

## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

### **I SCOPE**

1. The design, production and supply of machines and machine components by us including the provision of any offer shall take place exclusively on the basis of these General Sale and Supply Conditions (hereinafter: "*General Supply Conditions*"). These General Supply Conditions shall form an integral part of all contracts with our business partners (hereinafter: "*Customer*") in relation to deliveries and all other performance related to machine engineering or machine components on an exclusive basis. These General Supply Conditions shall also apply to all future provision of goods and services or offers to the Customer even if they are not expressly referred to and agreed in each case.
2. Any general conditions of business of the Customer or a third party shall not apply even if we do not expressly reject the application of such conditions in each case. Even if we refer to any document containing such business conditions, such a reference shall not constitute an agreement by us to the application of those business conditions.
3. We shall provide the above named performance only for commercial use, i.e. these General Supply Conditions apply only in relation to the Customer and a Customer must be: an enterprise (§ 14 Civil Code (*BGB*)), a legal entity at public law or a special fund at public law.

### **II OFFER / CONTRACT FORMATION**

1. All our offers are non-binding and subject to change insofar as such are not expressly stated to be binding or do not contain a specific deadline for acceptance.
2. The legal relationship between us and the Customer shall be based exclusively on the supply contract to be concluded in at least a text form (*Textform*) (§ 126b Civil Code (*BGB*)), including these General Supply Conditions. Such alone contains all understandings between the Parties in relation to the contract subject matter. Any oral agreement of a party given before the concluding of this contract shall not be legally binding and oral understandings as between the parties shall be superseded by the contract in text form (*Textform*) unless it is expressly stated in relation to any oral agreement that the binding nature of such should continue.
3. Any supplements or amendments to any agreements made including these General Supply Conditions must be in text form (*Textform*) in order to be effective. In this regard, transmission by telefax or by email shall be deemed to be sufficient.
4. Details provided by us as to any goods or services (e.g. weight, measurements, utility values, load and technical data) as well as our representation thereof (e.g. drawings and illustrations) do not constitute fixed values in terms of guaranteed qualities but are rather only descriptions and for identification of the goods and services to be provided unless such are expressly warranted in our offer or order confirmation as being exact values or that exact compliance is required in order to be able to use goods and services for the intended contractual purpose. Customary trade variations or any variations resulting from legal requirements as well as substitution of any components with equivalent parts shall be permissible insofar as such do not limit usability for the intended contractual purpose.
5. We reserve title and intellectual property rights in relation to all offers and quotations as well as all drawings, illustrations, calculations, brochures, catalogues, models, prototypes, tools, software and similar materials, data and devices made available to the Customer. The Customer shall not grant any third party access to the above objects without our express approval nor shall it make any third party aware of, or copy such, either directly or through a third party. Upon our request such objects shall be returned to us in full and any copies made shall be destroyed if such are no longer required in the normal course of business or, if negotiations do not lead to the concluding of a contract. The above shall not apply to any storing of data made available electronically for customary backup purposes.

## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

### **III DUTY OF CUSTOMER TO PROVIDE SUPPORT**

1. The Customer shall, at its own expense, support our personnel to the necessary extent in the carrying out of any contract.
2. If our performance is to be rendered at the business premises or production facilities of the Customer (e.g. erection, installation) the Customer shall undertake any special measures necessary at the place of deployment for the safety of persons and protection of property and shall further ensure the provision of the necessary basic utilities (e.g. electricity, water etc.). If necessary, the Customer shall provide special protective clothing at no charge. Furthermore, the Customer shall instruct our personnel as to any applicable special safety regulations insofar as such are of importance for our personnel and the carrying out of the performance. In the event of any infringement of such safety regulations by our personnel, the Customer shall notify us without undue delay. If any performance is not possible because of non-compliance with safety regulations and a resulting threat to the safety of personnel, either appropriate counter-measures are to be undertaken or the respective performance shall be suspended until such time as safety can be ensured. In the event that the Customer is responsible ensuring safety, such suspension shall allow an extension of any affected deadlines.
3. Insofar as any performance is to be provided in a foreign country and our personnel require residence permits and/or work permits, the Customer shall support us to the necessary extent at no expense, subject to any agreement in individual cases, in relation to the local authorities with any applications, extensions or changes to permits necessary for the carrying out of the performance.
4. We reserve the right to claim reasonable compensation if any support obligations are not provided and such result in additional costs and expenses. Further rights under the contract or at law shall not be affected hereby.
5. The Customer shall provide technical support to the necessary extent at its own expense. The Customer shall be responsible for any drawings, plans, models, calculations or other information, materials and data made available by it in relation to the correctness and completeness of such and shall further be responsible for third party rights not being infringed insofar as such may conflict with the carrying out or performance of a contract.

