

General terms and conditions of Hugo Beck GmbH & Co. KG, in the following “vendor”

I. General

1. All deliveries and performances shall be subject to these terms as well as to separate contractual agreements should such agreements exist. All purchase conditions shall not become a subject matter of this contract even after the acceptance of the order. The contract shall come into force with the written order confirmation in default of any special agreement.
2. The vendor reserves the right of property and copyright in samples, cost estimates, drawings or similar information of physical or non-physical nature – also in electronical form; the disclosure of such information to third parties shall not be permissible. The vendor shall oblige himself to disclose information and documentation marked by the orderer as confidential to third parties only after the latter's prior approval.

II. Prices and payment

1. In default of a special agreement, the prices shall be payable FCA Dettingen/Erms (Incoterms 2010) excluding unloading. To the prices, the valid legal value added tax shall be added.
2. The prices shall be payable net without discount to the account of the vendor.
Terms of payment as per the offer respectively order confirmation.
3. The retention of payments or the offset due to any counterclaims by the orderer contested by the vendor shall not be permissible.

III. Delivery period

1. The delivery time is specified in the agreement between vendor and orderer. Condition for the compliance by the vendor is, that all commercial and technical questions between both contractual partners have been clarified and that the orderer has fulfilled all his obligations, such as provision of all necessary official formalities or permits or effected an agreed down payment. Should this not be the case, the delivery time shall be extended appropriately. Should the vendor be responsible for the delay this does not apply with.
2. The compliance of the delivery period is subject to correct and timely self delivery. The vendor is to inform the orderer of such delays as soon as possible.
3. The delivery period shall be considered as complied with if – up to its expiration - the delivery item will have left the work or a 'ready for dispatch' note will have been submitted. If an acceptance was agreed, the acceptance date shall be decisive unless the acceptance was rightfully denied, or – in default of this – the 'ready for dispatch' note.
4. If the shipment or the acceptance of the goods is delayed due to reasons for which the orderer is responsible, he shall be charged for the costs occurred by the delay starting one month after the submission of the “ready for dispatch” note.
5. If the nonobservance of the delivery period is due to Acts of God, to labor disputes or other events outside the influence of the vendor, the delivery period shall be extended appropriately. The vendor shall inform the orderer about the start and end of such circumstances as soon as possible.
6. The orderer shall be entitled to withdraw from the contract if the vendor is definitely not able to fulfil the entire performance of the contract. The orderer shall also be entitled to cancel the contract, if the execution of part of the delivery scope becomes impossible and if the orderer can prove a justified interest in refusing the partial consignment. If this is not the case the orderer has to pay the contract price applicable for the partial shipment received. The same shall apply in case of inability of the vendor. Otherwise paragraph VII.2 shall apply. If the impossibility occurs during the default of acceptance, or through the sole or partial fault of the orderer, the latter shall remain obliged to pay in return.

IV. Transfer of risks, acceptance

1. The risk shall be transferred to the orderer after the delivery item will have left the work, even in such cases where partial shipments are made, or where the vendor has also accepted other performances, such as shipment costs or delivery to the site and installation. If an acceptance was agreed, the latter shall be decisive for the transfer of risks. The acceptance must be carried out immediately on the agreed date, in default of this after the note of readiness for acceptance by the vendor. The orderer shall not be entitled to refuse the acceptance due to an insignificant defect.
2. If the shipment or the acceptance is delayed due to circumstances for which the vendor is not responsible, the risk shall be transferred to the orderer on the day on which the 'ready for dispatch' or 'ready for acceptance' note is submitted. The vendor shall oblige himself to take out the insurances demanded by the orderer at the latter's costs.
3. Partial shipments shall be permissible if not unreasonable for the orderer.

V. Retention of title

1. The vendor retains title in the delivery item until the reception of all payments in accordance with the delivery contract.
2. The vendor shall be entitled to insure the delivery item against theft, breakage, fire, water and other damage at the cost of the orderer unless the orderer has provably taken out such insurance himself.
3. The orderer shall not be entitled to sell, put in pawn or give in security the delivery item. In the case of attachment as well as seizure or other dispositions by a third party, the orderer shall be obliged to inform the vendor without delay.
4. In the case of a behavior contrary to the contract terms through the orderer – particularly in case of default of payment – the vendor shall be entitled to take back the delivery item after demand for payment and the orderer shall be obliged to hand it out.
5. Due to the retention of title, the vendor shall only be entitled to demand the handing out of the delivery item if he has receded from the contract.
6. The application for the institution of bankruptcy proceedings shall entitle the vendor to withdraw from the contract and to demand the immediate handing out of the delivery item.

