

# General Terms and Conditions of H&R Spezialfedern GmbH & Co. KG, 57368 Lennestadt

## 01. Validity

(1) All deliveries, services and offers shall be made exclusively on the basis of these General Terms and Conditions. These shall be an integral part of all contracts entered into by H&R with its customers for the products and services offered by H&R. They shall also apply to all future deliveries, services and offers even if they are not agreed upon separately once again.

(2) The customer's conditions of purchase/terms and conditions that deviate from the „General Terms and Conditions“ are hereby explicitly rejected. Even if H&R makes any reference to a letter that includes or refers to the customer's conditions of purchase/terms and conditions this shall not constitute a consent to the validity of those terms and conditions.

(3) Customers within the meaning of these General Terms and Conditions are natural persons or legal entities or a legal partnership with legal capacity which, when concluding legal transactions, acts in the exercise of its commercial and independent professional activity (cf. § 14 BGB (German Civil Code)).

## 02. Offer and Conclusion of Contract

(1) The offers of H&R shall be subject to change and non-binding. This shall also apply if catalogues, technical documentation (e.g. drawings, plans, calculations, costings, references to DIN standards, other product descriptions or documents) - also in electronic form - have been provided to the customer by H&R to which H&R reserves the property rights and copyrights.

(2) The legal relationship between H&R and its customer shall be exclusively governed by the purchase contract concluded in writing or in text form, including these General Terms and Conditions. Orders and/or contracts may be accepted by H&R within 7 days of receipt. The acceptance of the contract must be in writing and/or in text form for the order confirmation by H&R to be legally valid. This also applies to all ancillary agreements made directly or by the representative. Oral commitments by H&R prior to the conclusion of the contract are not legally binding, and oral agreements between the contracting parties shall be replaced by the written contract. Legal form requirements shall remain unaffected.

(3) Supplements and amendments to the agreement must be in writing/text form to be effective.

(4) Insofar as the customer orders the goods electronically, the contract text will be stored by us and sent to the customer by email on request, along with the present General Terms and Conditions.

## 03. Prices

The prices shall apply to the scope of services and delivery specified in the order confirmation. Additional or special services are charged separately. The prices are quoted in EUR ex works, including statutory value-added tax and inclusive of the costs for packaging. Shipping costs and, if applicable, customs duties as well as fees and other public charges for export deliveries shall be added to the prices.

## 04. Shipment/Transfer of Risk

(1) Delivery shall be made ex warehouse, which is also the place of performance for the delivery and any subsequent performance. At the purchaser's request and expense, the goods shall be shipped to another place of destination (sales shipment). Unless otherwise agreed, we shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.

(2) The risk of accidental loss and accidental deterioration of the goods shall pass to the purchaser at the latest upon handover. However, in the case of sales shipment, the risk of accidental loss and accidental deterioration of the goods shall pass to the customer upon delivery of the goods to the forwarding agent, carrier or any other third party designated to perform the shipment. This also applies if partial deliveries are made or H&R has assumed other services. If the shipment or the handover is delayed owing to any circumstance for which the customer is responsible, the risk shall pass to the customer from the day on which the goods are ready for dispatch and H&R has notified the customer of this.

(3) Insofar as an acceptance has been agreed, this shall be essential for the transfer of risk. In all other respects, the legal provisions of the law on contracts for work shall also apply accordingly to an agreed acceptance.

(4) Handover or acceptance shall be deemed to have been effected if the purchaser is in default of acceptance.

## 05. Condition

Information provided by H&R in relation to the goods or services (e.g. weights, dimensions, utility values, resilience, tolerances and technical data) as well as our representations of the same (such as depictions and illustrations) shall not constitute a quality guarantee but merely a description or identification of the goods and services.

## 06. Payment

Our invoices are payable within 10 days less 2% discount or within 30 days in cash without deduction. In the event that the payment deadline is exceeded, interest on arrears shall be charged at the statutory rate of 5% p. a. The enforcement of higher interest and further damages in the event of default shall remain unaffected. We expressly reserve the right to refuse bills of exchange or cheques; they are only accepted in lieu of performance and are only deemed to be a means of payment with discharging effect after they have been honoured.

## 07. Title Retention

(1) The delivered goods shall remain our property until full payment of all current and future claims arising from the delivery relationship between the customer and H&R in relation to H&R's goods. In cases where the customer makes payment by cheque but in connection with this we assume liability for the amount or part of the amount of the cheque by means of a bill of exchange - regardless of the form - only the redemption of the bill of exchange shall be deemed to be payment with respect to the rights of title retention.

(2) The customer shall be entitled to sell the goods subject to title retention in the ordinary course of business until the realization event occurs. However, the customer is not permitted to pledge or assign the goods as security.

(3) In the event of the resale of the goods delivered with reservation, the customer already now assigns to H&R for security purposes the resulting claims against the customer's buyer. The same shall apply to other claims that take the place of the reserved goods or otherwise arise with respect to the reserved goods, such as insurance claims or claims from unlawful acts in the event of loss or destruction. H&R accepts this assignment. Until revoked by H&R, the customer shall remain entitled or authorized to collect the claims assigned to us as security himself in his own name when they become due. H&R may only revoke this authorization in the event of realization. After revocation of the direct debit authorization, the customer shall immediately provide us with the information on the assigned claims required until collection and inform the debtors about the assignment.

