

## **I. Conclusion of Contract/Legal Form Requirements**

1. Any legal relationship between the supplier and us is subject to the following terms and conditions. Conditions stipulated by the supplier as well as deviating agreements will be applicable only if confirmed in written form. Neither the fact that we do not expressly object to an agreement nor our acceptance or payment of goods or services shall be construed as an acknowledgement.

2. If the supplier fails to accept the order within two (2) weeks of receipt, we shall have the right to withdraw the order at any time.

## **II. Scope of Deliveries/Changes in Scope of Deliveries/Spare Parts**

1. The supplier shall ensure that it will, in good time, have obtained all information relevant for our intended use of his deliveries and about any data and circumstances to the extent such information is relevant for the fulfillment of the supplier's contractual obligations. The supplier guarantees that its deliveries include all performances required for their correct, safe and economic use; that they are suited for the intended use and comply with the state of the art. When carrying out its performance(s), 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 governmental permits or notification requirements that may be required for the import and the use of the delivered items.

2. We are entitled to request from the supplier modifications in the design and construction of the supplied articles, so long as 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 delivery dates, extra and reduced costs. We will determine such consequences within our reasonable discretion if agreement regarding the matters outlined in the previous sentence cannot be reached within a reasonable period of time.

3. The supplier shall ensure that it will continue to be able, for a period of not less than ten years following the termination of the supply relationship and on reasonable terms and conditions, to deliver to us the supplied articles or parts thereof as spare parts.

## **III. Prices/Payment Terms**

1. The agreed prices are firm prices. Unless otherwise agreed, payment will be made within 14 days with a 3 % discount), until the 25th of the subsequent month with a 2% discount or within 90 days net. These periods are computed from (i) the time of performance in compliance with the contract and (ii) receipt of a proper and verifiable invoice. If we receive and accept a delivery at an earlier date than the date agreed upon, the payment period begins with the agreed delivery date. We are entitled to choose the method of payment at our discretion (e. g. cheque or bill of exchange). Invoices are to be submitted without carbon copies but shall include our account and customer reference, place of unloading, supplier number, part number, number of pieces, price per piece, and volume per delivery. The supplier agrees to participate to a credit memo procedure upon our request.

2. 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.

## **IV. Delivery Terms**

1. All deliveries are DDU (most recent Incoterms) to a location determined by us and, unless determined otherwise, shall include packaging and conservation. Our relevant delivery and transport provisions in their most recent version shall apply.

Our company and the consignee determined by our company shall be advised about a shipment on the day of its dispatch. Each shipment shall include a delivery note in duplicate listing our order number, item number and supplier number. If a shipment is dispatched "ex works", the supplier will inform us and the consignee determined by our company about the dimensions and the weight of the shipment, prior to despatch. The transport insurance will be obtained by us to the extent we are obligated to do so pursuant to the agreed upon delivery terms (most recent Incoterms). When preparing the shipping documents, the supplier shall take into

account that the customs clearance will be carried out in our plant and that we are exempted from the duty of presentation.

For shipments from preferential countries, the supplier must provide a proof of preferential status with each shipment. The long term supplier declaration pursuant to EEC regulation 1207/2001 must be presented annually. We must be notified immediately if the delivered goods require an export licence.

2. The delivered goods must be packaged appropriately and conforming with industry practice. We shall be entitled to instruct the supplier as to the type and method of packaging. If we return reusable packing material freight prepaid to the supplier, we shall be credited the value of the packing material.

## V. Delivery Dates/Delivery Default

Agreed dates and time limits are binding. A delivery date or term requirement shall be deemed satisfied if we or the consignee determined by our company has received the goods in time. The supplier shall inform us immediately in written form about any delay in delivery. The supplier must also indicate 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 0,5 % will be charged for each week or part of a week, the maximum penalty is 5 % of the total order value. This agreement pertaining to the contractual penalty or enforcement thereof shall not affect any justified legal claims for a delay in delivery. Paid contractual penalties shall be set off against claims for damages. The contractual penalty may be claimed until the date of payment of the delayed goods.

## VI. Confidentiality/Information

1. The supplier (i) shall keep secret all information, including without limitation drawings, documents, know how, samples, production devices, models, media (collectively, the "Information"), (ii) may not make such Information available to third parties (including sub-suppliers) without our written consent and (iii) may not use such Information for purposes other than as determined by us. These obligations apply *mutatis mutandis* to copies and duplicates. This confidentiality obligation does not apply to information (i) that the supplier had already obtained legitimately at the time of disclosure provided such information was not subject to a confidentiality obligation, (ii) that the supplier later obtains legitimately without being obligated to keep such information confidential, (iii) that is or becomes generally known without any breach of contract by one of the parties or (iv) for the disclosure or the independent use of which the supplier has received permission. 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. 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, 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 of the relevant object in writing.

2. If the supplier breaches its obligations set forth in VI 1, a contractual penalty in the amount of Euro 25,000 shall become due and payable immediately for each breach. The supplier shall retain the right to have the contractual penalty determined by a court decision. Damages shall be set off against any paid contractual penalties.

## VII. Quality Control/Inspection of Incoming Goods

1. The supplier shall at all times supervise the quality of its goods and services. The supplier shall comply with the relevant quality assurance agreement (for suppliers of raw materials, components and product related services the "Quality Assurance Agreement with Suppliers"; for suppliers of type-dependant tools the "Quality Assurance Agreement with Tooling Suppliers"; suppliers of packaging material the "Quality Assurance Agreement with Packaging Material Suppliers"), as amended from time to time (available on [www.schaeffler.com](http://www.schaeffler.com), heading "Suppliers/Quality"). Changes with respect to the goods to be supplied require our prior consent. The supplier must maintain written records for all goods delivered to us, such records to reflect when, how and by whom the manufacture free of defects of the delivered goods has been ensured. Details are defined in the Quality Assurance Agreement. The supplier shall obligate its own suppliers accordingly.

