

General Terms and Conditions of Business of Hans Werner GmbH

1: General provisions

1.1 The following sales conditions apply to all contracts between

Hans Werner GmbH & Co. KG

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Germany

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- also called "seller" in the following -

and the customer.

1.2 Customers in the scope of these general terms and conditions of business sense are exclusively entrepreneurs.

An entrepreneur is any natural or legal person or legally capable unincorporated business that exercises its commercial or independent professional activity when concluding legal transactions.

Individual contractual agreements have precedence over these general terms and conditions of business. Deviating, contradictory, or supplementary general terms and conditions of business are not a part of the contract unless their scope is expressly agreed upon.

2. Conclusion of the contract and contract content and language

2.1 The contract comes into being under the conditions named in this provision.

2.1.1 All offers are subject to confirmation—i.e. the products and services listed in the online shop are not binding offers, but rather are a prompt for the customer to submit a binding offer.

2.1.2 The offerings are available in German, English, Italian, Polish, and Russian.

2.1.3 When making an online purchase, the customer puts the goods he or she desires into the so-called shopping basket. When the "Shopping Basket" button is clicked, the content can be viewed in a non-binding manner.

The products can be removed from the shopping basket again by clicking the "Remove" button.

If the customer wants to buy the products in the "shopping basket," he or she clicks the "Order" button. In the window that now opens, the personal data of the customer and the conditions of delivery and payment are specified.

If "Order" is clicked during the ordering process, a binding offer is sent to the seller. The contract comes into being when the confirmation e-mail is sent. The confirmation e-mail contains the order data of the customer including the shipping charges and the general terms and conditions of business.

The contractual offer of the customer can be accepted within three work days after the seller receives it.

2.2 Changes in design and form, deviations in the shade, and changes in the scope of delivery by the supplier remain reserved insofar as the changes or deviations are reasonable for the customer under consideration of the justified interests of both contracting parties. As far as the seller or supplier use symbols or numbers to label the order or purchase object, no rights may be derived solely from this circumstance with regard to the concretisation of the purchase object or scope of delivery.

2.3 The seller is entitled to make partial deliveries; these deliveries count as a single transaction.

2.4 The seller does not assume a procurement risk. The contract is thus concluded with the reservation that the seller will not or only partially deliver in case its suppliers do not properly provide the goods. The responsibility of the seller for premeditation or negligence is not affected hereof. In the case of the non-availability or only partial availability of the service, the seller will immediately inform the customer; in the case of a cancellation, any payments the customer has made will be refunded immediately.

3. Prices, delivery and shipping charges

3.1 The respectively specified price is a net price ex works plus the respective value-added tax legally valid at the time of invoicing. The price does not comprise the freight and shipping charges.

3.2 The seller has the right to raise the prices according to any increases in costs due to supplier contracts, tariff agreements, or material prices in case of contracts with an agreed delivery period of more than four months. If the increase amounts to more than 5% the agreed purchase price, the customer is entitled to cancel the contract according to the conditions of § 313 Sect. 3 BGB (German Civil Code). A compensation claim of the customer is excluded in this case.

3.3 The customer will be informed of the shipping charges in the confirmation e-mail. In the case of cross-border deliveries, the customer may incur further taxes and/or fees in individual cases. The extent of these taxes and/or fees depends on the respective concrete offer and the statements made therein.

4. Payment conditions, offsetting, and right of retention

4.1 Invoices are immediately due for payment. The deduction of discounts requires a separate written agreement.

4.2 If the customer defaults, the seller is entitled to make all receivables due. In case the payment period is exceeded, the seller is also authorised to demand a security or prepayment from the customer. Due receivables are to be charged an interest of 8% over the basic interest rate. The seller reserves the right to enforce any damage that goes beyond this

amount. The customer has the undisputed right to prove that less damage was incurred.

4.3 The customer has a right to offsetting only if his or her counterclaims are determined legally, recognised, or not disputed by the seller. The offsetting against the receivables of a group company of the customer is excluded in any case.

4.4 The customer can exercise a right of retention only if its counterclaim is based on the same contractual relationship.

5. Delivery dates and delivery periods, acceptance default

5.1 Delivery appointments and delivery periods that can be agreed upon in a binding or non-binding manner are to be specified in writing. Delivery periods start with the conclusion of the contract. The start of the agreed delivery period presumes the clarification of all technical questions. A further prerequisite is the timely and regular fulfilment of the contractual duties by the customer.

5.2 If the seller is prevented from providing the purchase object at the agreed date or within the agreed period (delivery default) due to a circumstance for which it or an agent are responsible either through premeditation or gross negligence, the seller is liable according to the legal provisions.

