

## General Terms and Conditions of Purchase of Alfred Härer GmbH

### 1. Scope

- 1.1 These General Terms and Conditions of Purchase shall apply only to entrepreneurs in the exercise of their commercial or self-employed professional activity and to legal entities under public law (hereinafter **“Supplier”**). They shall apply to all business transactions between Alfred Härer GmbH (hereinafter **“Härer”**) and the Supplier (hereinafter both also referred to as **“Parties”**), even if reference is not made hereto in subsequent agreements. They apply to both work and services. In place of delivery of the delivered products, in delivery consisting of work, acceptance takes place upon approval of that work and for services upon receipt of the services
- 1.2 Conditions of the Supplier that conflict with, supplement or deviate from these General Terms and Conditions of Purchase shall not become part of the contract, unless Härer would have agreed, in writing, to their validity. These General Terms and Conditions also apply if Härer unconditionally accepts a delivery from the Supplier, in full knowledge of its conflicting, supplementary or deviating conditions.
- 1.3 Agreements between Härer and the Supplier in execution of the contract that contain provisions that conflict, supplement or deviate from these General Terms and Conditions of Purchase, must be made in writing. This also applies to the annulment of the written form requirement.
- 1.4 Where these General Terms and Conditions of Purchase require written form, the requirement shall be deemed satisfied not only by written documents (letters) but also by electronic documents, electronic communications, and facsimiles.
- 1.5 Rights to which Härer is entitled under statutory or other agreements going beyond the provisions of these General Terms and Conditions of Purchase remain unaffected.

## **2. Conclusion of the Contract and Contractual Amendments, Performance of the Contract**

- 2.1 Quotations, drafts, designs, cost estimates, samples, and prototypes provided by the Supplier shall be free of charge to Härer, as shall exhibition pieces. Upon Härer's request, the Supplier shall promptly retrieve such items at its own expense.
- 2.2 An order is binding only if it was placed by Härer was granted in writing or properly confirmed, in writing, in the case of an oral order by the Supplier. An order placed with the assistance of automatic facilities without a signature or name shall be deemed to be written. Orders that evidently contains errors, typing errors or miscalculations shall not be binding on Härer.
- 2.3 The Supplier shall issue a written order confirmation without undue delay, but no later than one week after receipt of the order, specifying the price and delivery time. Any deviation of the order confirmation from the order shall only be deemed agreed if expressly confirmed in writing by Härer. The same applies to any subsequent contractual amendments.
- 2.4 Order confirmations, dispatch notices, consignment notes, delivery notes, invoices, and any other correspondence from the Supplier must include the order details, in particular the order number, order date, and Supplier number.
- 2.5 Silence on the part of Härer in response to offers, requests, or other declarations of the Supplier shall constitute acceptance only if this has been expressly agreed in writing in advance.
- 2.6 Härer retains all ownership rights, copyrights, and other intellectual property rights in all documents provided. Such documents may be used exclusively for the purpose of performing the order placed by Härer and may not be made accessible to third parties without Härer's prior written consent. The Supplier shall, upon Härer's request, promptly return all such documents to Härer when they are no longer required in the ordinary course of business. The same applies, in particular, to all drafts, samples, prototypes, and models provided by Härer.
- 2.7 If the Supplier's financial circumstances deteriorate substantially or if the justified application for the initiation of insolvency proceedings or comparable proceedings in respect of the Supplier's assets is rejected due to lack of assets, Härer is entitled to rescind the contract, in whole or in part.