### **IV PRICES / PAYMENT**

1. The prices shall apply for the provision of goods and services detailed in our order confirmation. Any goods or services not listed in a supply contract shall be charged as additional or extra performance (section V). All our prices, unless described as being otherwise, exclude packing, VAT and, in case of export, customs duty as well as any fees or other official charges.
2. Unless otherwise agreed, payment shall be due and invoiced as follows:
  - a) If acceptance procedures are to take place:
    - 40% of the total price upon the concluding of the contract;
    - 50% of the total price after the completion of the goods and notification of readiness for dispatch or, insofar as transport is included, upon the dispatch of the goods;
    - 10% of the total price upon acceptance of the goods (section VII);
  - b) If no acceptance procedures are to take place:
    - 40% of the total price upon the concluding of the contract;
    - 60% of the total price upon delivery of the goods to the Customer;
3. Invoiced amounts are to be paid within thirty days without any deductions insofar as nothing to the contrary is stated on the invoice or agreed. The date of payment shall be the actual date of receipt of the payment or credit in our bank account. If the Customer has not paid by the due date, any outstanding amount shall be subject to interest from the due date at a rate of 8% p.a. above the statutory basis interest rate; our rights at law or under any contract to increase such interest and to claim for any damages in the event of delayed payment shall not be limited hereby.
4. Any set-off in relation to counterclaims of the Customer or retention of payments in relation to such claims shall only be permissible insofar as such counterclaims are undisputed or based on a final legally-binding judgment.

## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

5. We are entitled to undertake any remaining provision of goods or services only on the basis of advanced payment or a provision of security if we become aware after the concluding of the contract of any circumstances which may substantially reduce the creditworthiness of the Customer and, on the basis of which, payment of our outstanding claims against the Customer under the respective (framework) contract could be endangered.

### **V ADDITIONAL OR EXTRA PERFORMANCE**

1. Invoicing of further or additional performance shall take place, unless agreed otherwise in any individual cases, on the basis of time and materials in accordance with our respective applicable hourly charge-out rates or material costs (the respective hourly rates will be provided without undue delay upon request). Travel time shall be charged as work time. Unless otherwise agreed, travel expenses shall be charged at the rate of 35 cent per kilometre and air transport shall be in economy class; additional costs for meals shall be charged according to the sum set out in tax law and the costs of accommodation on the basis of a middle-priced hotel. The Customer shall be entitled to require suitable evidence of the above.
2. Additional or extra performance will take place particularly if costs and expenses and/or performance are caused by:
  - the Customer subsequently changing any drafts, drawings or other requirements,
  - any drafts, drawings or other requirements and information made available by the Customer proving to be incorrect or incomplete,
  - the Customer subsequently requesting additional functions for the delivered goods and such extend beyond those agreed in the contract.

