

General Conditions of Purchase for Non-Product Related Services of the Schaeffler Group

I. Conclusion of Contract/Legal Form Requirements/Offer

1. Any legal relationship between the supplier and us shall be governed exclusively by the following terms and conditions. Conditions stipulated by the supplier as well as deviating agreements will be applicable only if confirmed by us in written form. Neither the fact that we do not expressly object to an agreement nor the acceptance of services or the payment thereof shall be deemed to be an acknowledgement.
2. The contract as well as possible modifications, side agreements, declarations regarding the termination of the contract and all other statements or notices require text form, unless otherwise stipulated in said conditions. If the supplier fails to accept an order within two weeks of receipt in written form, we shall have the right to withdraw the order at any time.
3. Agents commissioned by us with planning and/or inspection tasks do not have a general power of representation with respect to the supplier, in particular they are not entitled to vary any terms of the contract, to extend performance time-limits or to postpone performance dates and to legally admit invoiced amounts, wage claims, administration hours, material lists, measurements on site or the like. The supplier shall notify in written form any reservation or doubt exclusively and directly to the contact person stated on the order.
4. The offer is free of costs and without any commitment for us. The supplier guarantees that prior to the making of the offer it has examined carefully the local circumstances and has made a clarification concerning the implementation of the services as well as the compliance with technical regulations and other regulations by inspection of the relevant documents. Additional costs incurring for the supplier by the fact that it failed to take sufficiently into account the relevant documents as well as the local and seasonal conditions, if necessary by further inquiries at our company, will not be acknowledged after the placing of the order.

II. Scope of Services/Changes in Scope of Services

1. For all services performed at our premises, the "Information on Protection of Labour, Environment and Security of the Works for Employees of Outside Companies" shall apply. The supplier has to obey the orders of the factory security.
2. The supplier shall ensure that it will, in good time, have obtained all information relevant for our intended use of its services and about any data and circumstances to the extent such information is relevant for the fulfilment of the supplier's contractual obligations. The supplier shall examine all handed-over documents, also in relation to the local conditions, with respect to correctness as well as statements of preparatory work of third parties, if any. The supplier has to immediately inform us in written form on any reservations of any kind by stating the cause and has to bring about an agreement with us concerning the continuance of the work. The supplier shall guarantee that its services are suitable for a correct, safe and economic use as well as for the intended use and comply with the state of the art and science. When performing its services, the supplier will observe all relevant standards, laws and legal regulations, in particular those concerning hazardous materials and dangerous goods, the protection of the environment and the prevention of accidents. The supplier will also act in compliance with generally acknowledged safety and industrial medicine specifications as well as with our own company standards. The supplier shall notify us of any required governmental permits or notification requirements.
3. We shall be entitled to request from the supplier modifications in the performance, as long as the supplier can be reasonably expected to meet such requests. The supplier shall implement such modifications within a reasonable period of time. Mutually satisfactory agreements shall be concluded concerning the consequences of such modifications, in particular with regard to additional and reduced costs as well as with regard to performance dates and time-limits. We will determine such consequences within our reasonable discretion if an agreement regarding the matters outlined in the previous sentence cannot be reached within a reasonable period of time.
4. The supplier shall be obliged to propose to us any change which it deems necessary or advisable. After receipt of our written consent, the supplier shall implement said changes.

General Conditions of Purchase for Non-Product Related Services of the Schaeffler Group

As far as a change will result in additional or reduced costs and/or an exceeding of the time-limit, the supplier shall be obliged to draw our attention thereto simultaneously with its suggestion for change or immediately upon receipt of our request for change, and to submit a corresponding supplementary offer. In this case, the change shall only then be considered as bindingly agreed upon when an additional written agreement will have been made between the parties concerning the payment of the additional costs or the taking into consideration of the reduced costs as well as concerning the time schedule. If an agreement is not made within a reasonable period of time, we will make a corresponding decision within our reasonable discretion.

