

General Terms & Conditions of Heck & Becker GmbH & Co. KG

1. Area of application:

- (1) The user of these General Terms & Conditions (GTC) is Heck & Becker GmbH & Co. KG, Gladenbacherstraße 47, 35232 Dautphetal, Germany.
- (2) These GTC (and any other separate contractual agreements) shall apply for all our quotations, cost estimates, deliveries and services.
- (3) Differently phrased general terms and conditions and purchasing conditions of our customers (orderers) shall not be applicable and will not be accepted, even if we do not explicitly object to them.
- (4) No oral ancillary agreements have been made.

2. General:

- (1) We reserve and maintain all property and copyrights to samples, cost estimates, drawings, models, templates and all information of physical and non-physical nature (e.g. data in electronic form); they may not be made accessible to third parties without our express previous written consent, an must be immediately returned to us upon request - if the order is not placed with us.
- (2) We undertake to only make any information and documents identified by the orderer as confidential accessible to others with the consent of the orderer. Without express consent, this information may not be made accessible to such third parties as have been permissibly fully or partially commissioned with delivery by us.
- (3) We shall determine the number of free initial samples in agreement with the orderer. Further samples shall be additionally invoiced.
- (4) Non-specific tools (cables, connections to peripheral equipment, etc.) are not included in the scope of delivery.
- (5) The complete order documents, e.g. binding article drawings, machine diagrams, tool data sheets with all technical data, must be submitted to the supplier prior to the beginning of construction.
- (6) The orderer shall specify the shrinkage, gating, steel grades and hardness. The supplier shall be responsible for the accuracy and function of the mould in accordance with DIN 16901, but not for the parts.
- (7) The conceptual design, which depicts the position of the ejector, segmentation, separation and thermal regulation, shall be submitted to the orderer for information purposes and possible response - i.e. inspection and approval - as well as for signature, and must be returned to us as soon as possible.
- (8) Design documents and production resource/tool shall be kept by us for a period of 6 months after completion of the subject of delivery.

3. Prices and Payment:

- (1) Our prices shall apply ex works including loading at the works, bur excluding packaging and unloading, plus the respectively valid value added tax (currently 19%).
- (2) Our invoices are - unless otherwise agreed - payable within 30 days without deduction.
- (3) The orderer may only offset such receivables that are undisputed or have been legally confirmed. The orderer shall not be entitled to offset rights of retention against our payment claims, unless they result from the same contractual relationship.
- (4) In case of non-adherence to our payment conditions or if circumstances become known to us after conclusion of the contract, which may reduce the creditworthiness of the orderer, then all receivables shall be due for immediate payment. In this case we shall also be entitled to perform outstanding deliveries only against advance payment or upon provision of security.

4. Retention of title:

- (1) The objects of delivery (conditional goods) shall remain our property until fulfilment of all of our claims against the orderer resulting from the business relationship. If the value of the security rights to which we are entitled exceeds all of our claims by more than 20 %, then we will release an appropriate part of the security collateral upon the orderer's request.
- (2) The orderer may not pledge or transfer by way of security the retained goods for the duration of the retention of title.
- (3) The orderer shall be entitled to resell conditional goods in the course of normal business. He shall however, already transfer all claims arising from the resale, including all subsidiary rights. The orderer shall be authorised to collect these claims even after the assignment. Our authority to collect the claims ourselves shall remain unaffected by this. We undertake not to collect the receivables as long as the orderer fulfils his payment obligations in the proper manner. We can request that the orderer discloses to us within a period of two weeks the assigned claims and debtors, provides all the information required for the collection, hands out all associated documents and informs the debtors of the assignment. If the conditional goods are resold together with other goods not belonging to us, then the orderer's claim against the buyer shall be considered to be assigned to the amount of the delivery price agreed between the orderer and us.
- (4) The orderer shall notify us immediately in the event of attachments, confiscations or infringements by third parties.

5. Delivery period, delayed delivery:

- (1) The binding delivery period stated by us begins only upon receipt of all documents, particularly of plans, required permissions and approvals to be provided by the orderer. The delivery term is interrupted in the case of delay of payment of the orderer for the duration of said delay.

(2) Force majeure, e.g. war, riots, mobilisation or similar events such as e.g. strikes, knock-outs, which may hinder timely delivery and for which we are not responsible, lead to an interruption of the delivery term. Interruption of the delivery term is maintained for the duration of the event, but for 4 weeks at the most.

(3) The orderer may only withdraw from the contract within the framework of statutory provisions, insofar as the delayed delivery is attributable to us. A change of the burden of proof to the disadvantage of the orderer is not associated with the above regulation.

(4) The orderer shall be committed to declare upon our request within an appropriate period, whether he intends to withdraw from the contract due to delayed delivery or to insist on delivery.

(5) If shipment or delivery is delayed on request of the orderer by more than one month after notification of the readiness for delivery, then the orderer may be charged with a storage fee amounting to 0.5 % of the price of the delivery for each month commenced, but 5 % at the most. The contracting parties shall be free to present proof of higher or lower storage costs.

(6) Ready to sell parts must be present. An agreed sample deadline shall be deemed to have been met when ready-for-acceptance samples are available.

