

## Terms and Conditions of Purchase Order

**THIS PURCHASE ORDER (KNOWN AS THE "ORDER") SHALL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE CLAUSES HEREIN. IN ORDER FOR THE DOCUMENT TO BE VALID THE "SELLER" MUST ACCEPT IT BY SIGNING A COPY OF THIS DOCUMENT, ANY CHANGES MADE TO THE TERMS AND CONDITIONS MUST BE DONE IN WRITING AND SIGNED BY THE AUTHORIZED REPRESENTATIVE OF THE "BUYER".**

### **1.- Legal effects of the Order.-**

For all legal effects, this Order shall be considered as a Purchase Sale agreement between **Schaeffler México S. de R.L. de C.V.** (hereinafter referred to as the **Buyer**) and the **Seller**. Such agreement is deemed executed at the moment the Seller accepts this Order, whether it's made expressly or tacitly and shall be subject to the provisions of the Commerce Code and the Federal Civil Code as supplementary provisions.

**2.- Acceptance of the Order.-** It shall be considered that the Seller accepts this Order as well as all of its terms and conditions when the Buyer receives a copy of such Order, duly signed by the Seller or when the Seller totally or partially delivers the merchandise that is referred in the Order.

**3.- Deliveries.-** The Seller acknowledges that the delivery of the merchandise included in this Order precisely in the quantities and on the dates that are set forth by the Buyer is essential for the business of the Buyer and therefore it is a determinant element of the will of the Buyer in order to issue this Order. As a consequence, the Seller agrees to supply the parts included in this Order in accordance with the **Delivery Program of the Buyer** delivered to the **Seller**. Without prejudice of the foregoing, the Buyer may anticipate to the Seller the possible future necessities, so that the Seller may take the necessary precautions in order to satisfy the requirements of the Buyer. The Seller may in any moment modify or suspend the Delivery Program of the Buyer, without giving it capacity of modifying the prices of the materials or services included in this Order. In the case in which no quantity or date of delivery is specified, the Seller agrees to confirm with the Buyer such quantities and delivery dates. The deliveries of the materials shall be made in the domicile of the Buyer set forth in this Order, unless the Buyer specifies a different location. The Seller agrees that if the delivery of the merchandise is made in the plant or the offices of the Buyer the delivery shall be made within the hours set forth herein. Notwithstanding the Buyer reserves the right to pick up or directly remove the merchandise from the warehouse or establishments of the Seller, if it wishes to do so. The Seller acknowledges and accepts

to cancel all the deliveries after the date in which they were requested if the Buyer requires so.

**4.- Shipments.-** The Seller agrees to ship the merchandise included in this Order precisely in the form set forth herein. The Seller agrees to give written notice to the Buyer when it has shipped the merchandise and to send the necessary receipts and the corresponding shipping documents (commercial invoice, bill of lading, awb, quality certificate, certificate of origin, packing list, etc.) on the same day the shipment is made. If as a consequence that such notice is not made or the necessary receipts or shipping documents are not delivered, or the Buyer is not able to receive the merchandise, all the charges caused by delays in the retrieval or receiving of the merchandise shall be charged to the Seller.

**5. - Partial deliveries.-** The Buyer, upon its election, may accept partial deliveries of the merchandise on terms or on dates different from the ones set forth in the delivery program of the merchandise.

**6. - Delivery of Excess Merchandise. -** If the Seller delivers merchandise in excess of the quantities specified in the delivery program of the Buyer, the Buyer shall not have the obligation to receive them and if the Buyer does receive them, it may at any time return them to the Seller with the understanding that all the shipping and transportation costs that are incurred for such return shall be charged to the Seller. At all times, the Seller is responsible for all the risks and damages that the excess merchandise delivered to the Buyer may suffer.