5. We are entitled, but not obliged to accept deliveries and performances in the absence of the supplier in its name. We shall, however, not be liable for the completeness and correctness of said deliveries and performances, even in case of a written acknowledgement of receipt. All risks of storage shall be borne by the supplier.

6. The supplier shall prove by documents all tests carried out during the execution of the order as well as their results, wherein the supplier shall provide for a clear attribution to the respective services. The documentation shall be stored for at least five years from acceptance, unless a longer period of storage is agreed upon, and shall be made available to us upon request.

III. Delivery Dates/Default

Agreed dates and time limits are binding. A performance date or performance time-limit requirement shall be deemed observed if we or the consignee determined by our company will receive or accept the services according to the contract in time. The supplier shall inform us immediately in written form about any recognizable delay in delivery of its services by indicating the reasons for such delay and its expected duration. If the reason for the delay is beyond the supplier's control, the supplier may invoke such reason only if the supplier has met its obligation to notify us in due time. In the case of a delay in delivery, we are entitled to demand a contractual penalty from the supplier. A penalty of 0.2 % will be charged for each commenced working day of delay, but altogether a maximum penalty of 5 % of the total order value. This agreement pertaining to the contractual penalty or enforcement thereof shall not affect any legal claims for a delay in delivery we are entitled to. Paid contractual penalties shall be set off against claims for damages. The contractual penalty may be claimed until the date of payment of the rendered service.

IV. Deployed Staff/Subagents

1. The supplier shall be obliged to deploy only staff for which it fulfils all provisions under tax law and social security law. The supplier may only deploy foreign workers requiring a work permit when they belong to its own staff and have a residence permit and a work permit being valid for the territory and period of time in which the services are to be performed. Corresponding documents have to be submitted upon request.

2. The supplier may not deploy persons for fulfilling its contractual obligations which are employed by us or which have been employed by us during the last 18 months. The supplier may also not deploy staff hired out to it by third parties in disregard of statutory provisions.

3. We are entitled at any time to expel staff members and persons employed in performing an obligation of the supplier from our premises or to refuse access to them when it seems appropriate to us because of safety reasons, in particular due to the behaviour of the person in question. The supplier shall replace said person at its own expense.

4. Subagents may be commissioned only after our prior written consent thereto.

5. The supplier shall indemnify us upon our first written demand from and against all claims made by third parties (including official authorities) against us because of the fact that the supplier does not comply with the conditions as included in this contract under IV.

General Conditions of Purchase for Non-Product Related Services of the Schaeffler Group

V. Quality Management

The supplier shall at all times supervise the quality of its services. Upon our request, the supplier shall be obliged to establish and maintain a quality assurance system in compliance with a standard to be agreed upon with us.

VI. Acceptance

1. After proper completion of the commissioned services, the supplier shall declare with respect to us the readiness for acceptance and will hand over all documents belonging to the subject of the contract. Within a reasonable time after receipt of the declaration of readiness for acceptance we shall carry out the acceptance. If the examination of the services of the supplier requires a putting into operation of the equipment being the subject of the contract or the like for testing purposes (individual test, integration test), the acceptance will only be effected after a successful completion of the test.

2. Exceptionally, a partial acceptance will be made when otherwise the services of the supplier cannot be subjected to a later technical control due to the progress of the execution of the order.

3. The acceptance shall be carried out formally within the scope of a common local inspection. A record will be kept concerning the course and the result of the acceptance which shall be signed by both parties. Any fictions of the acceptance are excluded.

4. Unless another agreement was made in the individual case, the procedure of the acceptance shall be subject to our guidelines.

5. Safety defects will always entitle us to reject the acceptance. The additional costs incurring for us and the supplier for repeated acceptances for which we are not responsible shall be borne by the supplier.

6. In case of services which due to the further progress in execution can no longer be inspected and examined at a later point of time, the supplier shall invite us to the examination in written form in good time. If the supplier fails to do so, it shall bear the costs for the necessary measures for the rendering possible of the examination upon request.