### **VI DELIVERY / DELIVERY TIME / FORCE MAJEURE**

1. Unless agreed otherwise in any contract, deliveries shall be "Free Carrier – FCA (Incoterms 2020)" in relation to the location named in the order confirmation.
2. Any dates and deadlines proposed by us for goods and services shall be approximate guidelines only unless a fixed date or deadline is expressly agreed as such in an order confirmation or otherwise agreed in text form (*Textform*). Insofar as we have agreed in the contract to undertake the transport, any delivery dates or deadlines shall relate to the date of transfer to the forwarder, freight carrier or other third party contracted to undertake the transport.
3. We may – notwithstanding our rights in relation to delay by the Contractor – require from the Customer an extension or postponement of any date or deadline for the provision of goods or services for a period corresponding to the time the Customer has not satisfied those of its contractual obligations necessary or useful for our performance. This shall apply in particular in the following cases:
  - the contract description of the Customer or any other information, data or documentation provided by the Customer for the carrying out of the contract are insufficient, incorrect or incomplete; or
  - the contract description or the above named information, data or documentation are not made available in good time by the Customer.
4. We shall not be liable in cases of impossibility of supply or any delays in supply insofar as such result from force majeure or other events which were not foreseeable at the time of the concluding of the contract and for which we are not responsible (e.g. disruptions in operations of any type, difficulties in the obtaining of materials or energy, delays in transport, strikes, legal lockouts, shortages of personnel, energy or raw materials, difficulties in obtaining necessary official approvals, any official measures or prohibitions (e.g. sanctions, embargoes or other export control provisions) unforeseen increase of risk, that the fulfilment of any obligations under this Agreement or any Individual Delivery Contract are leading to or could lead to the imposition of sanctions (e.g. secondary sanctions) or a lack of or incorrect or delayed supply by suppliers notwithstanding materials being obtained elsewhere). Insofar as such events substantially hinder or render impossible performance and such hindrance is not of a temporary nature, we shall be entitled to withdraw from a contract. In case of any hindrances which are of a temporary nature, the deadlines for the provision of goods and services shall be extended or shall be postponed by the period of such delay as well as a reasonable run-up period. Insofar as the Customer cannot be reasonably expected to accept the goods

## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

and services as a result of the delay, it may withdraw from the contract by way of a declaration made without undue delay in text form (*Textform*).

5. We shall be entitled to make part deliveries if
  - the part delivery will be of reasonable use to the Customer in terms of the intended contractual use,
  - the delivery of the remaining parts of the order is assured, and
  - the Customer will not have any substantial extra expenses or additional costs as a result – unless we declare our willingness to accept such costs upon presentation of suitable evidence thereof.
6. Insofar as we are in delay and damage has resulted to the Customer from such delay, the Customer shall be entitled to claim compensation. Such compensation shall be 0.5% of the value of the respective part of the complete order for each full week of delay up to a total amount of no more than 5% of the value of the respective part of the complete order which as a result of the delay could not be used in time or in accordance with the contract. Any further claims related to delay shall be determined exclusively in accordance with section X of these General Supply Conditions.
7. In case of deliveries to EU member states ("intra-community deliveries"), the Customer must immediately provide support in an appropriate manner to establish that the delivery is indeed an intra-community delivery. We may require, in particular, a signed confirmation with the date of the intra-community delivery and at least the following information: The name and address of the recipient, quantity and customary trade description of the goods as well as the place and date of receipt of the goods. If the Customer does not satisfy this requirement to provide support, it shall be responsible for any resulting damage and in particular any resulting VAT.

