and their designees.</li> </ul>	High
<b>GENERAL COVENANTS; RIGHTS</b>				
5.1	6.1	Independent Contractor	<ul style="list-style-type: none"> <li>● No material change</li> </ul>	Low
5.2	6.2	Toyota Policies	<ul style="list-style-type: none"> <li>● No material change; identifies some of the policies that Supplier is obligated to follow</li> </ul>	Low
	6.2.1	Toyota Policies	<ul style="list-style-type: none"> <li>● New provision</li> </ul>	Moderate

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		Enterprise Cybersecurity	<ul style="list-style-type: none"> <li>Supplier must maintain a cybersecurity program to protect Toyota Party's confidential information and to take identified steps in the event of a cyber breach</li> </ul>	
	6.2.2	Toyota Policies Product Cybersecurity	<ul style="list-style-type: none"> <li>New Provision</li> <li>Supplier must maintain a risk-based program to ensure the cybersecurity of any item identified by a Toyota Party</li> <li>If requested by a Toyota Party, Supplier must, at its expense, demonstrate compliance through a third-party audit.</li> </ul>	Moderate
	6.2.3	Toyota Policies Supplier Diversity	<ul style="list-style-type: none"> <li>New provision</li> <li>Supplier is to endeavor to meet the Toyota Parties' stated targets for using diverse suppliers.</li> </ul>	Low
5.3	6.3 & Sch. B	Insurance	<ul style="list-style-type: none"> <li>Material changes</li> <li>All insurance must be occurrence based</li> <li>It must be continuously maintained for the longer of (a) at least six years after the termination of the Agreement or (b) the period required by applicable local law</li> <li>Must include a waiver of any and all rights of subrogation.</li> <li>Supplier obligated to carry identified types of Insurance at minimum limits and at mandatory coverage and policy requirements (See Schedule B) <ul style="list-style-type: none"> <li>By example: Minimum Coverage Limits include 15 years \$15 million Product Liability insurance, and Full (100%) replacement value of all Supplier Property, as well as more standard requirements</li> </ul> </li> </ul>	High
5.3(a)	6.3.1	Insurance Right to Review	<ul style="list-style-type: none"> <li>Limited changes. If requested by Toyota Supplier must obtain additional insurance within 30-days</li> </ul>	Moderate
	6.3.2	Insurance No limitation	<ul style="list-style-type: none"> <li>New provision</li> <li>Supplier's failure to maintain or obtain insurance nor Toyota's approval of Supplier's insurance coverage will not waive any of Supplier's obligations, including indemnity obligations.</li> </ul>	Moderate

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5.4(a)	6.4.1	Warranty; Quality Assurance; Claims. Express Warranties	<ul style="list-style-type: none"> <li>• Material Changes</li> <li>• Express warranties appear to apply only to goods sold on or after 10/1/21</li> <li>• <i>In other words, a part sold on 10/1 is under different and in some respects more stringent warranties than the identical part sold on 9/30</i></li> <li>• Express warranties apply to the design, development, engineering, manufacture, processing, production, provision, supply, delivery, and transportation of Items <ul style="list-style-type: none"> <li>○ <i>Express warranties in Prior Terms only applied to manufacture, provision and transportation</i></li> </ul> </li> <li>• Supplier warrants that Items comply with: <ul style="list-style-type: none"> <li>○ Supplier’s experience and expertise obligations under §1.3 (see above);</li> <li>○ Industry and professional standards and practices <ul style="list-style-type: none"> <li>▪ <i>These are not typical warranties</i></li> </ul> </li> </ul> </li> <li>• If an Item is or includes Software, Supplier warrants that: <ul style="list-style-type: none"> <li>○ It is free of specified malware;</li> <li>○ Supplier owns or has necessary licenses to the Software, including Toyota’s right to use it</li> <li>○ Toyota’s use or copying will not infringe or violate any intellectual property right</li> <li>○ There is no actual or threatened infringement claim</li> </ul> </li> <li>• If Open Source Software is used, Supplier must: <ul style="list-style-type: none"> <li>○ disclosed in the bill of materials,</li> <li>○ provide Toyota with specified information</li> <li>○ obtain Toyota’s approval;</li> <li>○ ensure that the license does not require that the software or derivatives need not be disclosed or distributed in Source Code</li> </ul> </li> </ul>	High