VII. Prices/Terms of Payment

1. The agreed prices are firm prices, unless invoicing on the basis of negotiated hourly rates is agreed upon. Unless otherwise agreed, the payment shall be made within 30 days with a 3 % cash discount, within 60 days with a 2 % cash discount, or within 90 days net. These periods are computed from the time of receipt or acceptance of the service in compliance with the contract and receipt of a proper and verifiable invoice. If we receive and accept services at an earlier date than the date agreed upon, the payment period begins, however, with the agreed performance date at the earliest. We are entitled to choose the means of payment in our discretion (e.g. check or bill of exchange), invoices are to be submitted without carbon copies but shall include the purchase order number, purchase order line, administration notes, material lists, our account, place of unloading, supplier number.

2. Any additional service shall be deemed discharged with the contractually agreed payment.

3. The supplier is not entitled to assign a claim against us to a third party or to have such claim collected by a third party. The provisions of Section 354a of the German Commercial Code (HGB) shall not be affected thereby.

4. The supplier shall have the right to set-off against any of our claims or the right of retention, if and to the extent its claims are undisputed or its counterclaims are final and non-appealable. We shall have the right to set-off against claims of the supplier also any claims of an affiliate of us within the meaning of Section 15 of the German Stock Corporation Act (AktG). We shall also have the right to set-off our claims against any claim of the supplier against any affiliate of us within the meaning of Section 15 AktG.

General Conditions of Purchase for Non-Product Related Services of the Schaeffler Group

VIII. Warranties/Reimbursements of Costs/Warranty Period

1. If the service is defective, we will be entitled to claims in accordance with the statutory rights, unless the following conditions provide otherwise. If the industrial safety is threatened, if there is a danger of unusually high damages or for the purpose of maintaining our ability to deliver to our customers, we shall be entitled, following notification of the supplier, to remedy the defects ourselves or have them remedied by a third party. Costs incurring as a result thereof shall be borne by the supplier. The supplier shall be liable for all damages, costs and expenses resulting, directly or indirectly, from defects of the service. In case at least parts of the service have been found to be defective, the supplier shall also be liable for the costs for inspections of the received services that exceed the customary scope of inspection. The foregoing applies also to comprehensive and partial inspections of the received service in the subsequent course of business by us. If the supplier avails itself of a third party to carry out a performance, the supplier will be held responsible for this third party as for any other person employed in performing an obligation.

2. Unless mandatory law provides otherwise, the supplier shall be liable for defects that arise within 36 months of the date of receipt or acceptance of the contractual service. For services in connection with buildings or land, the supplier shall be liable for defects that arise within 60 months of the date of acceptance, and for all sealing work against pressing water as well as for roof covering the supplier shall be liable for defects that arise within 10 years of the date of acceptance. In the case of supplementary specific performance, this period is extended by the time during which the service cannot be performed as stipulated in the contract. Supplementary specific performance shall also be subject to the periods stated above. Furthermore, in case of electrical installations the supplier shall guarantee for the duration of five years that the concept is suitable and sufficient for the contractual purpose of use (functional guarantee).

IX. Provided Accessories

Materials, parts, containers, special packaging, tools, measuring instruments or substances or similar items provided by us (provided accessories) remain our property. Provided accessories may be copied or duplicated only with our prior written consent. The copies or duplicates become our property upon creation. The supplier shall not have any rights of retention on whatever basis to the provided accessories. Neither provided accessories nor copies or duplicates thereof may be made available to third parties (which shall include sub-suppliers) without our prior written consent and may not be used for any other purposes than the agreed upon purposes.

X. Software

The supplier agrees to modify/improve the software pursuant to our instructions and in exchange for an adequate reimbursement of costs for a period of 5 years from the receipt or acceptance of the service performed according to the contract, unless the scope of the service includes standardized software. To the extent the software originates with a supplier of the supplier, the supplier shall obligate such earlier supplier accordingly.