### **3. Packaging, Shipping and Transport, Delivery and Acquisition of Ownership**

- 3.1 The Supplier must comply with Härer's requirements for the shipment of the products. Delivery must be made in packaging appropriate for the type of products. In particular, the products must be packaged in such a way as to avoid transport damage. Packaging materials may only be used to the extent necessary for this purpose. The Supplier must label the packaging, in particular with the scope of delivery, the article and material numbers, the delivery quantity, the manufacturing date, and the order details, including the order number, order date, and supplier number.
- 3.2 For all deliveries, a delivery note containing the scope of delivery, the article and material numbers, the delivery quantity, the date of manufacture, as well as the order details – in particular the order number, order date, and supplier number – shall be transmitted separately to [Lieferscheine@haerer-formenbau.de](mailto:Lieferscheine@haerer-formenbau.de). A material certificate in German or in fully English language must mandatorily be enclosed with the delivery. If heat treatment, stress relieving of components is part of the contractual scope, a corresponding hardness certificate and stress relieving certificate in the respective language must additionally be included with the delivery. These certificates form an integral part of the owed performance and shall not be priced separately; they are included in the respective item price.
- 3.3 When delivering the products, the Supplier shall additionally comply with the Hazardous Substances Ordinance ("Gefahrstoffverordnung"; GefStoffV). In particular, the affected products shall be packaged and labelled accordingly, and the delivery note shall expressly indicate any hazardous substances and any special requirements regarding their storage.
- 3.4 Shipment of the products shall be notified to Härer without undue delay.
- 3.5 The Supplier is obligated to take out transport insurance that is appropriate in type and amount and, upon Härer's request, to provide written proof thereof without undue delay.
- 3.6 The Supplier shall indemnify Härer against all claims asserted by third parties due to deliveries made outside the agreed delivery times, unless the Supplier is not responsible for such delivery outside the agreed delivery times. Further claims of Härer shall remain unaffected.
- 3.7 The Supplier is obligated to comply with all statutory requirements regarding the disposal of any packaging used for the delivery of the contractual products. In

particular, the Supplier shall ensure that such packaging is duly licensed. Upon Härer's request, the Supplier shall provide suitable evidence of compliance with these obligations within a reasonable period. The Supplier shall indemnify Härer against all claims asserted by third parties in connection with the packaging of the contractual products. This shall not apply where the Supplier is not responsible for the breach of obligations relating to the packaging of the contractual products. Further claims of Härer shall remain unaffected.

- 3.8 Title to the products shall pass to Härer immediately and free of encumbrances upon their handover. The Supplier warrants that it is authorized to resell and transfer ownership of the products.

#### **4. Spare parts, repurchase option**

- 4.1 Suppliers of products requiring spare parts shall be obligated to supply Härer, for a period of ten years from the date of purchase, with the necessary spare parts and accessories at the previous prices plus an adjustment for monetary devaluation.
- 4.2 The Supplier grants Härer the right, within a period of five years from the date of purchase, to acquire additional units of the purchased product under the same conditions as the original purchase, whereby Härer shall grant the Supplier an adjustment for monetary devaluation on the original price.

#### **5. Delivery Period**

- 5.1 The delivery periods and delivery dates stated in the order or otherwise agreed upon shall be binding. The delivery periods shall commence upon receipt of the order. Within the delivery period or by the agreed delivery date, the products must have arrived at the delivery address specified by Härer.
- 5.2 If it becomes apparent to the Supplier that the delivery time cannot be met, the Supplier shall notify Härer without undue delay and in writing, stating the reasons and the expected duration of the delay. Such notification shall not release the Supplier from its obligation to deliver properly, in particular on time.

- 5.3 In the event of default by the Supplier, Härer shall be entitled to demand a contractual penalty of 0.5% of the net order value of the delayed part of the delivery for each commenced week of delay, but not exceeding 5% of the net order value, unless the Supplier is not responsible for the delay. If Härer accepts the delivery, Härer must reserve the right to claim the contractual penalty no later than with the final payment. Cases of force majeure are excluded. Further claims of Härer shall remain unaffected. Härer's claim to delivery shall only be excluded if the Supplier, at Härer's request, provides compensation for damages in lieu of delivery. Acceptance of the delayed delivery shall not constitute a waiver of claims for damages or the contractual penalty.
- 5.4 Early delivery before the agreed delivery date shall only be permitted with Härer's prior written consent. Without such consent, Härer shall be entitled to store products delivered early at the Supplier's expense or to return them at the Supplier's expense and risk, unless the advance delivery is minor in scope or the Supplier is not responsible for the early delivery.