5.4(b)	6.4.2	Warranty; Quality Assurance; Claims. Conformity with Quality Standards	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low
5.4(c)	6.4.3	Warranty; Quality Assurance; Claims. Evidence of Supplier’s Quality Assurance; Testing.	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low
5.4(d)	6.4.4	Warranty; Quality Assurance; Claims. Duration of Supplier’s Warranties	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low
5.4(e)	6.4.5	Warranty; Quality Assurance; Claims. Warranty Claim; Objection; Inspection of Items	<ul style="list-style-type: none"> <li>• Limited change</li> <li>• If Supplier asks to inspect an allegedly defective part, Toyota may, but is not required to, make the part available. <ul style="list-style-type: none"> <li>○ .</li> </ul> </li> </ul>	Medium

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None	6.4.6	Warranty; Quality Assurance; Claims. Correction of Software Flaws	<ul style="list-style-type: none"> <li>• New provision</li> <li>• Software Supplier must fix any Software Flaws for 15 months following end of vehicle production <ul style="list-style-type: none"> <li>○ <i>The second sentence of the same provision requires Supplier's "best efforts" to fix Software Flaws. It is not clear how the two sentences fit together.</i></li> </ul> </li> </ul>	Medium
5.4(f)	6.4.7	Warranty; Quality Assurance; Claims. Remedies Post-Warranty Period	<ul style="list-style-type: none"> <li>• Limited change</li> <li>• If an Item is found to be defective after the expiration of the Warranty Period and Toyota elects to provide consumers a remedy, Supplier must decide in good faith whether it bears any responsibility for the defect and, if so, negotiation an allocation of expenses with Toyota. <ul style="list-style-type: none"> <li>○ <i>Prior Terms required that Supplier provide Toyota with the same extended warranty or other remedy as Toyota elected to provide consumers.</i></li> </ul> </li> </ul>	Medium
5.4(g)	6.4.8	Warranty; Quality Assurance; Claims. Warranty Cost Settlement Procedure	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low
None	6.4.9	Warranty; Quality Assurance; Claims. Warranty Claims for PDAD Items	<ul style="list-style-type: none"> <li>• New</li> <li>• Warranty claims arising out of PDAD Items (i.e., an Item that is designed, developed, conceptualized, or engineered by the Service Parts and Accessories Development division of TMNA) are subject to 6.4.9, rather than the preceding Sections.</li> <li>• Within 30 days of receipt of Warranty Claim notice for PDAD Items, Supplier must respond and pay for any accepted or partially accepted claims.</li> <li>• Failure to object within 30 days is an acceptance of the claim.</li> <li>• Supplier's liability includes all labor and material costs of replacement or repair</li> </ul>	Medium
5.5	6.5	Warranty; Quality Assurance; Claims. Recall; Remedies; Allocation of Expenses.	<ul style="list-style-type: none"> <li>• Material changes</li> <li>• Supplier, Toyota and other affected suppliers will negotiate their share of the costs of: (i) complying with our contesting the recall; and (ii) providing remedial rights to Toyota and its customers. <ul style="list-style-type: none"> <li>○ <i>Recall includes "voluntary" recalls, field service actions and the like, not only government required recalls.</i></li> </ul> </li> <li>• Supplier is responsible for its share of the costs. <ul style="list-style-type: none"> <li>○ <i>The new Terms do not address how Supplier's share will be determined, other than providing for negotiation.</i></li> </ul> </li> <li>• Recall obligations survive the expiration of the parts warranty</li> </ul>	High