6. Transfer of risk, acceptance:

(1) The transfer of risk to the orderer takes place when the delivery object leaves the works, also in the event of partial deliveries, or when we have assumed other services, e.g. shipping costs or delivery and/or installation. Insofar as acceptance is to be carried out, this is authoritative for the transfer of risk. It must be carried out without undue delay as of the acceptance date, alternatively after our notification regarding the readiness for acceptance. The orderer may not refuse acceptance in the case of a non-significant fault.

(2) In the event of delay or failure of the dispatch or acceptance on grounds, for which we are not responsible, the risk will be transferred to the orderer from the day of notification of the dispatch or readiness for acceptance. We shall, at the orderer's expense, undertake to take out such insurances as the latter may request.

(3) Partial deliveries are permissible in so far as reasonable for the orderer.

7. Material defects:

(1) The orderer shall inspect the goods immediately after delivery. Obvious defects shall be communicated to us within two weeks. If defects should only become obvious at a later date, then they must be communicated to us within two weeks after detection. The deadline for the notice of defects shall be deemed to be adhered to if the orderer sends the notification within the given period. If the orderer fails to provide notice of defects or does not provide it within the given period, then the delivery shall be deemed approved.

(2) A period of subsequent fulfilment shall be granted to us if a defect is established. We may then remedy the defect or provide defect-free goods at our discretion.

(3) The orderer shall be entitled to withdraw in accordance with the legal regulations. Should the defect be insignificant, the orderer shall be entitled only to reduce the price in accordance with legal regulations. The right to reduce the price shall otherwise be excluded.

(4) We shall only assume liability for defects in the materials provided by the orderer, if we should have recognised the defects if we had exercised professional diligence. In the event that production follows a drawing provided by the orderer, we shall only assume liability for the execution according to the drawing.

8. Legal deficiencies:

(1) Unless otherwise agreed, we shall only be obliged to make our deliveries in Germany free from industrial property rights and copyrights held by third parties. (2) If a third party should assert claims against the orderer for the infringement of copyrights, claims against us shall only exist if the following points are adhered to:

a) The orderer shall inform us immediately with regard to the claims asserted by said third party and to any possibly stated deadlines.

b) The orderer shall leave to us the decision regarding all defensive actions and settlement negotiations. He shall without prompting immediately provide us with all information required and all associated documents.

c) The orderer shall not acknowledge claims asserted by third parties without our express instruction. Within a possibly given period, or otherwise within one week, we shall inform the orderer whether and to what extent the claims asserted by the third parts are to be acknowledged or contested.

d) The orderer shall at our expense commission a lawyer's office of our choice with the assertion of its interests and the implementation of potential court proceedings. The orderer shall be free to commission a lawyer's office of its choice at its own expense.

(3) Claims by the orderer shall be excluded if he is responsible for the infringement of the copyright or if said infringement of the copyright is attributable to particular specifications of the orderer, to the application of the delivered object not foreseeable for us, or caused by the fact that the delivery is changed by the orderer or used together with products not supplied by us.

(4) The orderer shall assume sole responsibility for the documents to be provided by him (e.g. drawings, samples, etc.). He shall be responsible that execution drawings prepared by him do not interfere with third-party copyrights. We shall not be obliged to check whether any third-party copyrights are infringed by the submission of quotations based on the orderer's information. The orderer shall therefore release us from any liability towards third parties.

9. Liability:

(1) With the exception of damages resulting from the loss of life, physical injury and damage to health, as from the infringement of major contractual obligations, the fulfilment of which is decisive for the proper implementation of the contract and on the adherence to which the contractual partners may regularly rely (cardinal duties), our liability shall be limited to damages attributable to wilful intent and gross negligence. Further liability based on possibly granted guarantees or in accordance with the Product Liability Act shall remain unaffected.

(2) In case of a culpable breach of a fundamental contractual obligation (see section 1), we shall also assume liability in the case of slight negligence. In this case, liability is limited to the foreseeable damage typical of the contract concerned.

10. Limitation:

(1) All customer's claims shall lapse within one year. This shall not apply if the law acc. to §§ 438 par. 1 no. 2 (Construction Work and Objects for Construction Work), 479 (Right of Recourse) and 634a par. 1 no. 2 (Construction Defects) BGB (German Civil Code) specifies longer periods, and in case of a liability for damage resulting from injury to life, limb or health, in cases of wilful intent or gross negligence, in case of a breach of major contractual obligations (see no. 9 par. 1) and in the event of liability acc. to the Product Liability Act.

(2) The limitation period shall not begin again when another defect-free object is delivered as subsequent fulfilment.

11. Applicable law, place of fulfilment, place of jurisdiction:

(1) The laws of the Federal Republic of Germany shall apply. Application of the UN sales law (CISG) shall be excluded.

(2) Unless otherwise stipulated in these GTC, the relevant VDMA (German Engineering Federation) conditions shall additionally apply.

(3) The place of fulfilment and the place of jurisdiction shall be our registered office. We shall also be entitled to take legal action at the orderer's registered office.

12. Invalid provisions:

If one or several clauses of these GTC should be ineffective, the effectiveness of the entire contract shall remain unaffected. The ineffective provision shall be replaced by the relevant statutory provision.

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