(4) Any processing or treatment of the reserved goods shall be carried out by the customer on behalf of and for the account of H&R as the manufacturer and H&R shall acquire either direct ownership or - if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the reserved goods - co-ownership (fractional

ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. If the reserved goods are combined, mixed or blended with other products to form a uniform item and if one of the other items is to be considered the main item, H&R shall, to the extent that the main item belongs to us, transfer to the customer pro rata co-ownership of the uniform item in the ratio mentioned in sentence 1.

(5) If any third parties seize the reserved goods, in particular by way of attachment, the customer will immediately inform them of the ownership of the reserved goods and inform H&R about compulsory enforcement measures of third parties against the reserved goods in order to enable H&R to enforce its property rights.

(6) If the realisable value of the securities to which we are entitled under the above provisions exceeds the claims to be secured by more than 10%, H&R shall, at the customer's request, release the reserved goods as well as items or claims taking the place of them at our discretion.

(7) If H&R withdraws from the contract in the event of any breach of contract by the customer - in particular default of payment (realization event) - H&R shall be entitled to demand the return of the reserved goods.

## 08. Delivery Date and Default

(1) The delivery period shall be agreed individually and specified by us upon acceptance of the order.

(2) In the event of any delivery default, the customer shall set a reasonable grace period. The grace period must be at least 10 days. After fruitless expiry of the grace period, the customer may enforce the right to withdraw from the contract or claim damages only for that part of the scope of the contract which has not been fulfilled by us. The customer may not invoke cessation of interest either in the case of partial default or in the case of default on the entire contract. In the event of default or if H&R is unable to make delivery, regardless of the legal reason, H&R's liability shall be limited to damages as per clause 11. of these General Terms and Conditions.

## 09. Refusal of Performance, Reservation of the Right of Withdrawal

In the event of a considerable deterioration of the customer's financial situation which occurs after conclusion of the contract or of which we only then become aware on the basis of specific information customary in the trade, we will be entitled to refuse performance and to demand that the customer remedy any risk to the purpose of the contract by providing sufficient security. If the customer does not comply with the demand for the provision of security within a reasonable deadline, we will be entitled to withdraw from the contract.

## 10. Warranty

(1) The warranty shall be one year or, if acceptance is required, from the date of acceptance.

(2) In the event of any material defects in the goods, H&R shall initially be entitled and obliged to remediate the defect or to make a replacement delivery within a reasonable deadline at H&R's discretion.

(3) If a defect becomes apparent upon delivery, inspection or at any later time, the customer shall notify us thereof in writing without delay. In any case, obvious defects shall be notified to us in writing within seven working days of delivery and defects which are not recognizable during the inspection within the same period of time from delivery. If the customer fails to carry out the proper inspection and/or notify any defects, our liability for the defect not reported in time or not reported properly shall be excluded in pursuance with the legal provisions. Timely dispatch shall be sufficient for complying with the deadline. The customer shall bear the full burden of proof for the existence of the defect itself, for the time of discovery of the defect and for the timeliness of the notice of defect.

(4) The warranty shall lapse if the customer alters the goods or has them altered by a third party without the consent of H&R and if this makes it impossible or unreasonably difficult to remedy the defect. In any event, the customer shall bear the additional costs of remedying the defect arising from the alteration.

(5) Dissatisfaction with the goods shall not constitute a defect and therefore does not entitle the customer to enforce warranty rights.

## 11. Exclusion of Liability

Liability, irrespective of the legal ground, shall be limited to damage caused by H&R or its vicarious agents intentionally or through gross negligence or through slight negligence in the event of a breach of obligations essential for the fulfilment of the contractual purpose. In cases of slight negligence, H&R's liability shall be limited to the amount of the typical damage foreseeable in comparable transactions of this kind at the time of the conclusion of the contract or at the latest when the breach of duty was committed. This expressly excludes claims resulting from product liability and from liability consequences involving physical and health damage.

## 12. Final Provisions

(1) The place of jurisdiction for all disputes arising from the business relationship between H&R and the customer shall be, at the discretion of H&R, Lennestadt or the customer's place of business. Lennestadt shall be the exclusive place of jurisdiction for lawsuits against H&R. Mandatory legal provisions on exclusive places of jurisdiction shall remain unaffected.

(2) The relations between H&R and the customer shall be exclusively governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) shall not apply.

(3) Should individual provisions of the contract with the customer, including these General Terms and Conditions, be or become ineffective in whole or in part, the validity of the remaining provisions shall not be affected thereby. The wholly or partly invalid provision shall be superseded by a provision whose economic success comes as close as possible to that of the invalid provision.

## H&R is a registered trademark of H&R Spezialfedern GmbH & Co. KG, Lennestadt.

All logos, photographs, drawings and texts depicted in this catalogue are protected by copyright. Any use or exploitation in any form, including excerpts, shall be prohibited. Any violation will be prosecuted.

All dimensions mentioned are approximate. We explicitly reserve the right to make amendments for the purpose of technical progress, provided that the amendments are reasonable for the customer, considering the interests of H&R. With the publication of this catalogue, all other catalogues lose their validity.