

Harmonic Drive AG General Conditions of Purchase

1. Scope

1.1 The following General Conditions of Purchase shall be the basis for all orders we place. The conditions shall also apply to framework contracts, contracts as well as resulting orders/release orders. Provided that we have presented these General Conditions of Purchase to the Supplier and that the latter has accepted them, the conditions shall also apply to all future transactions with the Supplier.

1.2 The Supplier's terms and conditions shall not apply. This is also the case if we accept and pay the Supplier's deliveries and services without expressly objecting to the Supplier's terms and conditions. Recognition of the latter requires prior written consent.

2. Tenders, orders, conclusion of a contract

2.1 Quotations and offers from the Supplier shall be free of charge to ourselves and carry no obligation. This shall also apply to visits and sampling required to draw a tender.

2.2 The order shall be placed in writing and requires a written order confirmation of the same content from the Supplier, unless we confirm the receipt of a legally valid tender stating the same content. Verbal agreements and ancillary arrangements must be confirmed in writing.

2.3 An order requires a written confirmation within the acceptance period stated in the order. In the absence of a specified deadline, the acceptance must follow within a reasonable period. Otherwise, the order will no longer be binding. This shall also apply if the legally binding period of validity of the order has expired.

2.4 Should the Supplier make alterations or additions to an order, these shall only become legally effective if we confirm them in the form chosen for this order.

2.5 Should there be any doubts concerning our employees' authority to make declarations relevant to the contract, the Supplier shall contact our purchasing manager.

2.6 In case of execution of tasks on the Harmonic Drive AG premises by workforce that has been commissioned by the Supplier, the "Conditions for the execution of tasks at our works" shall also apply. These Conditions are available at <http://www.harmonicdrive.de>.

3. Delivery date, delay, contractual penalty, withdrawal

3.1 The agreed delivery dates and periods are binding. Receipt of the delivery at the delivery centre or, in the case of services, the agreed beginning or end of the execution shall be decisive for compliance with the delivery date or period. Should an acceptance be required or provided by law, the time of acceptance shall be decisive. If the Supplier recognizes that the agreed date or delivery time cannot be met, the Supplier must notify us immediately and in writing, stating the reasons and the expected duration of the delay. This will not release the Supplier from its responsibility for legal consequences in case of delay.

3.2 In case of delay, we are entitled to assert legal claims against the Supplier, particularly delay damages or compensation instead of the services, or to declare the full or partial withdrawal from the contract if a reasonable grace period has elapsed without result or if it was possible to avoid a grace period. The right to compensation instead of the services shall also apply to additional expenditures resulting from covering purchases and the intervention of third parties.

3.3 In case of delay, the Supplier is obliged to pay a contractual penalty in the amount of 0.5% for every completed week of delay but no more than 5% of the total contract value. We are entitled to assert claims for further damages; however, should we impose a contractual penalty, this shall be taken into account. If a contractual penalty has accrued, we reserve the right to declare it until the time of the final payment or to set it off against the final payment.

3.4 In the event of repeated delay in the execution of orders or release orders from a framework contract or contract on the part of the Supplier, we shall, in addition to any other claims that we are entitled to, have the right to cancel the contract with immediate effect after a prior warning.

3.5 The Supplier must notify us of required obligations to cooperate at the time of conclusion of the contract. Should we have to provide or approve any documents, the Supplier shall allow us a reasonable period of time to do so.

3.6 In cases of force majeure and related impediments which make the execution of the contractual obligations temporarily impossible, each party to the contract shall have the right to postpone dates and deadlines until the impediment has ceased to exist. Should it persist for more than eight weeks, each party to the contract shall have the right to withdraw from the contract.

4. Partial deliveries, excess or short deliveries

4.1 We only accept partial deliveries if they were expressly agreed upon in writing. Additional transportation costs resulting from this shall be borne by the Supplier. Delivery notes and invoices for partial deliveries must state the remaining quantity.

4.2 If we accept partial deliveries without expressly agreeing to do so in advance, the Supplier's claims for payment will not become due until we have received the delivery owed by the Supplier in full.

4.3 Excess or short deliveries require a prior written agreement. We may reject short deliveries as defective, unless we have provided a declaration of consent. Upon request, excess deliveries have to be taken back by the Supplier immediately or may otherwise be stored at the expense of the Supplier.

