

STELLANTIS / FCA TERMS CHANGE ANALYSIS

FCA Terms (2021)	Global Terms §	Topic	Summary
The following summarizes the material provisions of the Global Terms that likely will apply to future awards. Commentary is indicated by “⇒”			
3, 4	2	Shipping	Global Terms contain updated details regarding requirements for providing shipping information and electronic data interchange use. {Global, §2}
6	5	Risk of Loss	If Stellantis “rejects acceptance”, risk of loss reverts to Seller ⇒ <i>“Rejection” of acceptance does not conform to US legal nomenclature and creates uncertainty as to whether this language applies only to revocation, or to both rejection and revocation.</i> ⇒ <i>In either case, this clause may raise issues as to existence / adequacy of insurance for the effected goods.</i>
8	10	Product Warranty	Seller warrants that it will perform all necessary product testing. ⇒ <i>This means that inadequate testing is a breach even if the goods are otherwise compliant with specifications. This could be determined after the fact and provide an argument for Stellantis even for goods that comply fully with Stellantis specifications and testing requirements. It is important to note that usually the OEM, who knows its vehicles and its customers use habits, determines applicable validation testing.</i>
N/A	11	Compliance	Seller must (a) notify Buyer immediately if Seller is not in full compliance with any Law, (b) use resources effectively and efficiently to minimize environmental impact, (c) not purchase or sub-contract from any illegal or non-compliant channel or supplier, and (d) remain committed to promote a responsible supply process. ⇒ <i>It is likely that some or all of these will become reporting obligations or audit topics</i>
20/29	12	Reporting & Audits	In addition to quarterly and annual financial statements, Sellers now must provide approved or certified balance sheets (whichever is available) and business plan for current year and subsequent years plus any other Seller financial information Stellantis/FCA may request, including related to Seller’s “cost structure.”
29	12	Reporting & Audits	Record retention/audit period expanded from 4 years to 10 years from final PO payment
29	12	Reporting & Audits	FCA audit rights extend to records and facilities of Seller’s suppliers, and Seller contracts with its suppliers must include FCA audit rights ⇒ <i>This is an additional reason for tiered suppliers to review their terms to assure that they contain an appropriate flowdown provision.</i>
29	12	Reporting & Audits	Any errors of at least 3% or breaches trigger right to reimbursement of damages and audit costs.
9	14	Price	Seller must provide cost-breakdowns ⇒ <i>The provision is not explicit, but breakdowns likely must be provided on demand.</i>
15	15	Customs	Seller must provide information on applicable customs duties during selection process and is responsible for duties in excess of those quoted. Seller guarantees accuracy of “Made in ” labelling.
15	15	Customs	Seller shall notify Buyer of any existing or ongoing investigation initiated by the customs agency