5.3 Insofar as the seller or its agent is not responsible for the delivery default due to a premeditated or grossly negligent violation of the contract, the fulfilment of the contractual duty in question makes the proper execution of the contract possible, and the contractual duty is one whose observance the customer may rely upon (a so-called cardinal duty), the seller is limitedly liable for the foreseeable, direct average damages typical of the contract.

If the delivery default is based only on the violation of a non-essential contractual duty, the seller is not liable.

5.4 Force majeure and events that temporarily hinder the seller without the seller being at fault (e.g. strikes, lockouts, disturbances in operations, influences of weather or traffic disturbances, delays in the delivery of raw materials or machines, war, or sovereign arrangements) from delivering the purchase object at the agreed date or within the agreed period entitle the seller to extend the delivery or service by the duration of the obstruction

plus an appropriate preparation time. If corresponding disturbances lead to a performance delay of more than four months, the customer may cancel the contract. Other rights to cancel remain unaffected thereof.

5.5 Insofar as the purchase contract is a fixed-date transaction (§ 286 Sect. 2 No. 4 BGB; § 376 HGB (German Commercial Code)), the seller is not liable according to the legal provisions. This applies accordingly for the case that the customer is entitled to enforce that its interest in the further fulfilment of the contract no longer exists as a consequence of the delivery default.

5.6 The customer is obligated to accept the purchase object. If the customer defaults on acceptance, the seller has a right to demand compensation for the resulting damage. In case of collection by the customer or by a carrier assigned by the customer, agreed deadlines must be observed punctually. If a pick-up date for goods that have been announced as ready for shipping is not observed, the seller has a right to use the materials for other purposes as of the following day. The customer bears all costs arising from the belated pick-up or provision of freight material. If the agreed delivery periods and dates for orders for the delivery of several partial quantities are not observed by the customer, the seller has a right to deliver the remaining goods, cancel the remaining, as yet unsettled part of the order, or demand compensation for non-fulfilment after a period has been set without observance.

6. Shipping conditions, transfer of risk

6.1 If not otherwise agreed upon with the customer, the articles are delivered to the delivery address provided by the customer. The customer may also pick up the ordered goods itself.

The customer must make sure he or she has specified the correct and complete delivery address in its order. If the customer has saved incorrect address data and additional costs arise during shipment as a result, such as additional shipping charges, the customer must bear these costs.

6.2 Carrier insurance is concluded only if expressly desired by and at the cost of the buyer. Carrier and other packaging is not returnable insofar as nothing else has been agreed. The customer is responsible for the disposal of the packaging itself.

6.3 In case of a contract for goods involving the carriage of goods, the risk of the accidental destruction and deterioration of the sold object already transfers to a suitable carrier with the handover to the customer or person responsible for receiving the goods at the delivery of the goods.

7. Retention of title and cancellation

7.1 The seller retains the title to the goods until the complete payment of all receivables from the current business relationship.

7.2 In case the customer violates the contract, especially in case of a default in payment or by providing false information regarding his or her creditworthiness, the seller is entitled to cancel the contract and demand the return of the goods insofar as the customer has not yet paid at all or completely.

7.3 The customer is entitled to sell the goods in the course of orderly business. He or she already transfers all receivables to the amount of the invoice amount that it has earned through the further sale to a third party to the seller at this point in time. The seller accepts the transfer. After the transfer, the customer continues to be entitled to collect the receivables. The seller reserves the right to collect the receivables itself as soon as the entrepreneur no longer properly fulfils his or her duties to pay and defaults on payment or applies to open insolvency proceedings. If one of the latter circumstances occurs, the customer must provide all information required to collect the transferred claim and hand over the respective documents, as well as inform the affected debtors (third parties) about the transfer.

7.4 The delivered object is always processed or transformed for the seller. If the delivered object is processed with other objects, the seller acquires the joint ownership of the new object at a ratio of the value of the delivered object to the other objects being processed at the time of processing. For the object arising due to the process, the same applies as for the object delivered under reservation.

7.5 If the delivered object is inseparably mixed with other objects that do not belong to the seller, the seller acquires the joint ownership of the new object at the ratio of the value of the delivered object to the other mixed objects. If the mixture takes place in such a way that the

object of the customer is to be seen as the main object, it is considered to be agreed that the customer transfers joint ownership to the seller according to its share. The customer safeguards the arising sole or joint ownership for the seller.

7.6 The seller is obliged to release any securities it is owed upon the request of the customer insofar as the realisable value of the securities exceeds the receivables to be secured by more than 20%. The selection of the securities to be released is incumbent upon the seller.

8. Changed conditions of the customer

If the financial circumstances of the customer worsen considerably, if he or she disposes of goods subject to retention of title outside of ordinary business, or if he or she dissolves the company, the seller is entitled to make all receivables immediately due, to repurchase all bills of exchange at the cost of the customer, and to continue to delivery only against prepayment or the provision of a security. If the customer stops payment or is over-indebted, the seller is entitled either to enforce the abovementioned rights or cancel the contract according to the legal regulations at its own discretion.

