

General Purchasing Conditions of Schaufler Tooling GmbH & Co. KG

(Last changed December 2017)

Section 1 General, Scope of Application

These General Purchasing Conditions apply to all purchasing agreements and service contracts concluded in which we are named as the purchaser or client. Our General Purchasing Conditions apply exclusively; we will not recognize any contrary provisions or conditions of any suppliers deviating from our General Purchasing Conditions, unless we have expressly recognized their validity in writing. Our purchasing conditions also apply even if we accept the supplier's delivery being aware of supplier conditions deviating from or contrary to our purchasing conditions without reservation. All agreements concluded between us and the supplier for the purpose of carrying out this Agreement must be recorded in this Agreement in writing.

Our purchasing conditions only apply to companies under Sec. 310 para. 1 BGB. Our purchasing conditions also apply to all future transactions with the supplier.

Section 2 Offer, offer documents

Only the content of our written orders applies. Contracts granted orally or ancillary agreements will only be valid following written confirmation by us.

The supplier is obligated to accept our order within a term of 2 weeks. After this term has expired, we will no longer be bound to our contract. If we do not revoke the contract in such cases, it shall come into being when delivery objects are delivered by us.

We will retain ownership and copyrights to images, drawings, calculations, and other documents, and they may not be provided to third parties without our express written approval. They are to be used exclusively for manufacturing based on our order; after the order is processed they must be returned to us without request. They must be kept secret from third parties; in this respect the regulations of Sec. 13 para. 9 apply accordingly.

Each order must be treated separately in all correspondence. All order confirmations, delivery slips, and invoices must be marked with our specified order number and order receipt number, if assigned.

Section 3 Prices, payment conditions

The prices listed on the order are binding fixed prices. The receipt of goods by us shall be considered decisive for determining if delivery deadlines and terms have been fulfilled. If not otherwise agreed in writing, the price includes delivery "free of charge" as well as packaging. If the quantities delivered fall above or below those indicated in the order, this shall not entitle the customer to any price increase or additional charges. Quantities are non-binding for us. Any increases in wage and/or material costs must be taken into consideration before the offer is submitted, and may not lead to subsequent pricing adjustments. Customers must conclude a separate agreement before returning packaging. Statutory VAT is included in the price.

We can only process invoices if they include the order number – in accordance with the specifications of our order; the supplier is responsible for all consequences from failure to observe this obligation insofar as it does not provide proof that it is not responsible for said consequences.

If not otherwise agreed in writing, we will pay the purchase price within 30 days from the date of delivery and receipt of invoice, with a 3% discount or within 60 days after receipt of invoice net. The time of the transfer by us is decisive. Payment neither recognizes the fulfillment of the warranty nor waives any warranty claims. If early deliveries are accepted, the price shall be due on the agreed delivery deadline.

Payments are made conditional upon a review of the invoice.

We are entitled to rights of offsetting and retention to the extent permissible under the law. Claims against us may only be assigned with our written approval.

Any extended or expanded retention of ownership is expressly excluded.

Section 4 Delivery term, default of delivery

The delivery term indicated in the order is binding. Delivery deadlines indicated are fixed deadlines.

The supplier is obligated to inform us in writing if any circumstances occur or if it becomes aware of circumstances that would result in the failure to fulfill the agreed delivery term. This will not affect the supplier's obligation to complete the delivery on time and to accept the purchasing cost risk.

In case of default of delivery, we are entitled to demand flat-rate default damages amounting to 1% of the delivered value per full week of delay, and not more than 5%; we reserve the right to make further legal claims (withdrawal and claims for damages in lieu of performance). The supplier is entitled to prove to us that no damages, or significantly lower damages have occurred due to the delay.

We are not obligated to accept partial services. We may decline partial services by the supplier after a reasonable deadline has passed for delivery of the full delivered quantity.

If the supplier is obligated to deliver goods to us multiple times, and if the supplier exceeds the agreed delivery deadlines for two deliveries/partial deliveries, we are entitled to terminate any framework delivery for agreement between the parties for just cause. Complaints by us regarding the first late delivery shall be considered a warning, and this warning shall be considered unsuccessful if the deadline is still not fulfilled. Our right to assert all rights to which we are entitled due to default of the individual delivery shall remain unaffected. If there is no framework agreement between us and the supplier in the above cases, we are entitled to withdraw from the agreement regarding outstanding deliveries / partial deliveries in the aforementioned cases, even if the supplier was not responsible for the delay. Our further rights shall remain unaffected, even if we declare our withdrawal from the agreement.

Section 5 Force majeure

Events, force majeure, strikes, and lockouts which affect us or one of our supplier companies and lead to a shutdown or restriction of our production and cannot be corrected despite taking due care appropriate for the circumstances shall entitle us to delay acceptance and payment for the duration of the shutdown or restriction, as well as a reasonable start-up time.

If acceptance is delayed in the cases indicated above and payment deadlines extended, any supplier claims for damages shall be waived. However, we can only take advantage of this opportunity if we inform the supplier of our plans within a reasonable deadline according to said circumstances.