**7. - Special Deliveries. -** If the Seller does not comply with the delivery programs of the Buyer, the Buyer has the right to demand the same delivery through a different transportation more agile than the one that was originally agreed and the Seller shall reimburse the Buyer for any cost that such transportation causes, unless the fault of the Seller is caused by a force majeure event. If the Seller does not comply with one delivery programmed by the Buyer, the Buyer shall have the right to demand the reimbursement of the additional costs of the agreed price with the Seller caused by acquiring a substitute product, whether national or foreign. Likewise, the Seller shall reimburse to Buyer all the damages caused by Seller's breach. The Buyer is authorized to deduct any cost or charge mentioned in this paragraph from the payment that is to be made to the Seller.

**8.- Packaging and Identification.-** The Seller agrees that all the packaging charges made for the merchandise included in this Order shall be exclusively covered by the Seller, unless it is otherwise agreed in this Order. The Seller agrees to pack the merchandise

or work set forth herein for its delivery in a necessary manner that prevents damages that may be caused to such goods. Also, the Seller agrees to mark or label the packages in accordance with the instructions of the Buyer. Unless there is contrary information, the labeling of the merchandise shall be made in accordance with the Mexican Official Standard corresponding to the acquired material, if no official standard exists the labels shall include at least the following information:

- a)- Identification with Schaeffler part number.
- b)- Must indicate the quantity and unit measure the pallet, sack, roll, basket, box, etc. it has.
- c)- Handling and warehousing instructions of the merchandise.
- d)- In case they are chemical materials it is an indispensable requirement the security sheet of the product.

**9.- Risks of Loss or Damages.-** All risks of loss or damages that the merchandise referred herein may suffer during transportation or handling shall be the responsibility of the Seller until the moment in which the merchandise is delivered in the agreed place of delivery agreed with the Buyer. The Seller agrees to reimburse the Buyer any amount that the Buyer had to pay regarding the indicated loss or damages.

**10.- Quality of the Merchandise.-** The Seller agrees that the merchandise supplied to the Buyer, shall be in accordance and shall fully comply with the drawings and technical specifications previously provided by the Seller, and shall be free from any material and manufacturing defects and shall function precisely for the purpose that it is to be used by the Buyer.

**11.- Merchandise Inspection.-** The Seller agrees that the merchandise or Works specified in this Order shall be delivered subject to an inspection by the Buyer and that such merchandise shall not be considered as accepted by the Buyer until the Buyer inspects and issues the corresponding acceptance report. The Buyer reserves the right to return such merchandise if they do not adjust to the requirements mentioned in section 10, not incurring in any responsibility for such return and not having any obligation to pay any amount of price or of any other concept to the Seller.

**12.- Rejection of the merchandise.-** In case the merchandise or Works set forth in this Order are not accepted by the Buyer because the merchandise does not comply with the requirements set forth in section 10, the Seller shall be obligated to replace the goods in accordance with the specifications of the Buyer. If the Buyer accepts and pays the price of the merchandise that later result with defects or if they do not meet the Buyer's specifications of acceptance, in any case it shall not be considered as resignation of its rights to return the merchandise or works and shall not liberate the

Seller of its obligation to replace them if the Buyer requests so. All the costs originating from the inspection, shipping and delivery to the Seller of the returned merchandise or works shall be on the account of the Seller.

**13.- Rejection of the merchandise in production process.-** In case the merchandise or works that are set forth in this Order are rejected during their incorporation in the production process of the Seller (machinery, stamping, thermal treatment, assembly, etc.) the costs that originate from the process (time, operating machinery) shall be exclusive responsibility of the Seller. In the case of steel melting of parts, the parties agree that the cost is of 2.60 USD (two dollars 60/100 United States Currency) per piece. This cost shall proceed when the defective material surpasses 2% of the total purchase of the calendar month, and it is found during the machinery of the parts. The Buyer shall notify the Seller the amount of these costs through its **Costs of Missing Quality** report. The payment made by the Seller of such costs does not liberate the Seller of the obligation of replacement of the merchandise, if required by the Buyer.

**14.- Corrective Measures.-** In case the merchandise or the work set forth in this Order present defects that may be corrected, the Buyer may upon its election:

- a. Request the Seller to carry out such works or merchandise with its own personnel.
- b. Carry out such works or merchandise charging the Seller the corresponding costs (20.00 USD per hour).
- c. Reject the work of the merchandise if it believes it to be convenient, without liberating the Seller from replacing them within the acceptance specifications.