None	6.6	Notice of Certain Events	<ul style="list-style-type: none"> <li>• New provision</li> <li>• Supplier must inform Toyota of changes in its business organization, control and financial stability</li> </ul>	Low

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5.6	6.7	Advertising and Publicity	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
5.7	6.8	Duty and Tax	<ul style="list-style-type: none"> <li>Limited change</li> <li>Eliminated Supplier's obligation to procure Export licenses and requirements regarding import duties.</li> </ul>	Low
5.7(a)	6.8.1	Generally	<ul style="list-style-type: none"> <li>No change</li> </ul>	Low
5.7(c)	6.8.2	Excise Tax	<ul style="list-style-type: none"> <li>No change</li> </ul>	Low
5.7(d)	6.8.3	Other Taxes	<ul style="list-style-type: none"> <li>No change</li> </ul>	Low
5.8 & 5.9	6.9	Termination	<ul style="list-style-type: none"> <li>See below section comments</li> </ul>	
5.8	6.9.1	By Toyota Party for Convenience	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
5.8	6.9.2	By Supplier for Convenience	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
5.9	6.9.3 & 6.9.4	Default; Remedies	<ul style="list-style-type: none"> <li>No change as to default</li> <li>Material change as to Remedies. At Supplier's expense it must provide support to address the impact of its breach.                             <ul style="list-style-type: none"> <li><i>This includes any and all of Toyota's Losses that arise from the breach</i></li> </ul> </li> </ul>	High
5.8(c)	6.9.4	Obligations of Supplier on Termination	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
5.8(d)	6.9.5	Obligations of Toyota Party on Termination	<ul style="list-style-type: none"> <li>Limited changes</li> <li>Broader offset rights                             <ul style="list-style-type: none"> <li><i>Toyota may offset from payments to Supplier by any Toyota Party</i></li> </ul> </li> </ul>	High
	6.9.6	Rights Upon Orderly Termination	<ul style="list-style-type: none"> <li>New Provision</li> <li>Requires Supplier to assist in an orderly termination and transfer of all aspects of the Agreement, including <u>all</u> property</li> </ul>	High
5.9(c)	6.9.7	No Election	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
5.9(d)	6.9.8	No Waiver	<ul style="list-style-type: none"> <li>No material change</li> </ul>	Low
Material	6.10	No Encumbrances	<ul style="list-style-type: none"> <li>New provision. Supplier cannot pledge, encumber or otherwise assign its accounts without Toyota's consent.</li> <li>Third-party Secured rights will always be subject to and inferior to Toyota's rights.</li> </ul>	Low
	6.11	Disposal of Items	<ul style="list-style-type: none"> <li>New provision.</li> <li>Disposal must be in strict conformity to Toyota's requirements.</li> </ul>	Low
<b>INDEMNIFICATION</b>				
3.12(d) (4) & 5.5(e)	7.1	Supplier's Obligation to Indemnify	<ul style="list-style-type: none"> <li>New provision.</li> <li>Supplier must indemnified each Toyota Party, its representatives, successors and assigns from any and all Losses based upon, relating to, arising from, or were alleged to have been caused by</li> </ul>	High



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			<p>a Supplier Party in connection with, among other things, their performance, noncompliance, services and IP infringement.</p> <ul style="list-style-type: none"> <li>○ <i>Previous indemnification obligations were not as broad and were encompassed in other provisions</i></li> <li>○ <i>Indemnification obligation is limited by Insurance.</i></li> </ul>	
	7.2	Infringement Indemnification	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Where an IP Infringement Claim results, or is likely to result, in an injunction or order that prevents Toyota from using the IP, Supplier must either (at Toyota’s discretion) secure a license, modify the Item, or replace the Item. <ul style="list-style-type: none"> <li>○ <i>Supplier’s obligation may arise prior to an actual order of injunction</i></li> <li>○ <i>Toyota determines whether Supplier must obtain a license to use, or to modify or replace the items</i></li> </ul> </li> </ul>	High