If this obstacle lasts less than two months, the supplier cannot withdraw from the Agreement if we accept the delivery objects after the 2 month term. If the obstacle lasts longer than two months, the supplier is entitled after a reasonable grace period to withdraw from the Agreement with respect to the parts that have not yet been fulfilled or paid for.

Section 6 Transfer of risk, documents

If not otherwise agreed in writing, deliveries shall be made free of charge. The supplier shall bear the risk up to delivery of the delivery objects to the given shipping address (place of fulfillment), even if we accept the transportation or transportation insurance in individual cases based on separate agreements.

The supplier is obligated to indicate our exact order number on all shipping documents and delivery slips; if it fails to do so, we are not responsible for any resulting delays in processing.

Section 7 Quality, execution, safety

The supplier shall observe recognized engineering practice, safety regulations, and agreed technical data for its delivery. Deliveries and services must, in particular, observe applicable accident prevention regulations and safety recommendations of professional associations and must be suitable for our purpose and use, of which the supplier is aware. If we refer to specific standards, these shall also apply as minimum requirements in addition to legal specifications. Relevant permits, testing certificates, and certifications shall be included in the delivery free of charge. Deliveries and services must always be completed in an environmentally friendly and recyclable manner, prohibited materials may not be used. Changes to a delivery object or approved production process or moving said processes to another location shall require prior written approval from us.

If the supplier has received drawings, samples, or other specifications from us, it is obligated to comply with these in relation to the type, properties, and execution of the delivery objects. The supplier must inform us of any concerns it has with our specifications promptly before execution. In this case, goods may only be produced and delivered following further instructions by us.

Quantities ordered by us are considered gross quantities. They already include extra amounts. Further excess deliveries are only allowed with our express approval.

If agencies or customers ask to review specific requirements for our production process or production documents, the supplier declares their willingness to grant them access to such rights at its company and to give them all reasonable support to do so. Furthermore, the supplier must ensure that these rights accorded to agencies, ourselves, or our customers are also granted to the supplier's sub-contractors.

Section 8 Acceptance, inspection of defects, liability for defects

- (1) If services to be performed by the supplier under the Agreement have the character of contract work, the customer must formally accept the service (product) after completion through a relevant declaration. Fictive and implied acceptance are excluded. Partial acceptance shall not be given, even for independent partial services.
- (2) The supplier shall accept a guarantee that the delivery object corresponds to recognized and applicable engineering practice in every way. VDE specifications apply to electrical parts.
- (3) We are obligated to inspect the goods within a reasonable time period for any deviations in quantity or quality, and complaints are considered on time if received by the supplier within 5 business days calculated from receipt of goods or from discovery for hidden defects.
- (4) Any purchase price payments made before the defects were discovered shall not be considered recognition that goods were delivered free from defects and in accordance with specifications.
- (5) We are entitled to legal claims for damages without restriction; in all cases we are entitled to request a correction of the defect or delivery or a new delivery at our discretion. The right to claims for damages, in particular to claims for damages in lieu of delivery shall expressly be retained.
- (6) We are entitled to correct the defects ourselves at the supplier's cost if the supplier falls into default with its supplementary performance.
- (7) The statute of limitations is 36 months, calculated from the transfer of risk, if the mandatory provisions of Sections 478, 479 BGB do not apply.
- (8) The provisions of Sections 478, 479 BGB shall remain unaffected if used goods are purchased.

Section 9 Right of termination

If the agreement is an agreement regarding fungible goods in the sense of Sec. 651 BGB, we are entitled to terminate the Agreement at any time up until production or creation of the goods are complete. In such cases, the supplier shall have a claim for compensation for its services up to this point and for business profits, offsetting expenses saved through the cancellation of the agreement or through any other use of products created by its work.

Section 10 Product liability, indemnification, liability insurance protection

- (1) If the supplier is responsible for product damage, it is obligated to indemnify us against claims for damages by third parties upon first request if the cause falls under its purview and organizational responsibilities, and if it is itself liable to third parties.
- (2) The supplier is also obligated to reimburse us for any expenses under Sections 683, 670 BGB or in accordance with Sections 830, 840, 426 BGB within the framework of its own liability for damages in the sense of para. 1 resulting from or in conjunction with any recalls completed promptly by us. We will inform the supplier promptly regarding the content and scope of such recalls whenever possible and reasonable and give it an opportunity to state its position.
- (3) We will take on the responsibility of informing responsible agencies in accordance with the regulations of the ProdSiG (Product Safety Act) in consultation with the supplier.
- (4) The supplier is obligated to maintain product liability insurance with coverage limits of 5 million € per personal injury/material damage – flat rate – if we are entitled to further claims for damages these shall remain unaffected. Upon request, the supplier must provide us with proof of this insurance promptly.