XI. Force Majeure/Long Term Inability to Deliver

1. Industrial conflicts, riots, acts of government and any other events that are unpredictable and unpreventable exempt both us and the supplier from contractual obligations, in each case for such time as the disturbance exists and within the scope of its effects. The party affected by the force majeure event must immediately and fully inform the other party and must make all efforts, within the limitations of what can reasonably be expected, to limit the effects of such events. The party affected by the force majeure event must notify the other party without undue delay of the end of the force majeure event.

2. In cases of a long term inability to deliver, cessation of payments, the opening of an insolvency proceeding, the refusal to open insolvency proceedings due to insufficient assets or the commencement of comparable proceedings with respect to one of the parties the other party shall be entitled to rescind the contract with respect to the part that has not yet been performed. If one of the foregoing events occur with respect to the supplier, the supplier shall support us to the best of its abilities in our efforts to perform the services by ourselves or by a third party, which support shall include the granting of licenses to intellectual property rights to the extent such rights are necessary for the performance of the service, such licenses to be granted on terms customary in the industry.

General Conditions of Purchase for Non-Product Related Services of the Schaeffler Group

XII. Confidentiality/Information

1. The supplier shall keep secret all information received from us and becoming known to him in another way, including drawings, documents, know how, samples, production devices, models, data carriers etc., may not make such information available to third parties (including sub-suppliers and sub-suppliers) without our written consent and may not use such information for purposes other than as determined by us. These obligations shall apply mutatis mutandis to copies and duplicates. This confidentiality obligation does not apply to information that the supplier had already obtained legitimately at the time of disclosure provided such information was not subject to a confidentiality obligation, that the supplier later obtains legitimately without being obligated to keep such information confidential, that is or becomes generally known without any breach of contract by one of the parties or for the use of which in another manner the supplier has received permission in written form. The supplier may not advertise its business relationship to us without our prior written consent.

We retain title and reserve all other rights (such as copyright) to the information made available by us. Copies may be made only with our prior written consent. Title to the copies passes to us at the time such copies are created. Supplier hereby agrees with us that the supplier stores the copies on behalf of our company as bailee. The supplier agrees to properly store at its expense all documents and other objects, including copies thereof, that were made available to supplier, to keep them in perfect condition, to obtain insurance for them and to return them to us or destroy them at any time, in each case upon our request. The supplier has no right, on whatever grounds, to retain such objects. The supplier shall confirm the complete return or destruction in writing.

2. If the supplier breaches its obligations set forth in XII., a contractual penalty in the amount of up to Euro 25,000 shall become due immediately for each breach. The supplier shall retain the right to have the adequacy of the contractual penalty determined by a court decision. Claims for damages shall be set off against any paid contractual penalties.

XIII. Insurance

1. The supplier shall ensure adequate insurance on the merits or in terms of amount with respect to the liability for personal injury and damage to property as well as financial loss regarding the execution of the order and shall furnish us with evidence thereof upon request.

2. The liability of the supplier shall not be limited by the taking out of any insurance.

XIV. Termination

1. Notwithstanding any other legal rights to terminate and rights to rescind a contract, we shall have the right to terminate the entire contract or parts thereof at any time.

2. In case of a termination according to item 1, only the services performed so far, completed in themselves and evidenced according to the contract have to be remunerated, provided that they are utilizable for us. Our claims for damages shall remain unaffected thereby.

XV. General Provisions

1. Place of performance for all deliveries and services shall be the place of destination as specified by us.

2. The contractual relationship shall be governed by the laws of the Federal Republic of Germany, with the exception of the conflict of laws provisions and the rules of the United Nations Convention on the Contracts for the International Sale of Goods (CISG). The competent place of jurisdiction is Nuremberg, Germany, unless another exclusive place of jurisdiction has been agreed upon. Notwithstanding the foregoing, we shall also have the right to bring suit against the supplier at any other court of competent jurisdiction.

3. If any provision is invalid or may become invalid, the validity of the remaining provisions shall not be affected thereby.

General Conditions of Purchase for Non-Product Related Services of the Schaeffler Group

4. Please note that we store and process personal data in the course of business transactions wherein all legal regulations concerning data privacy are observed.

Schaeffler Group