5. Conditions of delivery, pricing and payment

5.1 The "DDP Limburg" conditions (Incoterms 2010) shall apply to all deliveries.

5.2 Agreed prices and rates of remuneration are binding. Unless otherwise agreed in writing, prices include delivery to the delivery centre as well as packaging. In this case, the Supplier must also bear any additional costs (particularly transportation costs) arising until the delivery is received at the delivery centre. Insofar as we bear the transportation costs, the Supplier must adhere to the rules of shipment and carry out the transportation on economical terms.

5.3 A single copy of the invoice is to be submitted to us together with all related documentation and data (order number among other things) verifiably and in due form once the contractual delivery, service or acceptance has taken place. The Supplier must take responsibility for delays resulting from non-compliance.

5.4 Payments shall be made within 14 days with 3% discount, within 30 days with 2% discount or within 60 days strictly net as of the receipt of the invoice, however, not prior to the complete, faultless delivery, service or acceptance if the latter is provided by law or has been agreed.

5.5 Payments do not imply that we recognise the deliveries or services as being in accordance with the contract. We are entitled to the rights of set-off and retention as provided by law.

5.6 Without prior written consent the Supplier shall not be entitled to assign its claims against us to third parties or have such claims collected by third parties.

6. Packaging

The Supplier is obliged to pack the deliveries in a way that transportation damages can be avoided. Packaging materials are only to be used to the extent necessary for this purpose and must be in accordance with the packaging regulations valid at the time of delivery. These Conditions are available at <http://www.harmonicdrive.de>. The Supplier has to take back the packaging materials at its own expense in accordance with these regulations and recycle them.

7. Shipment

Upon our request, we must be notified about the shipment at the time of delivery at the latest. Shipping advices, consignment notes, delivery notes and invoices must state the address for shipment as well as our order number including the item number. Transportation damages resulting from missing or inadequate cargo securing by the carrier are to be avoided.

8. Place of execution, transfer of risk, notice of defects

8.1 The delivery centre or the place of acceptance – if an acceptance has been agreed or if it is provided by law – shall be the place of execution.

8.2 The transfer of risk shall take place upon receipt of the delivery at the delivery centre. Should an acceptance be provided by law or have been contractually agreed, the transfer of risk shall not take place until the delivery has been accepted.

8.3 In the case of contracts to which the commercial obligation of examination and notification of defects applies, we will, within ten days as of delivery, examine the delivered goods for transportation damages as well as obvious defects on a random basis; we will give notice of the defects noted in this process as well as of hidden defects noted at a later point in time within ten days after the identification of the defects.

9. Rights in case of defects (warranty)

9.1 The Supplier must provide the deliveries/services owed free of material and legal defects and uphold the guarantees made. If the Supplier has provided us with samples or product descriptions in advance which have become subject to agreed specification features, the delivery will only be in accordance with the contract if it also corresponds entirely to the specification features. The Supplier must guarantee the following: the applications owed, the accordance with the legal provisions for product security, environmental regulations as well as any other requirements to the composition of products and to the materials to be used. In the case of services, the Supplier must adhere to the security regulations provided by professional associations as well as the accepted standards of good practice relevant at the time of execution. Should a declaration of conformity by the producer be required in the case of a delivery of machinery in order to transfer it to the EU, the Supplier shall have to present this declaration.

9.2 In case of a defect, we are, in accordance with legal provisions for claims for defects, entitled to request free subsequent fulfilment through remedy of the defect, delivery of

faultless or newly manufactured goods as well as compensation for any damages that have resulted from the defects, provided the legal requirements are fulfilled.

9.3 Should the Supplier refuse to carry out the subsequent fulfilment owed or should the subsequent fulfilment fail despite a reasonable grace period or should a subsequent fulfilment not be required by law, we will be entitled to a price reduction. Insofar as the legal requirements are fulfilled, we may fully or partially withdraw from the contract or demand compensation instead of the services.

9.4 If this is indispensable and the Supplier cannot be reached, defects may be remedied by ourselves or a third party to the extent necessary to avoid disproportionately high damages and we may demand reimbursement of the resulting costs from the Supplier.

9.5 The period of limitation for material defects shall be 36 months, unless a different period of limitation is provided by law. The period of limitation shall, respectively, run from the time of delivery, provision of the service or acceptance if the latter is provided by law or has been agreed. For parts that have been replaced in the context of the subsequent fulfilment, the statutory period of limitation shall run from the date of the implementation of these parts.

10. Intellectual property rights

10.1 The Supplier shall ensure that deliveries and services are free of the rights of third parties and are suitable for the uses that have been agreed contractually and have been stated by the Supplier or manufacturer.