	7.3	Defense of Indemnified Claims	<ul style="list-style-type: none"> <li>● New provision</li> <li>● See subsections below</li> </ul>	High
	7.3.1	Generally	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Supplier must defend Indemnification Claims at its sole expense. <ul style="list-style-type: none"> <li>○ Toyota must approve Supplier’s counsel and</li> <li>○ Toyota may assume the right to defend and settle at its own discretion at Supplier’s expense</li> </ul> </li> </ul>	High
	7.3.2	No Settlement Without Consent	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Supplier may not compromise or settle any Indemnified Claim without Toyota’s consent.</li> </ul>	High
	7.4	Indemnity Payment	<ul style="list-style-type: none"> <li>● New provision</li> <li>● If an indemnity payment or reimbursement made by Supplier to a Toyota Party is subject to any tax, Supplier must pay the Toyota Party an amount equal to the tax.</li> </ul>	Moderate
	7.5	Limitations	<ul style="list-style-type: none"> <li>● New provision</li> <li>● Supplier will not be liable for Losses to the extent such Losses are based on, relating to or arising from Toyota’s gross negligence or intentional misconduct.</li> </ul>	Moderate
<b>SECTION 8: MISCELLANEOUS</b>				
2.4(c)	8.1	Time is of the essence	<ul style="list-style-type: none"> <li>● Material Change</li> <li>● Time is of the essence for every Supplier obligation <ul style="list-style-type: none"> <li>○ <i>Under Prior Terms, time was of the essence only for delivery of Items.</i></li> <li>○ <i>In broad terms, if time is of the essence, any delay is a material breach of contract, even if it does not cause significant, or any, harm.</i></li> </ul> </li> </ul>	Medium

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7.1	8.2	Order of Priority	<ul style="list-style-type: none"> <li>• Material change</li> <li>• If there is an inconsistency between different contractual documents, “Specific Contract Documents” have priority over the new Terms and the new Terms have priority over “Generic Contract Documents” <ul style="list-style-type: none"> <li>○ <i>Broadly speaking, “Specific Contract Documents” are dickered for a particular transaction and Generic Contract Documents are standard forms.</i></li> <li>○ <i>The prior Terms did not distinguish between Specific and General Contract Documents.</i></li> <li>○ <i>The new provision would generally better reflect the intent of the parties</i></li> </ul> </li> </ul>	Medium
7.2(a)	8.3	Governing law	<ul style="list-style-type: none"> <li>• Material change</li> <li>• Michigan law governs <ul style="list-style-type: none"> <li>○ <i>Prior Terms applied Kentucky law</i></li> <li>○ <i>Michigan has a significantly larger body of case law specific to automotive supply chain disputes than Kentucky, so the change may lead to greater predictability.</i></li> </ul> </li> </ul>	High
7.3	8.4	Assignments; Subcontracts	<ul style="list-style-type: none"> <li>• Material change</li> <li>• Toyota consent is required for assignments by operation of law, as well as by contract.</li> <li>• Any unauthorized assignment, delegation of subcontract is void</li> <li>• If consent is obtained, Supplier is still liable for any breach by the assignee or subcontractor</li> <li>• A change of control of Supplier is an assignment</li> </ul>	Medium
7.4	8.5	Notices	<ul style="list-style-type: none"> <li>• No material changes</li> <li>• Some changes in ministerial details, such as addresses</li> </ul>	Low
7.5	8.6	Battle of the Forms Not Applicable	<ul style="list-style-type: none"> <li>• No material change <ul style="list-style-type: none"> <li>○ <i>The new Terms add additional language that is unlikely to effect the meaning or enforceability of the provision</i></li> <li>○ <i>There are significant questions as to the enforceability / significance of both the new and old version of this provision</i></li> </ul> </li> </ul>	Low
7.6	8.7	Entire Agreement	<ul style="list-style-type: none"> <li>• No material change</li> </ul>	Low
