

# General Conditions of Purchase

## Schaeffler Philippines Inc.

### I. General

In case of any purchase being undertaken by us, any legal relationship between the Supplier and us is subject to the following terms and conditions (and subject to updates and variations as may be mutually agreed upon by us from time to time and shall be deemed incorporated by reference to any agreements or contracts issued by us with regard to such purchase. Conditions stipulated by the Supplier as well as any 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 any acceptance or payment for goods or services by us shall be construed as an acknowledgement or consent. In the event of any inconsistency between any terms issued by the Supplier and these Conditions, these Conditions shall prevail and be binding on the Supplier.

### II. Contract Formation and Amendment

1. Any individual contracts concerning the supply of goods or services as well as any amendments, collateral agreements, notices as to the ending of such as well as any other declarations or notices must be in text form unless otherwise set out in these Conditions. If the Supplier does not accept an order within two weeks of the receipt of such, we may revoke such order at any time and without any liability of any nature to the Supplier or any other party.

2. In case of any delivery of goods, the applicable quality assurance agreement, logistics agreement as well as the shipping and transport instructions of the Schaeffler Group in their respective applicable version shall form an integral part of this contract. By accepting these Conditions, Supplier acknowledges and agrees that it likewise indicates its acceptance of the terms and conditions of these documents and instructions. The documents can be accessed at <http://www.schaeffler.de/en> (subcategory "Supplier") and will be made available to the Supplier upon request.

### III. Scope of Provision of Goods and Services / Changes to Scope / Spare Parts / Subcontractors

1. The Supplier shall ensure that all significant data and circumstances in terms of its performance of its contractual obligations as well as the intended use of its deliveries are known to the Supplier in good time. Offers shall be at no expense to us. The Supplier shall ensure before providing any offer that it has exactly examined the local circumstances and is certain of the situation as a result of inspecting the documentation for the carrying out of the performance and compliance with technical and other regulations. The Supplier shall check all documents provided for matters including the local situation, correctness, fit for purpose, feasibility as well as any performance of preliminary work by third parties. The Supplier shall notify us in writing without unreasonable delay of any concerns with details of the reasons and the Supplier shall bring about an agreement with us as to the carrying out of the work.

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 hereby agrees to 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. To facilitate the execution of such agreements, we will initially determine such consequences within our reasonable discretion and Supplier hereby agrees to evaluate the same within a reasonable period of time.

3. In case of delivery of production material, the Supplier shall ensure that it will continue to be able, for a period of 15 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.

4. The Supplier shall be entitled to assign any of its duties under or pursuant to these Conditions to subcontractors only with our prior written approval.

### IV. Prices / Payment Terms

1. The agreed prices are fixed prices. Unless otherwise agreed, payment will be made within 14 days with a 2 % discount, or within 45 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. Invoices are to be submitted without carbon copies but shall include the purchase order number, purchase order line, 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.

3. Supplier shall only have the right to set-off against any of our claims, if and to the extent that Supplier's claims are undisputed by us in writing or its claims are final and non-appealable evidenced by an order of court of competent jurisdiction..

### V. Delivery Dates / Governmental Permits / Export Control

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1. All deliveries are DAP (Incoterms 2010) to a location determined and specified by us and, unless specified otherwise, shall include packaging and conservation. Our company and the consignee specified 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. Agreed dates and time limits are binding. 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.

2. 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 and any import duties, levies or taxes. All prices referred to in IV above are inclusive of all such duties, levies or taxes and no additional payment is required from us.

3. For shipments from preferential countries, the Supplier must provide a proof of preferential status with each shipment.. We must be notified immediately if the delivered goods require an export license. Furthermore, the Supplier is obliged to comply with the respective export control regulations and to inform us without need of request in written form about the export control designation of the contractual products according to applicable regulations at the latest with the delivery.

#### VI. Acceptance of Work Performed

1. Any acceptance of work shall take place after completion of such by way of our formal counter-signature on the respective record of acceptance. In relation to any performance which cannot be subsequently checked or examined, the Supplier shall give us in good time written notice requiring prior examination. No other acts or omission shall be construed as acceptance, including any fictional acceptance by way of failing to respond to a request for inspection, or by way of payment or actual use.