10.2 The Supplier must indemnify us against third-party claims for infringement of domestic intellectual property rights and replace any expenditures resulting for us from claims by third parties if these expenditures are due to a culpable breach of duty by the Supplier or its agents. Insofar as possible, the Supplier must, at its own expense, acquire the rights that make the contractual use possible for us from intellectual property right holders. We will not make any promises, comparisons or other agreements with the claimants without consulting the Supplier.

10.3 The period of limitation for claims for defects of title shall be 48 months. It shall run from the time of delivery or acceptance if the latter is provided by law or has been agreed.

11. Product liability, insurance

11.1 The Supplier shall be subject to the legal provisions for non-contractual product liability. In a product liability case, the Supplier provide us with the information required to identify the manufacturer if the Supplier itself is not the "manufacturer" as defined in the provisions.

11.2 In product liability cases, the Supplier is, within its liability, also obliged to reimburse us for measures taken in order to avoid product liability damages to a reasonable and necessary extent. We will not take such measures without involvement of the Supplier, unless the Supplier cannot be reached in time. If a product or product part poses a risk to the life, limb or health of third parties so that a product recall becomes necessary or is ordered by the authorities, the Supplier must reimburse us the necessary costs thereby incurred.

11.3 The Supplier must put into place an insurance cover appropriate for the contractual risks and prove to us upon request that it has taken out such an insurance policy and regularly paid the insurance premium.

12. Confidentiality, reservation of property rights, provision of materials

12.1 We reserve all property and copyrights for illustrations, drawings, calculations and any other documents that we have provided to the Supplier. They must not be made available to third parties without our express written consent. They may only be used to execute the contractually agreed deliveries and services and are to be returned to us upon request after fulfilment of the contract.

12.2 The Supplier is obliged to treat any provided samples, illustrations, drawings, calculations and other documents and information as strictly confidential. They must not be disclosed to third parties without our express written consent. The non-disclosure obligation shall also be valid after the fulfilment of the contract. It shall end if and as soon as the information provided to the Supplier is made public by authorized persons.

12.3 We object to all regulations and declarations on the reservation of property rights by the Supplier which go beyond the common reservation of property rights.

12.4 Provided materials will remain our property and are to be stored separately, marked accordingly and managed free of charge. These materials may only be used for our orders. Upon request, remaining quantities are to be made available to us after the execution of the order without delay. In case of a reduction of value or loss, the Supplier must provide a replacement. The processing or transformation of materials shall exclusively be carried out on our behalf. Should the value of the processing or transformation equal or exceed the material value, we will become a co-owner of the new or transformed item. The Supplier shall, on our behalf, keep the new or transformed item free of charge and with the diligence of a prudent businessman.

13. Models, tools, drawings

13.1 Models and tools the Supplier produces at our expense will become our property after the payment. Subsequently, the Supplier shall keep these models and tools on our behalf and shall only use them for contractual purposes. The Supplier is obliged to insure the tools belonging to us for the replacement value against fire, water and theft damages at its own expense. The Supplier is obliged to carry out necessary servicing and inspection as well as any maintenance and repair work on our tools in due time and at its own expense. The Supplier must immediately notify us of any faults.

13.2 The resale of parts manufactured on the basis of these models and tools to third parties shall not be permitted without our express written authorisation. The models, tools and drawings may not be passed on to third parties or used for other purposes than the fulfilment of the order. The Supplier must handle and store them with care. They are to be protected from unauthorised inspection and use. Subject to any further rights, we are entitled to demand that the models and tools are returned to us as soon as the Supplier fails to fulfil its obligations.

14. Audit, quality management

14.1 The Supplier shall adhere to the agreed arrangements for the performance of audits and maintain the quality management system which has been implemented in accordance with the recognized regulations.

14.2 Through appropriate tests and checks, the Supplier shall constantly – and, particularly, during the production process – perform its quality assurance and document the result of its tests.

15. List of prohibited substances

15.1 The Supplier must guarantee that the products it supplies do not contain any substances from the Harmonic Drive List of Prohibited Substances. The list is available at [http:// www.harmonicdrive.de](http://www.harmonicdrive.de). The list has been compiled on the basis of the substances that are prohibited by German law as well as on the EC Regulation 2037/2000/EC. The regulations as well as the list of prohibited substances which is valid at the time of conclusion of the contract form part of our Conditions of Purchase.

16. Place of jurisdiction, applicable law

16.1 The court responsible for our headquarters shall be the place of jurisdiction. However, we are also entitled to sue the Supplier at the Supplier's general place of jurisdiction.

16.2 The law of the Federal Republic of Germany shall apply with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods from 11 April 1980 (CISG; UN sales law).

Harmonic Drive AG

Last updated: January 2011