None	8.8	Further Assurances	<ul style="list-style-type: none"> <li>• New</li> <li>• Each party will execute any additional documents incidental to the performance of the Agreement</li> </ul>	Low
None	8.9	Severability	<ul style="list-style-type: none"> <li>• New</li> <li>• If any court decides that a non-essential Term is unenforceable, it will be severed and the remained of the Agreement will be enforced <ul style="list-style-type: none"> <li>○ <i>Severability provisions are very common, but this is perhaps more refined than the typical provision</i></li> </ul> </li> </ul>	Low
7.7	8.10	Survival	<ul style="list-style-type: none"> <li>• Identifies the Terms that remain in place after the Agreement ends <ul style="list-style-type: none"> <li>○ <i>Prior Terms scattered survival provisions throughout the Terms/</i></li> </ul> </li> </ul>	Low

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None	8.11.1 - 8.11.11	Certain Matters of Construction	<ul style="list-style-type: none"> <li>• Material changes</li> <li>• These subsections are essentially definitional or interpretive, covering matters such as how days are counted. <ul style="list-style-type: none"> <li>○ <i>In light of the number and narrow focus of the subparts, we do not separately discuss each one, but any of them might be significant in the context of a specific dispute.</i></li> </ul> </li> </ul>	Low
7.8	8.12	Alternative Dispute Resolution	<ul style="list-style-type: none"> <li>• Material changes</li> <li>• Requires formal “Dispute Notice” to trigger ADR process</li> <li>• Mandatory mediation of Disputes, unless the parties agree to forego mediation <ul style="list-style-type: none"> <li>○ <i>Prior Terms provided for optional mediation</i></li> </ul> </li> <li>• Provides for specific acceptable mediation services (JAMS, ADR Services or IICPR) <ul style="list-style-type: none"> <li>○ <i>Prior terms did not address forum</i></li> </ul> </li> <li>• If Dispute is not resolved within 90 days of Notice, either party may initiate arbitration</li> <li>• Arbitration will be in Detroit <ul style="list-style-type: none"> <li>○ <i>Prior Terms specified Kentucky</i></li> </ul> </li> <li>• Provides for 3 person arbitration panel <ul style="list-style-type: none"> <li>○ <i>Prior Terms provided for single arbitrator</i></li> </ul> </li> <li>• Arbitrator may, but is not required to, award attorney fees to the prevailing party <ul style="list-style-type: none"> <li>○ <i>Prior terms made fees mandatory</i></li> </ul> </li> <li>• Court lawsuit available only to: (i) seek provisional relief, such as a preliminary injunction; or (ii) to enforce the arbitration award. If suit is filed, it must be in the state or federal court in Wayne County <ul style="list-style-type: none"> <li>○ <i>Prior Terms did not specify forum</i></li> </ul> </li> <li>• Dispute resolution communications are confidential and subject to the settlement discussion privilege</li> </ul>	Medium
<b>SECTION 9: PROVISIONS APPLICABLE TO CERTAIN JURISDICTIONS</b>				
None	9	Provisions Applicable to Certain Jurisdictions	<ul style="list-style-type: none"> <li>• New</li> <li>• Mexico and Canada-specific provisions apply if required under Canadian or Mexican law, or under the Terms. <ul style="list-style-type: none"> <li>○ <i>No comparable provisions in prior Terms</i></li> </ul> </li> <li>• If the country-specific Terms conflict with any other provision, the country-specific provisions prevail. Otherwise, they are supplemental.</li> </ul>	Medium
None	9.1.1	Canada Supplier liability to Pay Taxes	<ul style="list-style-type: none"> <li>• New</li> <li>• Supplier will comply with and pay applicable Canadian federal and provincial tax obligations</li> <li>• Supplier will provide documentation of compliance on request</li> <li>• Supplier will indemnify Toyota if Toyota is found liable as a result of Supplier’s non-compliance</li> </ul>	Medium