**15.- Property of the Buyer.-** The Seller agrees that all of the tools, devices, materials, equipments, drawings, technical specifications, etc. supplied by the Buyer are the property of the Buyer and shall be conserved by the Seller in the domicile set forth in this Order, as bailment and shall continue being property of the Buyer, unless otherwise agreed in writing. Such goods shall be described (brand, model, series number, quantity, etc.) in an attachment that should be signed by both parties. Such goods shall be identified as "Property of SCHAEFFLER MEXICO, S. DE R.L. DE C.V.". The Seller shall not use such goods unless it is to carry out the work requested by the Buyer. During the time the goods are conserved by the Seller they shall be preserved in good condition under the exclusive responsibility and at the risk of the Seller who in case of loss or damage shall immediately cover the cost to the Buyer, even when it's because of a case of force majeure. The Seller shall be obligated to return the property of Schaeffler Mexico, S. de R.L. de C.V. upon the moment in which the merchandise is delivered or immediately upon Buyer's request.

**16.- Insurance.-** The Seller agrees to allow the Buyer at any moment access to the Seller's documentation that evidences that the Seller has covered its company or the merchandise set forth in this Order of any risks that they may have with an authorized insurance institution in compliance herein. Likewise, the Seller agrees to indemnify and protect the Buyer against all claims, complaints, loss or damages that the Buyer or third parties may suffer as a result of defective manufacturing or performance of the merchandise or the work set forth herein.

**17.- Changes.-** The Buyer may at any time through a written notice make changes within the general guidelines of this order which are set forth below:

- a. Plans, designs and materials specifications, and;
- b. Packages or shipments.

In case any change that is requested by the Buyer affects the costs of the material or works set forth in this Order, the Seller agrees to give written notice to the Buyer within a term no later than 3 (three) business days for its corresponding analysis and authorization.

**18.- Prices.-** All price changes that the Seller wishes to make must be justified throughout a structure cost which states the sales price of the elements that integrate the merchandise, attaching copies of the invoices that correspond to the elements that were affected. The price changes request forms must be presented to the Buyer in writing with at least 30 days prior to the date in which it shall be effective for its analysis, attached with the justification of such change. The Seller agrees not to suspend the merchandise deliveries in accordance with the delivery program of the Buyer until reaching an agreement of cancellation, in any case. The delays to the merchandise delivery program of the Buyer in which there were price changes shall be paid with the previous price.

**19.- Cancellation of the Purchase Order.-** The Buyer reserves the right to cancel this Order and as a consequence terminate the agreement without any responsibility, in the following cases:

- a) If the merchandise is not delivered precisely in the place, form, or other conditions set forth herein, in which case the Seller shall also be responsible of the damages that are caused to the Buyer by such breach.
- b) When any part of the merchandise or works set forth in this Order does not comply with quality, specifications and other requirements set forth herein.
- c) In the event of bankruptcy or suspension of payments of the Seller.
- d) In the case in which the Seller has to totally or partially suspend its operations due to strikes, closings,

interventions and in general in case of force majeure or because of causes that are not in control of the Buyer.

**20.- Labor Conflicts.-** The Seller agrees to immediately inform the Buyer of any real or potential conflict that threatens to delay the time deliveries set forth in this Order including all important information related to this matter. In such cases the Buyer may opt to cancel this Order without any responsibility.