VI. Defect claims

The vendor shall perform as follows for defects of quality or defective titles excluding any further claims, notwithstanding paragraph VII

1. At the discretion of the vendor, all such parts shall be repaired or replaced with parts free from defects which prove to be defective within 12 months or 3,000 operating hours since their commissioning due to a circumstance before the transfer of the risk. The vendor shall be informed about such defects in writing without delay. Replaced parts shall become the property of the vendor.
2. For the execution of all repairs and replacement deliveries which the vendor deems necessary, the orderer shall make available the required time and opportunity; otherwise, the vendor shall be released from his liability for the resulting consequences. The orderer shall only have the right to remove the defect himself or have it removed by a third party and to demand from the vendor the reimbursement of the necessary expenditures if the safety of operation is jeopardized or in order to prevent a disproportionately large damage.
3. The vendor shall bear the direct costs from any repairs or replacement deliveries for the replacement part including shipment costs – under the condition that the defect claim proved to be justified.
4. In particular, the warranty shall be excluded in the following cases: inappropriate or improper use, defective assembly or repair through the orderer or third parties, natural wear, lack of or negligent treatment, improper or undue maintenance, unqualified operating material, chemical, electrochemical or electrical influences – if they lie in the responsibility of the vendor.
5. In the case of improper repair work through the orderer or a third party, the vendor shall not be liable for the consequential damage. The same shall apply in case of changes and manipulations executed by the orderer without prior approval by the vendor.

VII. Liability

1. If the delivery item cannot be used by the orderer pursuant to the contract through negligence of the vendor due to the omission or defective execution of proposals or counsels before or after concluding the contract, or due to the violation of other contractual secondary obligations – in particular concerning the operating and maintenance instructions for the delivery item - the regulations in paragraphs VI and VII.2 shall apply to the exclusion of any further claims by the orderer.
2. For damage which did not originate in the delivery item itself, the vendor shall only be liable – for what legal reasons ever:
 - a. in case of intent
 - b. in case of gross negligence of the owner / of the organs or executive managers
 - c. in case of damage to life, body, health
 - d. in case of defects which he deliberately concealed or the absence of which he had granted
 - e. in case of defects of the delivery item, as well as for personal or material damage to privately used objects in accordance with the product liability law.

In the event of a breach of fundamental contract duties, the vendor is also liable for gross negligence of their employees and in case of slight negligence however limited, from the contract typical reasonably foreseeable damage. Further claims are excluded. The vendor does in particular not accept liability for lost profits or other economic losses of the orderer.

VIII. Statute of limitations-

All claims by the orderer – on the grounds of what legal reasons ever – shall expire by limitation after 12 months. All claims falling under paragraphs VII 2 a – 2 e shall be subject to the legal statutory periods. They shall also be valid for defects at a building or for delivery items which were used for a building in accordance with their due use and caused defectiveness of the building.

IX. Right of rescission by the orderer

1. The orderer shall be entitled to withdraw from the contract if the vendor is definitely not able to fulfill the entire performance of the contract. The same shall apply in case of inability of the vendor. The orderer shall also be entitled to cancel the contract if – after ordering items of the same kind – the execution of part of the delivery scope becomes impossible as to the number ordered, and if the orderer can prove a justified interest in refusing the partial consignment; if this is not the case, the orderer shall be entitled to proportionately abate the consideration.
2. If the execution of the order is delayed in accordance with paragraph III of the delivery terms, and if the orderer grants the vendor an appropriate period of grace including an expressive declaration that he is going to refuse the acceptance of the performance after the expiration of such a period, and if such period of grace is not observed, the orderer shall be entitled to cancel the contract.
3. If the impossibility occurs during the default of acceptance, or through fault of the orderer, the latter shall remain obliged to pay in return.
4. The orderer shall further have the right of rescission if the vendor lets the appointed appropriate period of grace for the repair or replacement delivery due to a defect in the sense of the delivery terms pass through his own fault. The right of rescission of the orderer shall also be granted in case of impossibility or inability by the vendor to repair the defect or render replacement delivery.
5. Unless legally impermissible, all further claims by the orderer shall be excluded, particularly the right of redhibitory action, cancellation or abatement, including all claims for damages of any kind, in particular of damages which did not originate in the delivery item itself.

X. Applicable Law - Jurisdiction

1. All legal relations between the vendor and the orderer shall be subject to the valid law of the Federal Republic of Germany.
2. The exclusive jurisdiction shall have the court competent for the seat of the vendor. However, the vendor shall be entitled to file a suit at the headquarter of the orderer.