## **6. Cross-border Deliveries, Preferential Rules of Origin**

- 6.1 In the case of cross-border deliveries, the Supplier shall, at its own expense and in a timely manner, carry out all actions necessary for the export from the country from which the products are shipped to Härer and for the import into Germany, including in particular making the required declarations to the competent authorities and obtaining the documents necessary for customs clearance.
- 6.2 The Supplier shall ensure that the products to be delivered by it, or any parts thereof, are not subject to national or international export restrictions, in particular those arising under the German Foreign Trade and Payments Act ("Außenwirtschaftsgesetz"). Should any product or parts of a product be subject to such export restrictions, the Supplier shall, at its own expense, obtain the necessary export licenses for worldwide export.
- 6.3 The Supplier warrants to Härer that the products comply with the preferential origin rules of the European Union. Prior to the first delivery, Härer shall receive from the Supplier a valid long-term supplier's declaration for the products in accordance with the applicable EU regulations. The Supplier shall inform Härer immediately, in writing and without being prompted, if the information contained in the supplier's declaration for the products is no longer accurate.

## **7. Prices and Payment, inventory write-down**

- 7.1 The price stated in the order shall be binding. Unless otherwise agreed in writing, the price shall be deemed “free point of use” and shall include, in particular, the costs for packaging, shipment (including shipping devices), transport and insurance up to the delivery address specified by Härer, as well as customs duties and other public charges. Statutory value-added tax shall be included in the price unless it is expressly designated as a net price. Where shipping and transport costs are not included in the price in an individual case and the assumption of such costs by Härer has been agreed in writing, this shall apply only to costs up to the most economical form of shipment and transport, even if a faster mode of transport is necessary to meet the agreed delivery periods and dates.
- 7.2 If a VAT-exempt delivery is possible, the Supplier shall provide the required evidence insofar as such evidence falls within its sphere of responsibility. For deliveries within the European Union, the Supplier shall, without being requested, provide its VAT identification number in writing, furnish proof of its entrepreneurial status, and assist in the preparation of the bookkeeping and documentary export evidence.
- 7.3 Härer shall receive the Supplier’s invoice in a single copy. It must not be enclosed with the delivery but shall be sent exclusively by e-mail to E-Rechnung@haerer-formenbau.de. Invoices must contain at least the project number, the transaction number from the ERP system, and the corresponding delivery note number. Invoices that do not contain this information shall be deemed not received due to the impossibility of processing.
- 7.4 Payment shall be made after acceptance of the products and receipt of the invoice within 14 days with a 3% discount, within 21 days with a 2% discount, or within 30 days net. A payment shall be deemed timely (including with respect to discount periods) if Härer instructs its bank to transfer the amount owed within the agreed payment period. Payments shall be made only to the Supplier and shall be subject to invoice verification. In the event of defective delivery, Härer shall be entitled to withhold payment to the extent of the defect until proper performance has been rendered, without loss of discounts or similar price reductions. The payment period shall commence only after full rectification of the defects. In the event of early delivery of the products, the payment period shall begin at the earliest upon expiry of the delivery period or on the agreed delivery date. Where the Supplier is obligated to provide quality documentation or other documents, acceptance of the

products shall trigger the payment period only once Härer has also received the documents owed.

## **8. Transfer of Risk**

- 8.1 The Supplier shall bear the risk of accidental loss and accidental deterioration of the products until they are handed over to Härer.
- 8.2 If the Supplier is obligated to install or assemble the products, the risk of accidental loss and accidental deterioration shall pass to Härer only upon completion of the installation or assembly. This shall apply even if Härer has assumed certain services, such as transport costs.

