

HEIDENHAIN (GB) LIMITED – CONDITIONS OF SALE

The Customer's particular attention is drawn to Condition 10.4.

1. DEFINITIONS

1.1 The definitions and rules of interpretation in this condition apply in these conditions:

Company: Heidenhain (GB) Limited a company registered under company number 949353 having its registered office at 200 London Road, Burgess Hill, West Sussex, RH15 9RD;

Customer: the person, firm or company who purchases the goods from the Company.

Contract: any contract between the Company and the Customer for the sale and purchase of the Goods, incorporating these conditions.

Goods: any goods agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them, systems and integrated software).

Intellectual Property Rights: all intellectual and industrial property rights of whatever nature including but not limited to design rights, copyright, patent, know-how, database rights, systems, software, domain names, trade and service marks and all other rights in the nature of intellectual property rights whether registered or unregistered anywhere in the world;

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular and a reference to one gender includes a reference to the other gender. Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3, the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a Director of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.4 Each order or acceptance of a quotation for Goods by the Customer from the Company shall be deemed to be an offer by the Customer to buy the Goods subject to these conditions.

2.5 No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Customer.

2.6 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Customer. Unless otherwise stated in the Company's quotation and provided that the Company has not previously withdrawn it, any quotation is valid for a period of 90 days from its date.

2.7 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.

3. SPECIFICATION

3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.

3.2 Unless otherwise stated in the Company's quotation, any specifications, drawings and particulars of weights and measurements,

submitted with a quotation are approximate only. All samples, drawings, descriptive matter, specifications issued by the Company and any descriptions or illustrations in the Company's catalogues, brochures, manuals, price lists and other advertisement matter are issued or published for the sole purpose of giving an approximate idea of the goods described them. They shall not form part of the Contract and this is not a sale by sample.

4. DELIVERY

4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business.

4.2 The Customer shall take delivery of the Goods within 3 days of the Company giving it notice that the Goods are ready for delivery.

4.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.5 If for any reason the Customer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:

(a) risk in the Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);

(b) the Goods shall be deemed to have been delivered; and

(c) the Company may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.6 The Customer shall provide at the point of delivery and at its expense adequate and appropriate equipment and manual labour for loading and / or unloading the Goods.

4.7 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

4.8 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.

5. NON-DELIVERY

5.1 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.

5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Customer gives written notice to the Company of the non-delivery within 3 days of the date when the Goods would in the ordinary course of events have been received.

5.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK / TITLE

6.1 The Goods are at the risk of the Customer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

(a) the Goods; and

(b) all other sums which are or which become due to the Company from the Customer on any account.

6.3 Subject to condition 6.4, until ownership of the Goods has passed

to the Customer, the Customer shall:

(a) hold the Goods on a fiduciary basis as the Company's bailee;

(b) store the Goods (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;

(c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

(d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.

6.4 Where the Goods are combined with other goods and the Company's Goods remain identifiable and can be detached, the Company shall retain title to its Goods in the new product.

6.5 The Customer may resell the Goods (and in combination with any new products referred to in condition 6.4) before ownership in the Goods has passed to it solely on the following conditions:

(a) any sale shall be effected in the ordinary course of the Customer's business at full market value; and

(b) any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

6.6 The Customer's right to possession of the Goods shall terminate immediately if:

(a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or

(b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or

(c) the Customer encumbers or in any way charges any of the Goods.

6.7 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.8 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored and in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

6.9 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this condition 6 shall remain in effect.

7. PRICE

7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price specified in the Company's quotation.

7.2 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Customer shall pay in addition when it is due to pay for the Goods.

8. PAYMENT

8.1 Subject to condition 8.4 and unless otherwise specified in the Company's quotation, payment of the price for the Goods is due in

pounds sterling on the last working day of the month following the month in which the Goods are delivered or deemed to be delivered.

8.2 Time for payment shall be of the essence, and no discounts for early settlements will be allowed unless expressly agreed in the Contract.

8.3 No payment shall be deemed to have been received until the Company has received cleared funds.

8.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

8.5 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.

8.6 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of National Westminster Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment.

8.7 If the Customer fails to make any payment on its due date then without prejudice to the Company's other rights provided for in these conditions, the Company may cancel or suspend delivery of any Goods due to the Customer and / or appropriate any payment made by the Customer to such of the Goods which are due to the Customer or such other goods as are to be provided under any other contract with the Customer as the Company may in its sole discretion think fit.

9. QUALITY

9.1 Where the Company is not the manufacturer of the Goods, the Company shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given to the Company.