2. Acceptance of any type or form required by the official authorities, in particular acceptance by recognized experts, shall be arranged by the Supplier at its own expense before the acceptance of the work insofar as such is not expressly excluded from the scope of performance. Any official certificates as to the defect-free nature or any official approvals or acceptances shall be provided to us in good time before the acceptance of the work.

#### VII. Confidentiality / Information /Data Protection

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 with us in any forum and to any party, without our prior written consent.

2. We retain title and reserve all other rights (such as copyright) to the Information. Copies may be made only with our prior written consent. The Supplier acknowledges and agrees that title to the copies is owned by us from the moment of creation. Supplier hereby agrees with us that the Supplier stores the copies on our behalf 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.

3. If the Supplier breaches its obligations set forth in VII. 1., a contractual sum in the amount equivalent to Euro 35,000 shall become due and payable immediately for each breach. This amount is a genuine pre-estimate and agreed amount as liquidated damages (and not a penalty). Damages adjudicated in our favor or otherwise not disputed shall be set off against any contractual amount that may be due the Supplier.

4. Subject to your prior, written and express consent, we will collect, use and disclose your data, including personal data, for the purpose of managing our working relationship and such data may be made available to authorities, our auditors, professional advisers and other parties that provide services to us and our group of companies.

#### VIII. Quality Control

The Supplier shall constantly monitor the quality of its performance. Before any delivery of contractual goods, the Supplier shall ensure that goods intended for delivery are free of defects, fit for purpose, and conform to the agreed technical requirements and the Supplier shall warrant such to us in writing.

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### IX. Warranties / Reimbursement of Costs / Warranty Period / Indemnification

1. We will inspect incoming goods only with respect to externally apparent defects and externally apparent deviations in identity, quantity or volume. We will give notice to the Supplier of such defects without undue delay from inspection. Furthermore, we will also give notice of defects other than those that are externally apparent as soon as such defects have been detected in the ordinary course of business or latent defects as they appear. With respect to the foregoing, the Supplier hereby waives the right to assert that the defects have been asserted too late or that the Warranty Period has expired.

2. If the delivered goods are defective, we will be entitled to all rights and remedies under the applicable laws in the Philippines unless the following conditions provide otherwise or unless a fuller remedy applies under such applicable laws of the country of origin of the goods. If industrial safety is threatened, if there is a danger of unusually high damage, or for the purpose of maintaining our ability to deliver to our customers, we shall be entitled, following notification to the Supplier, to remedy the defects ourselves or have them remedied by a third party. Costs and all expenses incurred as a result of remedial action taken in accordance with the preceding sentence shall be borne by the Supplier.

3. If the Supplier avails itself of a third party to carry out a performance upon our prior written consent, the Supplier will nonetheless be held responsible and be vicariously liable, for this third party as for any other person employed in performing an obligation.

4. Unless a different period is provided by law or unless otherwise stipulated by the parties in writing, the Supplier is liable for defects that arise within five (5) years ("**Warranty Period**") from 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 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 performance is also subject to the periods stated above. All claims relating to defects become time barred after the lapse of a period of one year from the expiration of the Warranty Period. 5. In case of any claims by third parties in case of defects as to title, the Supplier shall indemnify us unless the Supplier is not responsible for such defect as to title. The Supplier shall indemnify us in case of any claim by a third party based on product liability if and to the extent that any damage is caused by a defect in the goods delivered by the Supplier. The right of indemnity shall apply insofar as the Supplier itself would be directly liable.

### X. Performance of Work on our Premises

1. In relation to any performance at our premises the "Company Regulations for Contractors" shall apply and is hereby binding on the Supplier, and such can be accessed at <http://www.schaeffler.de/en> (subcategory "Supplier") and will be made available to the Supplier upon request. The Supplier shall comply with directions of the factory security service.

2. The Supplier may not deploy persons for fulfilling its contractual obligations at our locations which are employed by us or which have been employed by us during the last 6 months without our prior written approval. All Supplier-provided personnel must not be in breach of any employment or immigration laws.

### XI. Materials, Packaging and Tools Provided by Us

Substances, parts, containers, special packaging, tools, measuring instruments or similar items (each, an "Accessory") provided or purchased by us pursuant to these Conditions remain our property. In cases of union or mixture of the Accessories with the Supplier's accessories we will become co-owners of the new goods using or incorporating such mixed accessories. Our co-ownership share shall be equal to the proportionate value of our respective accessories compared to the overall value of the new item. The Supplier shall not have any rights of retention on whatever basis to the Accessories.

