

CLIENT ALERTS

FCA Increases Suppliers' Service Part Burden

1.15.2021

FCA issued new terms and conditions effective January 1, 2021. The only material changes are to Section 13, governing service part supply and pricing obligations. Unfortunately for suppliers, the changes increase their service part obligations. Specifically, the material changes are:

- Duration of Service Part Obligation:
 - Under the prior terms, the supplier typically was required to supply service parts for 15 years for safety-critical parts and 10 years for other parts, unless a longer period is specified in the RFQ and agreed to by the supplier.
 - Under the amended terms, service parts must be supplied "in such quantities and for such period of time as determined by FCA US in its sole discretion at any time; unless otherwise directed by FCA US in writing at any time, parts should be produced and made available to FCA US and its designees for no less than fifteen years." Thus, the service part obligation is now 15 years for all parts, not just safety parts, and may be unilaterally extended by FCA at any time, without supplier consent.
- Service Part Pricing:
 - Under the prior terms, the price was the production price for 3 years following end of production. After 3 years, the production price was adjusted for changes in (i) the cost of materials; (ii) volume-related cost increases; (iii) set up charges; and (iv) special packaging, all documented to FCA's reasonable satisfaction.
 - Under the amended terms, the supplier is limited to the production price for 5 years, rather than 3. The adjustment factors after 5 years are unchanged.

If you are a Tier 1 FCA supplier:

Related People

James C. Bruno
Shareholder

Daniel R.W. Rustmann
Shareholder

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It appears that the modified service part obligations will become effective when FCA issues a new or amended purchase order, even for existing programs, unless you negotiate a different agreement with FCA. We recommend that you make a decision as to whether you want to resist the modified service part terms (either for existing programs, new programs, or both). You should do so reasonably promptly, so that you don't inadvertently accept new or amended POs. For the same reason, if you choose to challenge the amended terms, you should address the issue with appropriate FCA personnel promptly. If an agreement to exclude the modified service part terms is reached, it should be expressly referenced on the face of any new or amended PO.

If you are a lower tier FCA supplier:

Even if you are not a Tier 1 supplier, your direct customer terms frequently "flow-down" the OEM terms so that you are effectively bound by them. If you are potentially bound by the modified service part obligations through a flow-down provision, you should make the same decisions and take the same actions with your direct customer as a Tier 1 does with FCA.

Sheldon Klein

248.258.1414

klein@butzel.com

Cynthia J. Haffey

313.983.7434

haffey@butzel.com

Daniel Rustmann

313.225.7067

rustmann@butzel.com

James Bruno

313.225.7024

bruno@butzel.com