9. Notification of transport damage

9.1 The customer will support the seller to the best of its ability insofar as the claims towards the affected carrier or transport insurance are enforced.

9.2 The customer must check deliveries of goods for any transport damage. In case of any externally recognisable transport damage, the customer is obliged to record this damage on the respective shipping papers and have them acknowledged by the deliverer; if the delivery is not rejected, the packaging should be kept.

9.3 Any rights and claims of the customer—especially legal rights of the customer in case of damage to the (purchase) object—remain unaffected by the abovementioned provisions of Sections 9.1 – 9.2 in these general terms and conditions of business. These terms and conditions thus also do not include a time of limitation for rights of the customer according to section 10 of these general terms and conditions of business.

10. Rights in regard to defects, limitation periods

10.1 The rights of the seller in regard to defects depend on the provisions of the following paragraphs. The seller does not relinquish its own guarantees.

10.2 There are no rights in regard to defects in regard to damage caused by improper handling or use of the goods by the customer.

10.3 Obvious defects must be reported by the customer within a period of 2 (two) weeks from the receipt of the goods at the contact data list above; otherwise, the enforcement of the guarantee claim is excluded. The submission of a defect report suffices for the observance of the period.

The customer bears the full responsibility to provide proof for all claim requirements, especially for the defect itself, the point in time that the defect was discovered, and the timeliness of the complaint. For businesspeople, § 377 HGB applies.

10.4 If the purchase object is defective, the seller provides a guarantee through repair or replacement delivery for defects of the goods at its own discretion.

If the supplementary performance fails, the customer may fundamentally demand a reduction in remuneration or a rescission of the contract (cancellation), as well as compensation at its discretion. In case of only insignificant defects, the customer has no right of cancellation—under consideration of the mutual interests. In place of the compensation instead of the performance, the customer may demand the compensation of all expenses within the scope of § 284 BGB that he or she made while trusting in the receipt of the goods demand and was justly allowed to make.

If the customer selects compensation instead of the performance, the liability restrictions in accordance with Section 11 these general terms and conditions of business apply.

10.5 In case of repair, the seller is obliged to bear all expenses, especially transport, route, work, and materials costs incurred in the elimination of the defect insofar as the costs are not considerably increased due to the fact that the purchase object has been brought some place other than the place of fulfilment.

The abovementioned provisions also apply to situations that may occur during the elimination of the fault or during the exchange of products within the scope of the liability for defects.

10.6 The limitation period for material defects amounts to one year for newly manufactured objects; in the case of used objects, a liability for material defects is excluded.

The one-year limitation period does not apply if the seller is accused of gross negligence or fraudulent intent or the concrete rights of a third party are involved, due to which the surrender of the delivered object may be demanded. Furthermore, it does not apply in case bodily injury, health damage, loss of life, a guarantee case or delivery recourse result for which the seller is at fault according to §§ 478, 479 BGB. The liability of the seller according to the Produkthaftungsgesetz (Germany Product Liability Act) remains unaffected hereof.

10.7 The recourse claims determined in §§ 478, 479 BGB remain unaffected by the provisions of Section 10.1 through 10.6 of these general terms and conditions of business.

11. Liability restrictions

11.1 According to the legal provisions, the seller is unlimitedly liable for damages resulting from injury to life, limb, or health due to a premeditated or negligent violation of duties, as well as for other damage due to a premeditated or coarsely negligent violation of duties and fraudulent intent.

In addition, the seller is unlimitedly liable for damages due to liability according to mandatory legal regulations like the German Product Liability Act or in case of the assumption of guarantees.

11.2 For damage not covered by Section 11.1 of these general terms and conditions of business caused by simple or minor negligence, the seller is liable insofar as this negligence is related to the violation of contractual duties whose fulfilment are only made possible by the proper execution of this control and on whose observance the customer may regularly rely (so-called cardinal duties). At the same time, the liability is limited to the typical, contractual, foreseeable, direct average damages. This also applies to slightly negligible violations of duties of the legal representatives or agents of the seller.

11.3 In the case of slightly negligible violations of such contractual duties included in neither Section 11.1 and 11.2 of these general terms and conditions of business (so-called non-essential contractual duties), the seller is not liable.

11.4 The seller is otherwise not liable.

12. Data protection

12.1 Customer data is stored and processed by the seller under consideration of the pertinent regulations of the German Bundesdatenschutzgesetz (BDSG—Federal Data Protection Act) and Telemediengesetz (TMG—Telemedia Act). Personal data is queried solely for the settlement of the order unless the customer desires additional services.

12.2 The customer agrees that his or her personal data may be collected, processed, and used for the fulfilment of the business purpose of the seller.