### XII. 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/ownership of the tools upon payment. The tools shall remain in the custody of or, in case we have acquired full ownership on loan with the Supplier for the duration of the contract or agreement governed by these Conditions The Supplier shall secure our prior 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 in proportion to its interest in such tools and shall advance the cost corresponding to our interest in such 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. Upon delivery of the goods, the Supplier must, upon our written 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

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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 be responsible for insuring the tools within the agreed upon scope or, absent such agreement, within the customary scope with a reputable insurer with a business presence in the Philippines, paying all premiums promptly without prejudice to its exercise of its right to reimbursement from us corresponding to our proportionate interest in the tools, and include us as beneficiaries of such insurance coverage and payouts.

#### XIII. Software

The Supplier agrees to modify/improve the software used in relation to purchases governed by these Conditions 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 such earlier supplier accordingly. All license to use on an irrevocable basis, source code and technical specifications must be submitted to us at no extra costs or payment required from us.

#### XIV. Force Majeure / Long Term Inability to Deliver

1. Natural disasters, riots, acts of government and any other events that are beyond our control exempt both us and the Supplier from the contractual obligations, in each case for such time as such event exists and within the scope of its effects. The party affected by the force majeure event must 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 cancel or terminate 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 transfer the manufacturing of the supplied item(s) to us or to a third party, which support shall include the granting of licenses (with no further payment or consideration required from us) 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.

#### XV. Compliance

1. The Supplier shall refrain from actions or omissions that, regardless of the form of participation, may lead to administrative fines or criminal prosecution, in particular for corruption or a violation of antitrust or competition law by the Supplier, by employees of the Supplier or by third parties engaged by the Supplier (hereinafter referred to as "Violation" or "Violations"). The Supplier shall be obligated to take all steps necessary to avoid Violations. For this purpose, the Supplier shall be responsible for the compliance and proper performance by its employees and all third party representatives with all relevant laws.

2. Upon written request by us, the Supplier shall submit information about the above measures, in particular regarding the content and status of implementation. The Supplier shall be obliged, upon written request by us, but not more than once within a period of three years, to completely and accurately answer a compliance questionnaire issued by us and will provide us with the documents related to such questionnaire.

3. The Supplier will inform us without undue delay of the commencement of official investigations by any authority regarding a Violation. Additionally, if there are any indications of a Violation by the Supplier, we are entitled to request written information about the Violation and all steps taken by the Supplier for rectification and future compliance.

4. In the event of a Violation, the Supplier shall immediately cease such actions and shall compensate us for any and all damage suffered by us due to or in connection with such Violation.

#### XVI. Miscellaneous

1. We may terminate an agreement between us and Supplier for any purchase covered by these Conditions immediately upon written notice to Supplier (a) for a material breach by Supplier which is incapable of remedy or, if capable of remedy, is not remedied within thirty (30) calendar days of written notice being given to Supplier to remedy the breach, or (b) if Supplier becomes bankrupt or goes into liquidation (whether voluntary or compulsory), is dissolved, or has a receiver or administrator appointed over the whole or any part of its assets or a petition is presented, or a meeting is convened for the purpose of considering a resolution for the winding-up, bankruptcy, or dissolution of Supplier or Supplier suffers any similar process under the law of its domicile or place of jurisdiction.

2. Place of fulfilment for all deliveries and performance is the place of destination specified by us.

3. The contractual relationship between the Supplier and us and these Conditions shall be governed by the laws of the Philippines and the Supplier hereby consents to the non-exclusive jurisdiction of the Philippine courts in all matters regarding these Conditions, but we reserve the right to invoke the jurisdiction of the courts of any other country, to bring suit or any legal pro-



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ceedings or claims against the Supplier in any other court of competent jurisdiction and/or to enforce any judgment or orders of court we obtain in Philippine courts in any other jurisdiction.

4. If a specific provision of these terms and conditions is or becomes invalid, the remaining terms and conditions shall remain valid to the fullest extent permitted by law.

5. Although these Conditions may be translated into any other language, the English language version shall govern and prevail.

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