## **9. Warranty, Claims for Defects and Guarantees**

- 9.1 The Supplier warrants that the delivered products comply with the agreed specification, the approved samples, the applicable legal provisions, and the regulations and guidelines issued by authorities, professional associations, and trade organizations, as well as the relevant DIN standards.
- 9.2 Härer shall notify the Supplier of obvious (identified or identifiable) defects without undue delay after delivery of the products, and of hidden defects without undue delay after their discovery. A notification shall be deemed without undue delay if it is made within two weeks after delivery in the case of obvious defects, and within two weeks after discovery in the case of hidden defects. For deliveries consisting of a large number of identical products, Härer shall inspect a reasonable quantity of the delivered products for defects. If the products become unsaleable due to the inspection, the quantity to be inspected shall be reduced accordingly. If individual samples of a delivery are defective, Härer may, at its discretion, demand that the Supplier sort out the defective items or may assert defect rights under statutory provisions with respect to the entire delivery. If defects in the products necessitate an inspection exceeding the customary scope of incoming goods control, the Supplier shall bear the costs of such inspection. In the event of late or lost notification, timely dispatch of the notification shall suffice.
- 9.3 In the event of defects in the products, Härer shall be entitled – without prejudice to statutory defect rights – to demand, at its discretion, either immediate remedy of

the defects or delivery of defect-free products by the Supplier as subsequent performance. The Supplier shall bear the expenses necessary for subsequent performance. This shall also apply where the products, in accordance with their intended use, have been transported after delivery to a place other than the delivery address specified by Härer.

- 9.4 If the Supplier does not comply with its obligation to provide subsequent performance within a reasonable period set by Härer, Härer may carry out the necessary measures itself or have them carried out by a third party at the Supplier's expense and risk, unless the Supplier is not responsible for the failure to perform upon expiry of the grace period. Setting a deadline shall in particular not be required if the Supplier refuses both types of subsequent performance, if subsequent performance has failed, or if it is unreasonable for Härer. Subsequent performance shall be unreasonable in particular if Härer has already delivered the defective products to third parties. The deadline is also unnecessary if the Supplier seriously and definitively refuses performance or if special circumstances exist which, considering the interests of both Parties, justify immediate assertion of defect rights. Special circumstances shall particularly exist in urgent cases where subsequent performance by the Supplier would, in all likelihood, not prevent the imminent disadvantage to Härer. In the event that there is no need for Härer to set a deadline, Härer is entitled to perform the necessary measures at the cost and at the risk of the Supplier, even if a reasonable subsequent deadline has not expired, provided Härer notifies the Supplier accordingly. Further claims of Härer remain unaffected.
- 9.5 The acceptance of products as well as the processing, payment for and re-ordering of products not yet identified and notified as being defective do not constitute approval of the delivery, nor a waiver of claims for defects by Härer.
- 9.6 The limitation period for claims for defects of Härer is 36 months from the date of delivery of the products. This does not apply if the Supplier fraudulently concealed the defect. If the defective products have been used for a building in accordance with their normal use and have caused its defectiveness or a defect in a building, the limitation period shall be five years.
- 9.7 Further claims of Härer against the Supplier shall remain unaffected. In particular, Härer shall retain the statutory recourse claims within the supply chain (supplier recourse) in addition to the defect rights, without restriction.
- 9.8 Any additional guarantees provided by the Supplier shall also remain unaffected.