## **VII PLACE OF PERFORMANCE / TRANSPORT / PACKING / TRANSFER OF RISK / ACCEPTANCE**

1. Unless otherwise agreed, the place of performance for all duties arising out of the contractual relationship shall be the seat of our company. If we are liable for the installation of the goods, the place of performance shall be the location at which such installation is to take place.
2. The decision as to the method of transport and the type of any packing shall be subject to our reasonable discretion.
3. If no acceptance procedures are to take place, transfer of risk shall take place at the latest upon the transfer of the goods (whereby the commencement of the unloading shall determine such) to the forwarder, freight carrier or other third party contracted for the transport of the goods to the Customer. This shall apply also in the case of any part deliveries or if we have other performance obligations (e.g. installation). If dispatch or transfer is delayed as a result of circumstances in relation to which the cause is the Customer's responsibility, the transfer of risk to the Customer shall take place on the day on which the goods are ready for dispatch and we have notified the Customer of such.
4. If acceptance procedures are to take place, the transfer of risk to the Customer shall take place upon acceptance or at the time of deemed acceptance in accordance with this section. If the Customer is delayed in accepting, the transfer of risk shall take place from the commencement of the delay.
5. Storage costs after the transfer of risk shall be borne by the Customer. Storage costs undertaken by us shall be 0.25% of the invoiced amount of the goods to be stored per completed week. We reserve the right to provide evidence of higher storage costs and to claim such and the Customer shall be entitled to provide evidence of lower storage costs and to claim accordingly.
6. A delivery will be insured by us against theft, damage, transport, fire and water damage or other insurable risks only at the express wish of the Customer and at its expense.
7. Insofar as any acceptance procedures are to take place, the goods shall be deemed to have been accepted if
  - the delivery and, insofar as we are responsible for any installation, the installation has been completed,
  - we have notified the Customer as to deemed acceptance in terms of this section and have required the Customer to undertake acceptance,

## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

- since the delivery or installation twenty work days have passed or the Customer has started to use the goods (e.g. the delivered plant has been taken into commercial operation) and, in such case, six work days have passed since delivery or installation, and
- the Customer has failed to accept within this period.

Such deemed acceptance shall not apply in case of any defect which render the contractual use of the goods impossible or substantially limits such use.

### **VIII WARRANTY / DEFECTS**

1. The warranty period shall be two years from the date of delivery or, insofar as acceptance procedures must take place, from acceptance or the date of deemed acceptance in accordance with section VII (7). This period shall not apply to any claim of the Customer arising from personal injury or wilful or grossly negligent breach on the part of the seller or its agents (*Erfüllungsgehilfen*) in which case the applicable limitation period shall be that set down by law.
2. If no acceptance procedures for the goods have to take place, the delivered goods are to be carefully inspected without undue delay by the Customer or any third party determined by it. The goods shall be deemed to be approved by the Customer in relation to any apparent defects or other defects which would be recognisable with an immediate careful examination if within seven work days of delivery a notice of defect is not received in text form (*Textform*). In relation to any other defects, the goods shall be deemed to be approved by the Customer if the notice of defect is not received within seven days of the time at which the respective defect becomes apparent; if the defect was apparent for the Customer in normal use at an earlier time, this earlier point in time shall be the date for the commencement of the period for providing a notice of defect.
3. In relation to any defects with the delivered goods, we shall be obliged and entitled to, at our discretion, either rectify (*Nachbesserung*) or replace (*Ersatzlieferung*) the respective goods. In case such measures are not successful, i.e. impossibility, unreasonableness or unreasonable delay in any rectification or replacement, the Customer may withdraw from the contract or reasonably reduce the purchase price.
4. If any defect results from fault on our part (wilful acts or negligence), the Customer may require damages in accordance with the requirement set out in section X.
5. In case of any defects in components of other manufacturers which we may not rectify for licensing or other reasons, we shall, at our reasonable discretion, either claim against the manufacturer or supplier under warranty on the account of the Customer or assign such to the Customer. Warranty claims against us shall be permissible in case of such defects and shall be subject to the other conditions and requirements of these General Supply Conditions but only if any court proceedings for the above claims against the manufacturer and supplier were unsuccessful or, for example in case of insolvency, or if there were no prospects of success in such proceedings. During the period of any legal dispute, the limitation period for any respective warranty claim of the Customer against us shall be suspended.
6. There shall be no warranty insofar as the Customer modifies or allows any third party to modify the goods without our approval and a rectification of a defect is thereby rendered impossible or becomes unreasonably difficult. In any event, the Customer shall be liable for the resulting additional costs in rectification caused by any such modifications.
7. Any agreed supply of used goods to the Customer shall be without warranty in relation to defects. Furthermore, there shall be no warranty in relation to wear, damage or destruction of the goods insofar as such is caused by:
  - normal wear and tear
  - incorrect use by the Customer or any third party
  - lack of or incorrect maintenance by the Contractor or any third party
  - incorrect instructions by the Customer or
  - parts, materials or devices made available by the Customer.



## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

### **IX PROPERTY RIGHTS / DEFECTS AS TO TITLE**

1. In accordance with section IX, we shall be responsible for the goods being free of property rights or intellectual property rights of third parties. Each Party shall notify the other Party without undue delay in writing if it is made subject to any claims as a result of an infringement of such rights.
2. In case the goods infringe any property rights or intellectual property rights of any third party, we shall, at our discretion and at our expense, either modify the goods or exchange such so that third party rights are no longer infringed but so the goods continue to have the functions set out in the contract or, we shall conclude a licensing agreement for the Customer to ensure a right of use. If we are not able to do this within a reasonable period, the Customer may withdraw from the contract or reduce the purchase price to a reasonable extent. Any other right of the Customer to claim for damages shall be subject to the limitations set out in section X of these General Supply Conditions.
3. In case of any infringements of rights by us in relation to the products supplied by other manufacturers, we shall at our reasonable discretion claim against the manufacturer and subsupplier on account of the Customer or assign such claims to the Customer. Warranty claims against us shall exist in such cases and shall be subject to this section X but only if any court proceedings for the above claims against the manufacturer and subsupplier were unsuccessful such as, for example, in case of insolvency or, if there were no prospects of success in such proceedings.

### **X LIABILITY**

1. Our liability for damages, regardless of the legal basis therefor, in particular arising from impossibility, delay, defective or incorrect supply, breach of contract, breach of any duty in contract negotiations and tort is, insofar as such is based on fault, limited in accordance with this section X.
2. We shall not be liable in case of any simple negligence (*einfache Fahrlässigkeit*) on the part of our bodies, legal representatives, employees or other agents (*Erfüllungsgehilfen*) insofar as such does not relate to breach of a material obligation (*vertragswesentliche Pflicht*). A material obligation shall be any duty related to the timely supply and installation of the goods, the non-existence of any defect as to title or any other defect, concerning a substantial limitation of the usability or functioning of the goods, as well as any duty to give advice, protection or care or, any duty allowing the Customer to use the goods or any obligation concerning injury to the personnel of the Customer or protection of the Customer's property against substantial damage.
3. Insofar as, in accordance with section X (2), we are liable to pay damages, such liability shall be limited to that damage which we did foresee at the time of the concluding of the contract as a possible result of breach or, that damage which we should have foreseen having exercised a reasonable standard of care. Indirect or consequential damage resulting from any defect in the goods shall be subject to reimbursement only if such damage could be typically foreseen having regard to the intended use of the goods.
4. The above exclusions and limitations of liability shall apply to the same extent also in favour of our bodies, legal representatives, employees and other agents (*Erfüllungsgehilfen*).
5. Insofar as we provide technical information or provide advice and such information or advice is not included in our agreed scope of performance under the contract including any collateral obligations, such shall be provided free of charge and to the exclusion of any liability.
6. The limitations set out in section X shall not apply in relation to our liability for wilful conduct, for guaranteed quality, for any personal injury or for liability under the Product Liability Act (*Produkthaftungsgesetz*).

### **XI RETENTION OF TITLE**

1. The following agreed retention of title shall serve as security for all existing, current and future claims which we have or may have against the Customer out of the existing business relationship for the manufacture and supply of machines and/or machine parts (including any account balance claims arising out of this supply relationship).