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None	9.1.2	Canada GST/HST; PST	<ul style="list-style-type: none"> <li>• New</li> <li>• If Supplier is required to pay GST/HST or PST taxes by Canadian federal or provincial law, those amounts will be invoiced to Toyota</li> <li>• Supplier will provide documentation to Toyota as required under specified tax statutes and regulations or for Toyota to obtain available tax credit, rebate or refund</li> <li>• On request, Supplier will cooperate with Toyota in submission forms and provide information needed for Toyota to claim exemptions, credits and similar benefits</li> </ul>	Medium
None	9.1.3	Canada Non-Resident Supplier	<ul style="list-style-type: none"> <li>• New</li> <li>• If a non-resident Supplier fails to provide Toyota with needed documentation of compliance with tax obligations, Toyota may deduct or withhold the amounts in question and directly pay the federal or provincial tax authority</li> </ul>	Medium
None	9.1.4	Canada Waiver of Moral Rights	<ul style="list-style-type: none"> <li>• New</li> <li>• Supplier will agree in writing to waive any moral rights existing under Canadian law in works of authorship.</li> </ul>	Medium
None	9.1.5	Canada Compliance with Applicable Immigration Laws and Policies	<ul style="list-style-type: none"> <li>• New</li> <li>• Supplier will comply with the Immigration and Refugee Protection Act.</li> <li>• If Toyota has reasonable concerns about Supplier's compliance, Supplier will, at Toyota's option, either certify compliance or allow an independent audit.</li> </ul>	Medium
None	9.1.6	Canada Employee Relations Training	<ul style="list-style-type: none"> <li>• New</li> <li>• Supplier personnel assigned to provide services under the contract will be trained in applicable employee relations, equal opportunity, and other employment law.</li> </ul>	Medium
None	9.2.1	Mexico Payment Terms by Toyota Parties Located in Mexico	<ul style="list-style-type: none"> <li>• If buyer is a Toyota Mexican entity, payment will be deemed made by that Mexican entity, even if payment is made by or from funds of a non-Mexican Toyota entity.</li> </ul>	Low
None	9.2.2	Mexico Mexican Employment-Related Obligations	<ul style="list-style-type: none"> <li>• Supplier must pay wages, benefits and specified employment related contributions required under Mexican law.</li> <li>• On request, Supplier will provide necessary documentation of compliance.</li> </ul>	Medium
None	9.2.3	Mexico Additional or Specific Representations and Warranties of Mexican Resident Supplier	<ul style="list-style-type: none"> <li>• Warranties apply if Supplier is: (i) a Mexican entity or (ii) qualified to do business in Mexico and is performing under the Agreement in Mexico.</li> <li>• Supplier warrants that it is properly organized under Mexican law and authorized to enter into the Agreement</li> <li>• Supplier warrants that it will "take all necessary steps" to maintain resources and capital needed to meet its obligations to its employees and to require same of its subcontractors</li> </ul>	Medium

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None	9.2.4	Mexico Additional or Specific Representations and Warranties of non-Mexican Resident Supplier	<ul style="list-style-type: none"> <li>• Warranties apply if Supplier is a non- Mexican entity providing Items or performing related tasks (e.g., design or delivery) to a Toyota Mexican entity</li> <li>• Supplier warrants that: <ul style="list-style-type: none"> <li>○ Ownership and title to the Items will transfer prior to entry into Mexico, notwithstanding contrary Incoterms.</li> <li>○ The Mexican Toyota entity will be the importer of record.</li> <li>○ Both the Mexican Toyota entity and Supplier will be directly liable for taxes, duties and fees required under Mexican law. The contract price includes those amounts payable by the Mexican Toyota entity to Supplier. Supplier is responsible for determining the applicable requirements.</li> <li>○ Supplier must provide specified documentation required for shipment into Mexico prior to shipment.</li> <li>○ Supplier is responsible for determining the country of origin and for paying any amounts owed as a result of an error,</li> <li>○ Amounts paid by Supplier to a Mexican Toyota entity is inclusive of taxes and duties owed by that Toyota entity</li> </ul> </li> </ul>	