12.3 The seller will not pass on personal customer data to third parties. Excluded hereof is the passing on of data to service partners that require the transmission of data to settle the contract. In these cases, the scope of the transmitted data, however, is limited to the necessary minimum.

12.4 The customer has a right to information and to the correction, blocking, and deletion of his or her stored data. The customer can obtain a deletion of its data at any time. Furthermore, he or she has the right to demand information regarding the status of his or her saved data under the following e-mail address: datenschutz@hw-parts.de. Insofar as legal or contractual storage duties stand in the way of a deletion, the data is blocked.

12.5 The personal data of the customer will naturally be kept confidential; in particular, it will not be passed on for the purpose of advertising or market and opinion research.

13. Change of the general business provisions

13.1 The seller reserves the right to change these general terms and conditions of business at any time while observing an appropriate announcement period of at least two weeks. In particular, the announcement is made through a publication of the changed general terms and conditions of business conditions on the Internet with a specification of the point in time that it comes into force.

13.2 If the customer does not protest within two weeks of publication, the changed general terms and conditions of business are considered to be accepted. The announcement of the change will specifically refer to the significance of the two-week period.

14. Severability clause

If individual provisions of the contract with the customer, including these general terms and conditions of business, should be or become entirely or partially invalid or if a loophole is discovered, the other provisions remain otherwise valid. The contracting partners will replace the void provision by an effective provision that best meets the economic intent of the contracting partners.

15. Writing requirement

Changes and supplements to this contract must be in writing.

This also applies to a waiver of the written form requirement. Supplementary oral agreements are void.

16. Place of fulfilment

Insofar as another place does not arise from the order confirmation, the place of fulfilment for all claims from this contractual relationship is Feldkirchen-Westerham; this particularly applies to the shipment of goods.

17. Choice of law, jurisdiction

17.1 The relations between the contracting parties are regulated according to the law applicable in the Federal Republic of Germany. The contract language is German.

The provisions of the agreement of the United Nations regarding contracts governing the international purchase of goods (United Nations Convention on Contracts for the International Sale of Goods) do not apply.

17.2 If the customer is a public-law businessperson or a special public asset, the sole jurisdiction for all disputes arising from this contract is the place of business of the seller. The

same applies if the customer does not have a general jurisdiction in Germany as an entrepreneur or a place of residence or common domicile at the point in time that legal proceedings are instituted. The right to call on a court from another legal jurisdiction as well remain unaffected hereof.

18. Information regarding the return of used batteries according to the German Batterieverordnung (Battery Ordinance):

As a dealer of batteries, we are obligated to provide our customers with the following information in accordance with the German Battery Ordinance:

Please dispose of old batteries as required by your local legislators, at a community disposal point, or with your local dealer free of cost. Disposal in household waste is specifically prohibited according to the German Battery Ordinance. You can return batteries you obtained from us after used free of cost or by post with sufficient postage to the following address:

Hans Werner GmbH & Co. KG
Weidacher Straße 31
83620 Feldkirchen-Westerham
Germany

Batteries that contain hazardous materials are indicated by this sign



and by chemical symbols (Hg for mercury, Pb for lead, and Cd for cadmium).

You will also find this information in the accompanying documents of the goods shipment or in the operating instructions of the manufacturer.



19. Information regarding the German Altölverordnung (Waste Oil Ordinance)

As a dealer, we are obliged to provide our customers with information in regard to the sale of combustion motors and gear oil in accordance with the German Waste Oil Ordinance:

After use, the oil must be taken to a waste oil collecting point. Improper disposal of waste oil endangers the environment! Any addition of foreign matter such as solvents, brake fluid, and coolant is prohibited!

If you are consumer within the scope of § 13 BGB, you can deliver waste oil to the maximum amount purchased from us free of cost in our goods warehouse or send it to the following address:

Hans Werner GmbH & Co. KG
Weidacher Straße 31
83620 Feldkirchen-Westerham
Germany

This also applies accordingly to oil filters and any waste containing oil that occurs regularly during oil changes. If you send in such waste or waste oils to us, please observe the transport regulations of the shipping company you commission; oil is considered to be a hazardous material! Make sure the packaging is leak-proof.

If you are an entrepreneur, we would be happy to name a collecting point in your vicinity.

For the further clarification of the return, please contact us for the disposal of such products.



Receipt of the general terms and conditions of business

The signatory herewith confirms the receipt of the general terms and conditions of business (General Terms and Conditions of Business, Version: November 2011) of Hans Werner GmbH & Co. KG and recognises them for all previously conducted and future transactions without them having to be renegotiated for every transaction.

Date: _____

Name and position: _____

Signature: _____

Company stamp:

Enclosure(s):

General Terms and Conditions of Business (Version: November 2011)