## **10. Product Liability**

- 10.1 The Supplier shall indemnify Härer against claims of third parties arising from domestic and foreign product liability, unless the Supplier is not responsible for the product defect under the principles of product liability law. Further claims of Härer shall remain unaffected.
- 10.2 As part of this indemnification obligation, the Supplier shall, in particular, reimburse Härer for any expenses arising from or in connection with any warning, exchange, or recall action conducted by Härer. Härer shall inform the Supplier – where possible and reasonable – about the content and scope of the measures to be undertaken and give the Supplier an opportunity to comment. The Supplier shall support Härer to the best of its ability in carrying out such measures and shall take all reasonable measures ordered by Härer.
- 10.3 The Supplier shall be obligated to take out and maintain an extended product liability and recall insurance with worldwide coverage and an appropriate coverage amount for the products, of at least €2 million per incident for personal injury, at least €1 million per incident for property damage, and at least €2 million per incident for financial loss. The Supplier hereby assigns to Härer, in advance, all claims arising from the extended product liability and recall insurance, together with all ancillary rights. Härer hereby accepts this assignment. If the insurance contract does not permit assignment, the Supplier hereby instructs the insurer to make any payments solely to Härer. Further claims of Härer shall remain unaffected. Upon Härer's request, the Supplier shall provide proof of the conclusion and continuing validity of the extended product liability and recall insurance. The Supplier shall refrain from any act or omission that could jeopardize the insurance coverage.
- 10.4 If the Supplier does not properly fulfil its obligation under paragraph 3 above, Härer shall be entitled – but not obligated – to take out an extended product liability and recall insurance at the Supplier's expense.

## **11. Third-Party IP Rights**

- 11.1 The Supplier warrants that the delivery and use of the products do not infringe any domestic or foreign patents, utility models, licenses, or other intellectual property or copyright rights of third parties. This shall not apply insofar as the products were developed by Härer.

11.2 If Härer or its customers are held liable by a third party due to the delivery or use of the products on the grounds of an infringement of such rights, the Supplier shall indemnify Härer against these claims. The indemnification obligation shall extend to all expenses incurred by Härer in connection with such claims. In particular, Härer shall be entitled, at the Supplier's expense, to obtain authorization from the third party for the use of the products. The indemnification obligation shall not apply if the Supplier is not responsible for the infringement of third-party intellectual property rights. Further claims of Härer shall remain unaffected.

## **12. Force Majeure**

12.1 If Härer is prevented from fulfilling its contractual obligations, in particular from accepting the products, due to force majeure, Härer shall be released from its performance obligations for the duration of the impediment and for a reasonable restart period, without being liable to the Supplier for damages. The same shall apply if the fulfilment of Härer's obligations is unreasonably hindered or temporarily rendered impossible by unforeseeable circumstances for which Härer is not responsible, in particular by labor disputes, a pandemic, governmental measures, energy shortages, a cyberattack, or significant operational disruptions. Härer may refuse acceptance of the products if such circumstances arise at a time when Härer is already in default of acceptance.

12.2 Härer shall be entitled to withdraw from the contract if such an impediment lasts for more than four months and, as a result of the impediment, Härer no longer has an interest in the fulfilment of the contract. At the Supplier's request, Härer shall, upon expiry of this period, declare whether it will exercise its right of withdrawal or accept the products within a reasonable period.

## **13. Liability of Härer**

13.1 Härer is liable without restriction for damage relating to the breach of a guarantee or damage to life, limb or health. The same applies to intentional acts and gross negligence or if Härer assumed a procurement risk. Härer is liable for slight negligence only if material contractual duties were breached which are inherent to the nature of the contract and are of particular importance for the attainment of the contractual purpose. In the case of the breach of such obligations, in instances of default and frustration, Härer's liability is limited to damage typically foreseeable in

the context of the contract. Mandatory statutory liability for product liability remains unaffected.

- 13.2 If Härer's liability is excluded or limited, this shall also apply to the personal liability of its employees, staff, representatives and agents of Härer.

