

ZF [pro]Diagnostics General Terms and Conditions_Beta-Test Status 2025-03-19

ZF [pro]Diagnostics General Terms and Conditions for BETA-TEST for ZF [pro]Diagnostics Suite (in the following also “Solution”) between You (whereas “You” means the legal entity having registered to the cloud-account of the Solution and/or downloaded the Client-Software to the Solution) and ZF Friedrichshafen AG [Löwentaler Straße 20, 88046 Friedrichshafen, Germany] (in the following also “ZF”) (each alone also “Party” and jointly also “Parties”)

1. Acceptance

By signing up to the cloud-account, using the Solution and/or downloading of the Client-Software (whereas “Client-Software” means the software that is part of the Solution and is to be installed on Your computer), You confirm and state that You have checked, understood and accepted these terms for BETA-TEST (in the following also “Terms”).

2. Usage-rights

- 2.1. Under these Terms, You are provided free of charge on an “as-is”-basis a limited, temporary (for the term of these Terms) license for one cloud-account to the Solution and one instance to the Client-Software that You may use via Your employees. You may install the instance to the Client Software on one computer, owned by You.
- 2.2. Scope of this Terms and the usage of the Solution is the testing of the Solution (including several functionalities and technical setup thereto) in a “real-life” environment as part of (i) – if You are a vehicle manufacturer – end-of-line implementation/parametrization of Your configuration files into Your products and/or (ii) – in the remainder – aftermarket-undertakings in workshops for diagnosing/implementation/parametrization of configuration files to vehicles.
- 2.3. The Solution may not be used operational and any usage requires compliance minimum with the safety-measures, set out below.

3. Safety measures to be taken by You

- 3.1. You are aware that the Solution is currently only available in a BETA-Test-version and not yet fully tested and verified. The Solution is provided “as-is”. While using the Solution, in any case, You must take appropriate measures to ensure that no unsafe vehicles are released into public accessible areas and/or situation where a risk to harm to body, life, health and/or property of persons is possible.
- 3.2. Without limiting the foregoing, You must ensure by applying (i) Your standard security and safety undertakings and (ii) always check with the current SD1.0 and toolboxPLUS diagnostics-solution if the diagnosing/implementation/parametrization of configuration files to vehicles was successful and contains no errors.
- 3.3. You must defend, indemnify and hold harmless ZF upon first request from and against any and all liabilities and/or claims in connection with Your usage to the Solution.

4. Feedback and usage-data

- 4.1. You consent to test and evaluate the Solution in a “real-life” environment as defined above (in the following also “Test”) and consent that ZF might gather any usage-data, created throughout the usage. Processing of such usage-data is governed by the DPA under https://www.zf.com/products/en/cv/legal/scalar_data_processing_agreement.html.
- 4.2. During such Tests, You will (i) continuously monitor the usage to the Solution in order to identify potential or actual risks to the Solution and their execution, (ii) to follow up on such risks.
- 4.3. You will provide an honest, open and constructive feedback [including reports on (i) detected or presumed interferences, malfunctions, defects and/or risks, other uncommon issues to the execution and/or in case of an actual or expected exceeding of agreed limits/efforts/undertakings, (ii) suggestions e.g. but not limited to mitigation-/rectification-

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undertakings, enhancement requests, recommendations, (iii) comments and/or (iv) other feedback] (in the following jointly also “Feedback”) to the Solution and the usage thereto to support ZF in its undertaking for a user- and market-oriented development of the Solution in a safe manner.

- 4.4. You will participate in adjustments-rounds set up by ZF and provide Feedback and suggestions for handling, hints on potential conflicts, chances and risks as well as hints on improvement.
- 4.5. ZF shall have a non-exclusive, royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to such Feedback and any Intellectual Property therein.
- 4.6. In particular, this license includes the right to freely directly or indirectly use, change, adopt, reproduce, (sub-) license, distribute, and otherwise commercialize the Feedback, including any Intellectual Property therein in the whole or parts thereof at ZF’s own and sole discretion in any manner – irrespective presently known or unknown.
- 4.7. This covers also the inclusion of the Feedback and any Intellectual Property therein in any services or service-concept of ZF /ZF’s Affiliates.

5. Term and Termination

- 5.1. The Solution may be used for the term, mentioned in the Cloud-Account.
- 5.2. Either Party can terminate the usage at a notice period of 1 working day to the end of a week at no claims to the other party.

6. Disclaimer

- 6.1. ZF provides no assurance that functionalities from the BETA-Test will be implemented in the operational Solution and/or be available to all Customers in the same way.
- 6.2. It is the mutual understanding of the Parties that ZF is to decide on its own and sole discretion on the set-up of the Solution and if and to what extent Feedback is implemented into the Solution.
- 6.3. ZF expressly declares that (i) the Solution is currently only available in a BETA-Test-version and not yet fully tested, verified and reliable (ii) no warranty or guarantee can be given and no liability accepted in respect of the Solutions’ executability. Your installation of the software constitutes your confirmation that you have read, understood and acknowledged this disclaimer of liability.

7. Warranty, Liability, Indemnification

The Solution is provided “as-is” at no warranty, indemnification-obligations and/or liability to ZF, except for liability due to willful intent or gross negligence and/or liability under the German Product Liability Act and any other binding regulations remains unaffected hereby.

8. Miscellaneous

- 8.1. In case ZF determines at ZF’s own and sole discretion, that field-actions of whatever nature are necessary, You will follow such field-actions and the corresponding instructions.
- 8.2. In case a Party is (partly) not fulfilling one or more of the regulations under these Terms and the other Party is not drawing consequences, even in case of repetition this shall not be deemed a waiver of the duty for fulfilment of the concerned regulations under these Terms.
- 8.3. Changes and supplements to these Terms require written form, this applies also to waiver of this written form clause. There are no oral side-agreements. In case – deviating from the foregoing – oral side-agreement have been made, such oral side-agreements shall be null and void upon these Terms entering into force.
- 8.4. If any provision of these Terms is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, then: (i) the remaining provisions shall remain in full force and effect; and (ii) such provision will be ineffective solely as to such jurisdiction (and only to the extent and for the duration of such illegality, invalidity or unenforceability), and will be mutually

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substituted (in respect of such jurisdiction) with a valid, legal and enforceable provision that most closely approximates the original legal intent and economic impact of such provision.

8.5. The Solution may contain third-party-materials that is subject to the respective license- and usage-terms thereto that prevail of these Terms.

8.6. Other agreements between the Parties remain unaffected.

9. Applicable laws and court

9.1. The law of the Federal Republic of Germany applies to these Terms as well as to issues regarding its validity, interpretation, implementation and execution. The application of the "United Nations Convention on Contracts for the International Sale of Goods" is excluded.

9.2. Court of competent jurisdiction is district court Munich I, Bavaria, Germany.