**21.- Trademarks, Commercial Names, Patents and Copyrights.-** Upon acceptance or execution of this Order, the Seller:

- a) Agrees to defend, indemnify and hold harmless the Buyer, its assignees, beneficiary and clients against any claims and trials, as well as any damages arising from trials or claims for real, supposed, direct, contributed or lead violence related to any Mexican or foreign patent or copyrights or any other rights protected by the Industrial Property Law, related to the manufacturing, use or sale of the goods or works ordered.
- b) Agrees not to initiate any claims against the Buyer in accordance with the Commerce Code or any other matter, as well as to defend, indemnify and hold harmless the Buyer, its assignees, beneficiaries and clients from any claims or damages related to any claims initiated against the Seller or the Buyer for patent or copyrights violations or any other right protected by the Industrial Property Law.
- c) The Seller agrees that it is its sole responsibility and risk any responsibilities that arise from violations or unlawful use of brands, commercial names or any other rights protected by the Industrial Property Law, them being from Mexico or from abroad that may derive from the manufacturing or sale by the Seller or of the purchase, use or resale of the merchandise or works set forth herein by the Buyer and agrees to defend, indemnify and hold harmless the Buyer, its assignees, beneficiaries, clients, or the users of its products from any trials, claims or damages that they may face or suffer.
- d) Through this means it grants the Buyer a non-exclusive license, free from any royalties, irrevocable to repair or make it to be repaired, to reconstruct or to make it to be reconstructed the merchandise ordered herein. The Seller assigns the Buyer all rights, titles and interests to the copyrights of the goods that are protected by copyrights that are created or produced by the Seller under this Order. The terms set forth in this Clause shall in all moment prevail.

**22.- Storage of the Merchandise by the Seller.-** The Buyer reserves the right to request the Seller to postpone the physical delivery of the merchandise or

works set forth herein, when it deems it to be necessary and until for a term of 30 days as of the date in which the Seller gives notice to the Buyer that the merchandise or works are ready for delivery. In this case the Seller shall be considered as a depository of the merchandise or the work until the time in which the Buyer does dispose of or requests the delivery of the same, without this implying that the Seller has a right to any payment.

**23.- Responsibility of the Seller.-** The Seller agrees to comply with all the laws, regulations and governmental provisions of any kind that are applicable to the manufacturing, sale or transportation of the goods or work set forth in this Order and agrees that it shall be on its account any fine or responsibility for violation of such laws, regulations or provisions, as well as with any responsibility arising from the employee-employer relationship of its workers and employees and of the contractual relations with subcontractors or suppliers of the Seller. The Seller shall be solely responsible for any damages or injuries to the goods or persons that are caused by its employees.

**24.- Transfer or Assignment of this Order.-** Unless expressly authorized in writing by the Buyer, the Seller may not assign or transfer this Order, totally or partially, and if Buyer did so, the transfer or assignment shall be null and shall produce no legal effects.

**25.- Jurisdiction.-** For the interpretation, compliance and performance of this Purchase Order, the Buyer and the Seller shall be expressly subject to the competent courts of Mexico City, waiving any other jurisdiction that may correspond by reason of their actual or future domicile or for any other cause.

**26.- Invoicing Instructions.-** The Seller agrees to issue to the Accounts Payable of the Seller the invoices in duplicate, with a Bill of Lading or any other shipping document for each shipment, sealed and/or signed by Buyer's Materials Reception Department in accordance with the instructions given by the Buyer.

**27.- Quality control.-** The quality control system of the Buyer must be based in accordance with the current QS9000 requirements.

**28.- Severability.-** The provisions of this Agreement are divisible and severable, for which in the event that any provision of this Order is declared invalid, the validity and compliance of the remaining provisions shall not be affected or deteriorated in any way.

**29.- Non-Waiver.-** The lack of demand to comply with its obligations from the Buyer to the Seller in relation to this Order, shall not affect in any matter the right of the Buyer to later claim that the Seller comply, nor the fact that the Buyer accepts the breach of a certain provision of this Order shall constitute the consent of the Buyer with respect to any other breach of the same or any other provision.

**30.- Entire Agreement.-** This Order and its Attachments and any other document referred herein, constitute the entire agreement between the Seller and the Buyer, and replaces any other previous or contemporary acts, agreements or understandings between the parties in relation with the object herein, them being written or verbal.

**31.- Header and Titles.-** The headers and titles of the different Clauses and sections of this Order are for mere reference and by no means modify or affect the significance or interpretation of any terms or provisions of this Order.

**32.- Other.-** Unless there is a special arrangement with the Seller, the merchandise shall be received only between the hours of 7:30 to 15:00 from Monday through Friday.