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N/A	17	Seller's Property	If FCA terminates for cause, it may purchase all machinery, tooling and other personal property owned by Seller used in the production of goods, unless used for other customers. The price will be the net book value less any amounts previously paid by FCA
N/A	19	Data	The definition of FCA Data excludes Seller-provided, internal cost data given to FCA. FCA owns all Data rights (including any intellectual property rights vesting in the data). Seller obtains no rights or licenses to use FCA Data other than the rights needed to perform the contract. Seller must protect FCA Data from disclosure without FCA's approval. Seller will discontinue use of any FCA Data or FCA trademarks or logos upon FCA request and return or destroy such items, at FCA's direction.
N/A	19	Software	<u>Right to Repair</u> : Buyer, dealers, customers and related subcontractors have the right to repair including remanufacture, reconstruct, reflash or rebuild components without paying royalty. <u>Free and Open Source Software</u> : Seller cannot include any free and open source software unless FCA agrees in writing. If the goods include any such open source materials, they must comply with any additional open source terms in the contract. <u>Logic Keys</u> : Seller may not include any security certificate logic keys which were not agreed to in writing.
N/A	22	Risk Mitigation	Seller must comply with "best international [risk prevention] standards" at its manufacturing facilities.
24	23	Compliance	Seller must comply with Laws relating to product safety and vehicle emissions including CO2.
24	23	Compliance	Seller must adopt a code of conduct at least as stringent than Stellantis N.V. group Code of Conduct
24	25	Compliance	Sellers of "Emission-Related Goods or Services" are now subject to various training, process, and documentation requirements to ensure compliance with standards and to ensure that no "Defeat Device" is contained or created.
19	26	Assignment	Stellantis may assign its claims against Seller to any third party
19	26	Assignment	Stellantis may, after notification to Seller, assign the Contracts to any company under the control of Stellantis NV.
N/A	29	Exclusivity	Seller is not deemed an exclusive seller of the Goods to FCA, and FCA may purchase Goods from other suppliers. ⇒ <i>Unless the Stellantis Purchase Orders contain a requirements promise, this raises potentially significant legal and commercial issues.</i>
17, 18	19	Intellectual Property	Intellectual Property is treated in far greater depth than under the 2021 Terms. The following is intended as a summary of the Global Terms, rather than as a change analysis <i>Definitions {Global §19a}</i> : <ul style="list-style-type: none"> Intellectual property ("IP") rights broadly include patents, copyrights, source code and data base rights, trade secrets and all proprietary rights regardless of whether they have been registered. In assigning any such rights, the grant of rights is equally broad and contemplates reproduction, adaptation, use, sale, display, improve, make derivatives, etc. with a right to sublicense to any third party. <i>Foreground Intellectual Property Rights {Global §19b}</i> <ul style="list-style-type: none"> "Foreground IP" is defined as IP created by the Buyer alone, by the Buyer and the Seller, or by the Seller in fulfillment of

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			<p>the contract. Foreground IP is owned by the party that solely creates it. Seller grants the Buyer a royalty free, fully paid-up, perpetual, nonexclusive license with the right to sublicense.</p> <ul style="list-style-type: none"> Jointly owned Foreground IP may be licensed to any third party with no requirement to seek approval or no duty to account for any purpose. <p>Background Intellectual Property Rights {Global §19c}</p> <ul style="list-style-type: none"> “Background IP” is that which existed before the date of the contract or before technical cooperation existed between the two parties or IP that a party acquired indirectly or outside of the agreement. Each party retains ownership of its Background IP. Seller grants Buyer an irrevocable, worldwide, nonexclusive, fully paid up, royalty free license with the right to sublicense to any company within the Buyer Group. Buyer will only use this license if the Seller breaches or is unwilling or unable to deliver goods or as is required to support the contract under a force majeure event. <p>Copyrights and Droit d’auteur {Global §19d}</p> <ul style="list-style-type: none"> Copyrighted material will be considered works for hire to be owned by Buyer. Where these rights cannot be assigned, Seller grants Buyer an exclusive, irrevocable, perpetual, worldwide, royalty-free, fully paid up, transferrable and sublicensable license. The license can be used in any known media or future media. <p>Miscellaneous {Global §19i}</p> <ul style="list-style-type: none"> If a product is based on drawings, designs, software, model or specification of the Buyer, Seller cannot use the design or output for its own purposes and cannot sell it to third parties without written authorization. Seller warrants that it will comply with all requirements for software. <p>Trademarks {Global §19j}:</p> <ul style="list-style-type: none"> Seller may use and reproduce Buyer trademarks in accordance with Buyer’s published marking and branding standards. Seller may not use its own trademarks or any third-party trademark on Buyer’s goods. <p>Extension of Goods to new countries {Global §19k}</p> <ul style="list-style-type: none"> If Buyer decides to produce products containing the goods in a new country, upon request, Seller will use best efforts to help Buyer localize the goods, including through the acquisition of licensing if required. <p>Remedies {NA§20b(i), (ii)}</p> <ul style="list-style-type: none"> If the licenses from the Global Terms {Global §19} fails to sufficiently grant rights, the North American Terms provide to FCA a non-exclusive, worldwide, fully paid-up, sublicensable, irrevocable and perpetual right to use and make derivatives of any goods or any work product related to the good and the purchase orders. FCA also is granted the right to make the goods and work product connected with the purchase order. If requested, Seller must provide FCA drawings, design aids, CAD data, specifications, bills of material, information on purchased components, and manufacturing information.