## **14. Confidentiality**

- 14.1 The Parties shall be obligated to keep confidential all trade secrets of the other Party that come to their knowledge for a period of five years from delivery, to protect them by appropriate and adequate measures, and – unless required for the business relationship – not to record, disclose, use, or exploit them. In particular, the Parties shall ensure that the trade secrets of the other Party are made accessible only to such employees and other staff members and only to the extent necessary for the business relationship. The confidentiality obligation also applies to items embodying trade secrets. In particular, the Supplier is prohibited from obtaining the trade secrets embodied in an item through reverse engineering. The Supplier is further prohibited from drawing conclusions regarding design, configuration, or know-how through analysis, disassembly, or other examinations of delivered components or provided documents. Trade secrets shall include all information designated as confidential or secret, or which is recognizable as a trade secret under the circumstances, in particular technical information (e.g., drawings, product and development descriptions, methods, procedures, formulas, techniques, and inventions) and commercial information (e.g., pricing and financial data as well as sources of supply).
- 14.2 The confidentiality obligation shall not apply where the receiving Party can demonstrate that the trade secrets were already known to it prior to the commencement of the contractual relationship, or were generally known or publicly accessible prior to the commencement of the contractual relationship, or become generally known or publicly accessible without fault of the receiving Party. The burden of proof shall lie with the receiving Party.
- 14.3 The Parties shall, by means of appropriate contractual arrangements with their employees, other staff members, and third parties who gain access to the trade secrets of the other Party pursuant to paragraph 1 above, ensure that such persons are likewise obliged to maintain confidentiality for a period of five years from delivery.

## **15. Data protection**

- 15.1 The Parties shall be obligated to comply with the statutory data protection provisions, in particular the EU General Data Protection Regulation (“GDPR”), in the performance of the contract and to impose compliance with these provisions on their employees.
- 15.2 The Parties shall process the personal data received (names and contact details of the respective contact persons) exclusively for the purpose of fulfilling the contract and shall protect such data through security measures (Art. 32 GDPR) that are in line with the current state of the art. The Parties shall be obligated to delete the personal data as soon as its processing is no longer necessary. Any statutory retention obligations shall remain unaffected.
- 15.3 If, in the performance of the contract, one Party processes personal data on behalf of the other Party, the Parties shall conclude a data processing agreement pursuant to Art. 28 GDPR.

## **16. Final Provisions**

- 16.1 The Supplier shall only be entitled, with Härer’s prior written consent, to transfer rights and obligations to third parties or to have an order or essential parts of an order performed by third parties.
- 16.2 Counterclaims of the Supplier entitle it to set-off only if these have been legally determined or are uncontested. The Supplier can assert a retention right only if its counterclaim is based on the same contractual relationship.
- 16.3 Sub-contractors of the Supplier are deemed to be vicarious agents. They are to be notified to Härer on request, without delay and in writing.
- 16.4 The legal relations between the Supplier and Härer shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 16.5 If the Supplier is a merchant within the meaning of the German Commercial Code (“Handelsgesetzbuch”; HGB), a legal entity under public law, or a special fund under public law, the exclusive place of jurisdiction for all disputes arising out of the business relationship between the Supplier and Härer shall be Härer’s registered seat. However, Härer shall also be entitled to bring an action at the

Supplier's registered seat or at any other permissible place of jurisdiction. Arbitration clauses are expressly rejected.

16.6 The place of performance for the delivery and subsequent performance obligations of the Supplier is the delivery address stated by Härer. Otherwise, the place of performance for all services of the Supplier and Härer is the registered seat of Härer, unless otherwise agreed, in writing.

16.7 The language of the contract is English.

16.8 Should any provision of these General Terms and Conditions of Purchase be or become wholly or partially invalid or unenforceable, or should these General Terms and Conditions of Purchase contain a gap, the validity of the remaining provisions shall not be affected thereby. In place of the invalid or unenforceable provision, the valid or enforceable provision shall be deemed agreed which most closely reflects the purpose of the invalid or unenforceable provision. In the event of a gap, the provision shall be deemed agreed which corresponds to what would have been agreed in view of the purpose of these General Terms and Conditions of Purchase had the Parties considered the matter from the outset.