



HEIDENHAIN Terms and Conditions of Purchase

(March 2006)

I. Scope of HEIDENHAIN's Terms and Conditions of Purchase

1. All contracts concluded by HEIDENHAIN as purchaser or customer shall be subject to the present Terms and Conditions, unless expressly otherwise agreed in writing. Any and all conditions of the Supplier shall not be deemed an integral part of the contract, even if HEIDENHAIN fails to expressly contradict such conditions.
2. All future transactions with the Supplier shall likewise be subject to HEIDENHAIN's Terms and Conditions of Purchase.
3. The present Terms and Conditions shall be without prejudice to any additional rights to which HEIDENHAIN may be entitled in accordance with the statutory provisions.

II. Conclusion of contract

1. No order issued by HEIDENHAIN shall be legally binding unless confirmed in writing. In the case of informal business transactions, any order issued by HEIDENHAIN shall be deemed a letter of confirmation for commercial purposes.
2. Unless expressly otherwise agreed in writing, failure on the part of HEIDENHAIN to react to suggestions, demands or documents submitted by the Supplier, shall on no account be deemed to constitute consent.

III. Scope and content of performance

1. The performance obligations of the Supplier shall be based on the specifications forwarded upon conclusion of the contract or, in the absence of the same, on the particulars contained in quotations and brochures provided by the Supplier.
2. Unless expressly otherwise agreed in writing, any and all deliveries shall comply with the DIN and/or VDE standards prevailing from time to time, as well as with other standards customary in the trade, including EU standards.
3. HEIDENHAIN shall accept delivery of the ordered quantity or number only. Short, excess or partial delivery shall not be permitted without the prior consent of HEIDENHAIN.

IV. Changes in performance

1. Should it become evident during execution of the contract that deviations from the specifications originally agreed are necessary or expedient, the Supplier shall notify HEIDENHAIN accordingly without delay. HEIDENHAIN shall then advise whether it agrees with the proposed modifications.
2. HEIDENHAIN shall reserve the right to request changes in performance following conclusion of the contract, provided that such changes may reasonably be expected of the Supplier or are usual in the trade. In the event that HEIDENHAIN requests changes in performance, it shall make reasonable allowance for any implications this may have, particularly with regard to increases or reductions in costs, and delivery dates.

V. Delivery dates and delayed delivery

1. The delivery date specified in the order issued by HEIDENHAIN shall be binding.
2. If it becomes evident to the Supplier that he will be unable to meet the delivery date, he shall be obliged to notify HEIDENHAIN immediately in writing, advising the reasons for and estimated duration of the delay.
3. A delay in delivery shall in no way diminish HEIDENHAIN's statutory rights.
4. Notwithstanding such rights, HEIDENHAIN shall be entitled to demand a conventional penalty from the first day of delay in delivery amounting to 0.5% for each week or part thereof, however in total no more than 5% of the overall contract value of the delivery, unless the Supplier is able to conclusively prove that HEIDENHAIN has incurred no damages whatsoever or damages that are substantially, i.e. at least 10% lower than the amount of the penalty. This shall not preclude the possibility of HEIDENHAIN furnishing evidence of damages in excess of the flat rate stipulated in the first sentence hereof.

VI. Transfer of risk, documentation

1. Unless otherwise agreed in writing or stipulated in the order, delivery shall be made franco domicile to the address stated on the order. Risk shall not transfer to HEIDENHAIN until the goods arrive at such address.
2. Each delivery shall be accompanied by a consignment note stating the order number and order item. Invoices should be forwarded to HEIDENHAIN simultaneous with despatch of the goods.

VII. Prices and payment

1. The price stated in the order shall be binding.
2. Unless invoices include the order number and order item required for processing, they shall be deemed not received on the grounds of being impossible to process.
3. In the event of defective goods or performance, HEIDENHAIN shall be entitled to withhold payment until the contract has been duly completed without loss of any rebates, discounts or similar preferential terms of payment.
4. Payment for goods or services accepted without demurrer shall be made within 14 days of such acceptance and receipt of invoice, less 3% discount, or within 30 days net.

VIII. Warranty

1. The Supplier hereby guarantees and assures that all goods and/or services shall conform to state-of-the-art technology, the relevant legal provisions and the rules and regulations issued by authorities, industrial and trade associations. If, in individual cases, it is necessary to deviate from such regulations, the Supplier shall obtain the prior written consent of HEIDENHAIN. Such consent shall in no way diminish obligations under the warranty.
2. In the event that the Supplier has reservations regarding the type of construction requested by HEIDENHAIN, he shall immediately advise HEIDENHAIN accordingly in writing. This shall in no way influence the binding nature of the delivery date originally envisaged.
3. HEIDENHAIN's statutory warranty rights shall not be prejudiced in any way.
4. HEIDENHAIN shall immediately notify the Supplier of any defects in the goods or services and of any damage incurred during transport or packing as soon as these are identified in the normal course of business, however in the case of apparent defects, no later than 14 working days following delivery of the goods, and of concealed defects, within 7 working days after discovery.
5. Should the Supplier negligently fail to honour his obligation to subsequent performance within a reasonable period of time stipulated by HEIDENHAIN, or should subsequent performance be unjustly refused by the Supplier, be unsuccessful or make unreasonable demands on HEIDENHAIN, especially in the case of imminent danger, HEIDENHAIN may, notwithstanding the warranty obligations of the Supplier, undertake the necessary measures itself at the expense and risk of the Supplier, or commission a third party to carry out the same.
6. The statutory warranty period shall apply, subject to the proviso that if the delivered goods are resold or used in the manufacture of HEIDENHAIN products, such warranty period shall not commence until the goods purchased from the Supplier are dispatched for the purpose of resale or the warranty period for the HEIDENHAIN product fitted with the goods begins for HEIDENHAIN's customer, however no later than 24 months following delivery of the goods to HEIDENHAIN.
7. Warranty claims to which HEIDENHAIN is entitled as purchaser in respect of any defect in the goods or services notified within the statutory warranty period shall expire 24 months after the complaint is submitted, but not prior to the end of such period.
8. In the case of parts which cannot remain operational while the defect is being investigated and/or remedied, any warranty period still in effect shall be extended by the duration of such interruption. If parts are replaced or defects remedied, the statutory warranty period for repaired or replacement parts shall recommence upon completion of the repair or upon receipt of the replacement parts by HEIDENHAIN.