Section 11 Replacement part deliveries

- (1) The supplier hereby undertakes to deliver all required components during the average life span of the delivered product.
- (2) The price for replacement parts shall not be higher than the price for said parts on the free market.
- (3) If replacement part production is halted after the end of the time indicated in para. 1, the supplier hereby undertakes to provide us with design documents and drawings upon request and in return for reasonable compensation. We undertake to prevent third party access to such documents.
- (4) The supplier hereby undertakes to inform us in writing at least 3 months before stopping production of a product purchased by us.

Section 12 Property rights

- (1) The supplier ensures that no third party rights are violated by its delivery within the Federal Republic of Germany.
- (2) If claims are made against us by third parties in relation to such rights, the supplier is obligated to indemnify us against these claims upon first written request. In case of third party claims for damages, the supplier is entitled to prove that it is not responsible for the violation of the third party rights.
- (3) We are not entitled to make any agreements with the third party without the approval of the supplier, and in particular not to agree to a settlement.
- (4) The indemnification obligation of the supplier relates to all expenses to which we are entitled from or in conjunction with the claim by a third party.
- (5) The statute of limitations is 36 months, calculated from the transfer of risk.

Section 13 Retention of ownership, provision, tools, confidentiality

- (1) All documents or objects we provide to the supplier with our offer or to carry out a contract may only be used to process the goods ordered by us and not for any other purpose; they also may not be copied or provided to third parties. They must be designated with a note stating "Property of Schaufler Tooling GmbH & Co. KG." We also reserve all property rights, commercial copyrights, patents, utility models, etc.
- (2) If we order parts from the supplier, we reserve rights of ownership to said parts. Processing or refurbishment by the supplier shall be undertaken on our behalf. If our retained goods are processed with other objects not belonging to us we shall obtain co-ownership to the new objects in relation to the value of our goods (purchase price plus VAT) to the other processed objects at the time of their processing.
- (3) If objects provided by us are mixed with, other objects not belonging to us in an inseparable manner, we will obtain co-ownership of the new objects in relation to the value of the retained goods (purchase price plus VAT) to the other mixed objects at the time of mixing. If goods are mixed such that the supplier's objects are considered the primary objects, the supplier shall transfer proportional ownership to us; the supplier shall hold sole or partial ownership on our behalf.
- (4) We reserve rights of ownership to tools; the supplier is furthermore obligated to use the tools exclusively to produce goods ordered by us. The supplier is obligated to insure tools belonging to us sufficiently at its own cost against fire, water, and theft. At the same time the supplier hereby already assigns all claims under said insurance to us and we hereby accept the assignment. The supplier is obligated to complete any necessary maintenance and inspection work on our tools at its own cost and promptly. It must inform us regarding any disruptions immediately; if it does not do so in a culpable manner, claims for damages shall remain unaffected.
- (5) Insofar as the security rights to which we are entitled for all not yet paid retained goods under para. 1 and/or 2 exceeds the purchase price by more than 10%, we are obligated to release the security rights at our own discretion upon request by the supplier.
- (6) The supplier hereby undertakes to insure tools delivered and provided by us at its own cost at their new value, and assigns all claims for damages against insurers to us; we hereby accept the assignment. Upon request by us, the supplier must prove that it has concluded such insurance.
- (7) Documents of all kinds provided by us to the supplier, such as samples, drawings, models, and the like must be returned to us upon request free of charge.
- (8) Molds, models, operating materials, etc. may only be destroyed with our written approval. The supplier is obligated to provide us with a list of production materials to which we hold ownership or co-ownership at regular intervals, and any time upon our request.
- (9) The supplier is obligated to keep all received drawings, calculations, programs, data and other documents and information strictly confidential. Such information may only be disclosed to third parties and/or provided to them with our express approval. The obligation of confidentiality also applies after the end of this Agreement. It shall, however, expire if and insofar as the manufacturing knowledge in the provided images, drawings, calculations, and other documents becomes generally known or was already certifiably known to the supplier at the time it was shared in the sense of clause 1.
- (10) Parts we have developed or created in collaboration with the supplier may only be delivered by the supplier to third parties only with our written approval.
- (11) Insofar as the supplier uses the services of sub-contractors to fulfill its delivery obligations to us, it must ensure that these are also obligated to maintain confidentiality within the scope of Sec. 13 para. 8 of these purchasing conditions. If requested by us, the supplier must submit a written agreement with the sub-contractor to this effect to us.

Section 14 Place of jurisdiction, place of fulfillment

- (1) German law shall apply exclusively to the purchasing conditions and all legal relationships between us and the supplier, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG), even in legal transactions with international suppliers.
- (2) If the supplier is a merchant, our headquarters is considered the place of jurisdiction; however, we are also entitled to bring claims against the supplier at their headquarters.
- (3) If not otherwise stated in the order, our headquarters shall be the place of fulfillment.
- (4) The supplier automatically declares their consent to have personal data saved as part of our business relationship. The provision and/or disclosure of these conditions is considered notification in the sense of the Federal Data Protection Act.
- (5) If a provision of these General Purchasing Conditions is or becomes invalid, this shall not affect the validity of the remaining provisions. A valid provision coming as close as possible to the economic purpose of the invalid provision shall be considered agreed-upon in place of the invalid provision.