2. We inspect incoming goods only with respect to externally apparent defects and externally apparent deviations in identity or volume. We will give notice of such defects within seven days of receipt of the goods. We reserve the right to conduct additional inspections of incoming goods. Furthermore, we will also give notice of defects as soon as such defects have been detected in the ordinary course of business. With respect to the foregoing, the supplier hereby waives the right to assert that the defects have been asserted too late. If defects have been discovered, we shall be entitled to return the entire shipment and recover all costs of returning the shipment from the supplier.

## **VIII. Warranties/Reimbursement of Costs/Warranty Period/Insurance**

1. If the delivered goods are defective, we will be entitled to 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 incurred as a result of remedial action taken in accordance with the preceding sentence shall be borne by the supplier, without challenge. The supplier is responsible for all damages, costs and expenses resulting, directly or indirectly, from defects. In case at least parts of a shipment have been found to be defective, the supplier will also be responsible for the costs for inspections of incoming goods that exceed the customary scope of inspection. The foregoing applies also to comprehensive and partial inspections of the shipment in the subsequent course of business by us and/or our customers. 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. The supplier shall reimburse our and our customer's costs incurred in situations leading up to or arising in connection with liability for defects to the extent such costs have been incurred for the purpose of avoiding, preventing or mitigating damages (e. g. recalls).

3. The supplier shall reimburse all costs we are obligated to bear as a matter of statutory liability vis-à-vis our customers to the extent such costs are arising from defects of the shipments delivered by the supplier.

4. Unless mandatory law provides otherwise, the supplier is liable for defects that arise within 36 months of the date of receipt of the supplier's delivery or of the date of acceptance, provided such acceptance was required as a matter of law or agreement. In the case of Supplementary Specific Performance (cure of defects or delivery of goods free of defects), this period is extended by the time during which the delivery item cannot be used as stipulated in the contract. Supplementary Specific Performance is also subject to the periods stated above. All claims relating to defects become time barred at the earliest two months after all claims the final customer may have been fulfilled. This delay in time bar expires at the latest 6 years after delivery to us.

5. The supplier shall, throughout the term of the supply relationship, maintain adequate insurance with respect to the risks of this VIII. Upon request the supplier shall furnish us with evidence of such coverage.

## **IX. Materials, Packaging and Tools Provided by Us**

Substances, parts, containers, special packaging, tools, measuring instruments or substances or similar items (each, an "Accessory") remain our property. In cases of specification of Accessories, union of Accessories or mixture of Accessories, we will become co-owners of the new goods. Our co-ownership share shall be equal to the proportionate value of the Accessories compared to the overall value of the new item. 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 Accessories. Neither Accessories nor copies or duplicates thereof may be made available to third parties (which shall include subsuppliers)

and may not be used for any other purposes than the agreed upon purpose.

## **X. Tools**

Notwithstanding any other agreement to the contrary, we shall receive full ownership or co-ownership of the tools to the extent we have contributed to the proven costs for tools used in the manufacture of the supplied goods. We will acquire (co)ownership of the tools upon payment. The tools shall remain on loan with the supplier. The supplier shall require our consent to dispose (in the legal or the factual sense of the term) of the tools, to move the location of the tools or to disable the tools permanently. The supplier shall label the tools as our property or property held in co-ownership, as applicable. The supplier shall bear the costs for the

maintenance, repair and replacement of the tools. We shall have title in the replacement tools in the same proportion as in the original tools. In cases of co-ownership of a tool we shall have a right of first refusal with respect to the co-ownership share of the supplier. The supplier must use tools (co-)owned by us exclusively for the purpose of manufacturing the supplied goods. After the end of the delivery, the supplier must, upon our request, immediately turn over the tools to us. For tools co-owned by us we must, following hand over of the tools to us, reimburse the supplier for the then present value of the supplier's co-ownership share. In no event shall the supplier have a right to retain the tools. The supplier's obligation to turn over the tools shall apply also in case of an insolvency application with respect to the supplier and in cases of long term interruptions of the supply relationship. The supplier shall insure the tools within the agreed upon scope or, absent such agreement, within the customary scope.

## **XI. 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 shipment of the supplied item, unless the scope of the delivery includes standardized software. To the extent the software originates with a supplier of the supplier, the supplier shall obligate the sub-supplier accordingly. Title to the Intellectual Property Rights in the software and to any modifications or improvements to the software remains with us.

## **XII. Force Majeure/ 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 the 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 fully inform the other party and must use its best endeavours, 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 move the manufacture of the supplied item(s) to us or to a third party, which support shall include the granting of licenses to intellectual property rights to the extent such rights are necessary for the manufacture of the relevant product(s), such licenses to be granted on terms customary in the industry.

## **XIII. Miscellaneous**

1. Place of fulfillment for all deliveries and performances is the place of destination specified by us.

2. The contractual relationship shall be governed by and construed in accordance with the laws of England and Wales.

3. Each party irrevocably agrees the Courts of England and Wales shall have exclusive jurisdiction in relation to any claim dispute or difference concerning the conditions and any matter arising therefrom.

4. If a specific provision of these terms and conditions is or becomes invalid, the remaining terms and conditions shall remain valid.

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

Schaeffler (UK) Limited