IX. Liability/limitation

1. The liability of the Supplier shall be governed by the statutory provisions. He shall on no account be exempt from liability, including in the event of ordinary negligence.
2. Statutory limitation shall apply; any shorter periods of limitation shall be ruled out.

X. Product liability

1. In the event that claims are brought against HEIDENHAIN on the grounds of infringing safety regulations or pursuant to German or foreign production liability provisions due to defects in HEIDENHAIN products resulting from faulty goods delivered by the Supplier, HEIDENHAIN shall be entitled to demand compensation from the Supplier for such damages insofar as these were caused by goods supplied by the latter. Furthermore, to the extent that the Supplier is responsible, he shall reimburse HEIDENHAIN according to the proportion of his contributory negligence for the costs of any precautionary exchange or recall operations which may prove necessary.
2. In order to safeguard against the risks specified under subclause 1. above, the Supplier shall arrange for an appropriate product liability and recall insurance and on request shall furnish HEIDENHAIN with evidence of the same.
3. The Supplier shall carry out quality controls of an appropriate kind and scope based on state-of-the-art technical standards and on request shall furnish HEIDENHAIN with evidence of the same. The Supplier shall conclude a quality-control agreement to this effect with HEIDENHAIN to the extent that such agreement is considered necessary by HEIDENHAIN.

XI. Proprietary rights

1. The Supplier hereby guarantees and assures that all deliveries shall be free from the proprietary rights of any third parties and in particular that delivery and use of the items supplied shall not result in infringement of any patents, licences or other third-party proprietary rights.
2. The Supplier shall indemnify HEIDENHAIN and HEIDENHAIN's customers against any third-party claims on the grounds of infringement of proprietary rights and shall bear any and all costs incurred by HEIDENHAIN in connection therewith.
3. HEIDENHAIN shall, at the expense of the Supplier, be entitled to obtain permission from the rightsholder to use the relevant items and services supplied, unless excessive costs would be incurred by the Supplier.

XII. Reservation of title, contribution of materials, patterns, models, tools

1. HEIDENHAIN shall reserve the title to all parts contributed to the Supplier. Any processing and reforming undertaken by the Supplier shall be on behalf of HEIDENHAIN. In the event that the goods contributed are processed together with other items not belonging to HEIDENHAIN, HEIDENHAIN shall acquire part ownership of the new object based on the value of the goods contributed in proportion to the value of other items processed at the time of such processing.

2. HEIDENHAIN shall reserve the title as well as all proprietary rights to patterns, models, tools, product information, documents etc. paid for or provided by HEIDENHAIN. The Supplier shall be obliged to use such patterns, models and tools solely for the manufacture of goods ordered by HEIDENHAIN.
3. Orders for tools shall be subject to HEIDENHAIN's Supplementary Terms and Conditions for Tooling Contracts.

XIII. Confidentiality

1. The contracting parties shall be obliged to keep secret and confidential all information relating to their co-operation within the scope of this agreement and use it solely for the purposes of this agreement, unless such information is in the public domain, has been lawfully acquired from a third party or acquired by the party's own efforts independently of any third party. Classified information shall include in particular technical data, purchase volumes, prices and information pertaining to products and product developments, as well as present and future research and development projects, customer data and all information relating to the company of the other contracting party.
2. Furthermore, the Supplier shall be obliged to keep secret and confidential all illustrations, drawings, calculations and other documents and not disclose the same to third parties without the express consent of HEIDENHAIN, except if the information contained therein is in the public domain.
3. The Supplier shall also pass on the preceding obligation of confidentiality to its employees and subcontractors.

XIV. Assignment

Assignment of any outstanding claims against HEIDENHAIN on the part of the Supplier shall not be effective vis-à-vis HEIDENHAIN unless HEIDENHAIN receives prior written notification of the assignment and confirms its agreement in writing.

XV. Final provisions

1. The Supplier may not transfer the order or parts thereof to third parties, in particular to subcontractors, without the prior written consent of HEIDENHAIN.
2. As soon as an interim receiver is appointed to wind up the affairs of the Supplier or insolvency proceedings are opened in relation to the Supplier's assets, HEIDENHAIN shall be entitled to rescind the contract in whole or in part.
3. Supplementary hereto, the contract shall be subject solely to the law of the Federal Republic of Germany with the exclusion of the UN Convention on the International Sale of Goods.
4. Should any individual clauses of these Terms and Conditions of Purchase be void, this shall not prejudice the operating effect of the remaining provisions. The voided clause is to be replaced by an acceptable clause whose sense and purpose most nearly approximates the voided clause.
5. Place of jurisdiction shall be Traunstein. HEIDENHAIN shall reserve the right to institute legal proceedings at any other place of jurisdiction permitted by law.

End of contractual provisions

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