9.2 The Company warrants that (subject to the other provisions of these conditions) upon delivery, the Goods shall correspond with the product description specified in the Company's quotation.

9.3 The Company shall not be liable for a breach of the warranty in condition 9.2 unless:

(a) the Customer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 3 days of the time when the Customer discovers or ought to have discovered the defect; or

(b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost for the examination to take place there.

9.4 The Company shall not be liable for a breach of the warranty in condition 9.2 if:

(a) the Customer makes any further use of such Goods after giving notice under condition 9.3; or

(b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, programming, use or maintenance of the Goods or (if there are none) good trade practice; or

(c) the Customer alters or repairs such Goods without the written consent of the Company.

9.5 The Company shall not be liable for a breach of the warranty in condition 9.2 if the Goods fail to achieve any performance criteria stated in any specifications, catalogues, brochures, manuals or advertisements issued or published by the Company or for the deterioration of the Goods or any machines, equipment, systems, software or other materials to which the Goods are affixed or integrated or for any damage, faults or failures in any manufacturing or production goods or materials where:

(a) the Goods are not compatible with machines, equipment or other materials with which they are affixed and/or integrated;

(b) the Goods have not been integrated or systems configured correctly by the Customer;

(c) where installation configuration and / or programming of the Goods is performed by the Company and the Customer fails to provide complete and accurate information reasonably required by the Company to perform such service, including specification, configuration

or programming instructions; or

(d) the machines, equipment or other materials to which the Goods are integrated or affixed (and including any parts thereof) are not of sufficient quality or precision to allow true performance by the Goods.

9.6 Subject to conditions 9.3, 9.4 and 9.5, if any of the Goods do not conform with the warranty in condition 9.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Customer shall, at the Customer's expense, return the Goods or the part of such Goods which is defective to the Company.

9.7 If the Company complies with condition 9.6 it shall have no further liability for a breach of the warranty in condition 9.2 in respect of such Goods.

9.8 The Customer shall be responsible for establishing the compatibility of the Goods with any machines, equipment, systems, software or other material used by the Customer to which the Goods are intended to be affixed or integrated unless the Customer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Customer to rely upon the skill and judgement of the Company.

10. LIMITATION OF LIABILITY

10.1 Subject to condition 4, condition 5 and condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

(a) any breach of these conditions;

(b) any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; and

(c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12(1) and (2) of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company:

(a) for death or personal injury caused by the Company's negligence; or

(b) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

(c) for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3:

(a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price of the Goods; and

(b) the Company shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 Subject to condition 11.3 and 11.4, all Intellectual Property Rights of whatever nature in the Goods (which shall include any software relating thereto) are and shall at all times remain the property of the Company.

11.2 The Customer undertakes not to seek to abstract from the Goods any confidential information regarding their design, construction or otherwise and without limiting the foregoing shall not copy, adapt, translate, reverse program, disassemble, decompile, analyse, modify or otherwise reverse engineer any systems or software comprised in the Goods.

11.3 Any computer operating systems, middleware or applications ("Software") not owned by the Company installed and comprising part of the Goods is supplied subject to licence and warranty of the Software licensor. The Company shall supply the required Software licence, where applicable. The Customer undertakes to comply with all terms of

such licence. The Customer shall be deemed to have accepted the licence if it makes any use of the Software or any operating system on which it is installed. If the Customer chooses not to accept the licence, the Company will only accept the return of the entire Goods (or part(s)) thereof on which the Software is installed where capable and at the Company's absolute determination) for refund provided that the Goods (or part(s)) are returned without damage and at the Customer's cost.

11.4 All Intellectual Property Rights in any programming undertaken by the Company at the Customer's instruction shall belong to the Company unless expressly agreed and assigned to the Customer in writing.

12. GENERAL

12.1 The Company may assign the Contract or any part of it to any person, firm or company. The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

12.2 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

12.3 The Company does not warrant the Goods compliance with any legislation or regulations governing the importation of the Goods into a country outside of the United Kingdom. The Customer shall be responsible for obtaining all import licences or permits for the entry of the Goods into any other country of destination and for payment of all customs duties, clearance charges, taxes or brokers' fees on them in connection with the importation and delivery save as otherwise expressly agreed in writing with the Company.

12.4 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

12.5 If any provision of the Contract is held by any court, tribunal or administrative body competent jurisdiction to be illegal, invalid, void, voidable, unenforceable or unreasonable in whole or in part it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

12.6 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

12.7 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

12.8 All communications between the parties about this Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission to the registered office or such changed address as shall be notified by either party to the other.

12.9 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

12.10 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.