## **General Conditions of Sale and Delivery of the Schaeffler Group for Machines / Machine Components**

2. Any machines or machine parts delivered by us to the Customer shall remain our property until complete settlement of all secured claims. Machines or machine parts covered by this retention of title are herein after referred to as "reserved goods".
3. The Customer shall keep the reserved goods for us at no charge.
4. The Customer is entitled to sell and/or install the reserved goods in its products in the normal course of business up until the time of any realisation of a claim by us (paragraph 8). Any pledge or chattel mortgage shall not be permissible without our approval.
5. In case of any resale of the reserved goods, including as a part of the products of the Customer, the Customer hereby assigns as a precaution any resulting claims against the purchaser to us and, if the reserved goods are an integral part of a total product sold, such shall be assigned proportionally according to the value of the reserved goods. The same shall apply to any other claims which result in place of the reserved goods or otherwise in relation to the reserved goods such as, for example, insurance claims arising from torts in case of loss or destruction. We hereby revocably authorise the Customer to collect any claims assigned to us in its own name. We may revoke such authority to collect only in the event of a realisation of our claim (paragraph 8).
6. If any third party makes a claim on the reserved goods, in particular by way of any attachment, the Customer shall notify such third party of our property rights and shall inform us without undue delay in order to allow us to enforce our property rights. Insofar as a third party is not able to reimburse us in this regard for any resulting court or out-of-court costs, the Customer shall be liable to us for such.
7. We shall release any reserved goods as well as claims made in relation thereto insofar as the value exceeds the amount of the secured claims by more than 30%. The choice as to which object is to be released shall be for us to make.
8. In the event that in case of breach on the part of the Customer – in particular in relation to late payments – we withdraw from the contract (case of realisation), we are entitled to require restitution of the reserved goods.

## **XII EXPORT CONTROL**

1. The Customer strictly complies with all applicable European Union (hereafter "EU"), United States of America (hereafter "US") and other export control and sanction laws and regulations (hereafter "Export Control Regulations").
2. The Customer shall notify us beforehand and disclose any information (incl. end-use) necessary for us to comply with Export Control Regulations in case Schaeffler products, technology, software, services or any other goods (hereinafter "Schaeffler Items") are specifically ordered for use in connection with
  - a) any country, territory, person or entity that is subject to any restrictions or prohibitions under the EU, US or any other applicable export control and sanction regulations or
  - b) design, development, production or use of military or nuclear goods, chemical or biological weapons, rocket, space or air vehicle applications and means of transportation.
3. We inform the Customer (i) that the US Department of the Treasury's Office of Foreign Assets Control (OFAC) treats us as a US Person under the sanction regulations on Iran ("ITSR") and Cuba ("CACR"), and therefore (ii) that Schaeffler Items shall not– without prior authorization by the competent US governmental authorities and subject to any applicable anti-boycott regulations – (a) be used in any country or territory that is subject to any restrictions or sanctions of the US government or by any person or entity on any sanction list maintained by the U.S. government, or (b) supplied, exported, re-exported, sold or otherwise transferred, directly or indirectly, to any country or territory that is subject to any restrictions or sanctions of the US government or to any person or entity on any sanction list maintained by the U.S. government.
4. The fulfilment of the contractual obligations by us is subject to the proviso that the applicable Export Control Regulations do not contravene. In such a case, we are, in particular, entitled to refuse or withhold the contractual fulfilment without any liability towards the Customer.

**General Conditions of Sale and Delivery  
of the Schaeffler Group  
for Machines / Machine Components**

**XIII. CLOSING PROVISIONS**

1. The exclusive place of jurisdiction shall be Nuremberg (Nuernberg). We may at our discretion also decide to issue proceedings at our choice at the general place of jurisdiction of the Customer. Any mandatory requirements at law or concerning exclusive places of jurisdiction shall not be affected hereby.
2. The contractual relationship shall be governed by the laws of the Federal Republic of Germany to the exclusion of the conflict of laws. The application of UN Sales Law (CISG) is hereby expressly excluded. Furthermore, despite being written in the English language, the wording of these General Supply Conditions and/or the contractual relationship and its legal effect shall be interpreted in accordance with German legal principles and understandings under German Laws only. Where the interpretation of the wording of these General Supply Conditions and/or the contractual relationship using English legal principles differs from the interpretation arrived at when applying German legal principles, the later shall prevail.
3. In the event that any provision of the contract or these General Supply Conditions is or becomes ineffective, the validity of the remaining provisions shall not be affected thereby.
4. Insofar as the contract or the General Supply Conditions contains any omission, to compensate for such an omission a provision shall be deemed to apply, whereby such provision shall be so that the Parties would have agreed to such having regard to the commercial purpose of a contract and the purposes of these General Supply Conditions if they had been aware of the omission at the time.