



# General Terms of Purchase

## WENDT GmbH

**1. Validity:** The following General Terms of Purchase will apply for all present and future transactions with you. We herewith reject any divergent terms or counter-confirmations. They still do not become part of this agreement even if we do not reject them again after their receipt by us. These General Terms of Purchase apply only in relation to enterprises as defined in § 14 of the German Civil Code (BGB).

**2. Prices:** The agreed prices are fixed prices.

**3. Delivery as per agreement; Transport; Transfer of risk:** The transport of the goods ordered to the destination indicated by us forms part of the contractual delivery. You will undertake the transport of the goods to their destination at your expense. The risk of accidental loss or accidental damage remains with you until the goods are delivered to the recipient specified by us or, if so agreed, until the acceptance of the goods (transfer of risk). This shall still apply even if in exceptional cases we agree to bear part of the transport costs or the cost of transport insurance or if we stipulate a certain type of transport.

**4. Delivery dates; Delivery delays:** The delivery dates agreed with you are binding. Delivery shall not be deemed to be completed until all the goods have been received at the destination indicated.

As soon as circumstances come to your knowledge that make delivery at the agreed date impossible, you are obliged to notify us at once in writing on their occurrence and expected duration. If you culpably fail to do so, we are entitled to demand compensation for the resulting damages. Our statutory rights due to default in delivery shall not be affected.

**5. Force Majeure and Creditor Default:** If and insofar we are prevented from taking delivery of goods or services by Force Majeure, whether directly or indirectly, we will be released from our obligation to take delivery and from our obligation to pay for the duration of the hindrance. The legal consequences of creditor default do not take effect in this period.

**6. Payment terms and limitation of assignment:** Our payments are made within 20 days with 2% discount or without deduction within 30 days as of the receipt of a proper invoice and full delivery and acceptance, if acceptance is required by law or agreed in the contract.

You may assign claims against us only with our written consent.

**7. Product defects; Warranty claims:** You undertake to deliver the product free from material faults and defects in title. The deliveries and services have to comply with the generally accepted technological standards and the statutory provisions applicable in the country of origin of the product as well as in Germany. You will make available to us in suitable form information regarding the materials contained in the products delivered by you.

In case of defective delivery or performance we shall be entitled to the statutory guarantee claims without limitation. In particular, we are entitled to request subsequent performance which has to be in the form of subsequent delivery or subsequent improvement at our choice. All resultant costs shall be borne by you. If subsequent performance fails, is refused, impossible or unreasonable, we may adequately reduce the purchase price or withdraw from the contract. In cases of successive deliveries we can withdraw from the entire order if at least two deliveries have been made incorrectly or defectively. We are entitled to the damages pursuant to the statutory regulations without limitation.

In purchase contracts, there are inspection duties and obligation to give notice of defects pursuant to § 377 German Commercial Code (HGB) on the following terms: Upon receipt of the goods, we are merely obliged to inspect the consignment for obvious, externally visible defects (in particular visible transport damage, incorrect delivery and quantity deviations) and to give notice of such defects immediately after the goods have been delivered. The goods will be examined for other defects on a spot-check basis as soon as this is feasible in the due course of business and immediately give notice of defects which are found. The obligation to give notice of defects for hidden defects remains unaffected; such notice of defects has been given in time if you receive such notice of defects within one week after the defects have been detected.

Our claims for defects shall become time-barred 36 months after delivery or, in the case of machinery, plants or works after acceptance by us. In the cases regulated in §§ 438 no. 2 and 634a (1) no. 2 German Civil Code (BGB), the statutory guarantee period of five years following delivery or acceptance respectively shall apply.

The guarantee period restarts for parts that are repaired or replaced in the context of subsequent performance.

Payment of the agreed purchase price does not imply that we accept a delivery as being free of defects.

**8. Provided material:** Material provided by us remains our property. It must be identified as our property and stored free of charge and separately from other parties' material with the due care of a prudent businessman. It must be insured against fire and water damage and theft and must be used economically. Any processing is done for us as manufacturer.

**9. Business secrets; Confidentiality:** All information, drawings, designs and the like entrusted to you in connection with the purchase order may not be used for any other purpose, duplicated or made available to third parties. The same applies to drawings that you make to our specifications. You are obliged to regard such documents as business secrets and to treat them confidentially. You assume the liability for any damages that we may sustain from the violation of this obligation, unless you are not responsible for such damages. You declare that you are prepared to hand over to us upon request at any time all documents made available to you and all copies thereof.

**10. Infringement of third parties' intellectual property rights:** You undertake to provide the deliveries and services in such a manner that their use for the purpose for which they are intended in Germany and abroad will not infringe intellectual property rights of other parties. In the event of such an infringement you shall indemnify us and our customers from any claims that may be brought against us or our customers by third parties on the grounds of an infringement of intellectual property rights, unless you are not responsible for the infringement.

**11. Compliance with statutory regulations; standards of conduct:** You undertake to comply with all occupational safety and accident prevention and environmental protection regulations that apply in the country of production and in Germany.

Moreover, you undertake to comply with the applicable statutory regulations, in particular to combat money laundering as well as to comply with the principles of fair competition. You have to ensure by taking adequate measures that your legal representatives and employees do not offer, promise or grant unfair advantages in order to influence business decisions and that they do not accept such advantages either.

In the case of a violation of the aforementioned duties, we are entitled to withdraw from the contract or, in the case of a long-term contract, to terminate the contract after an adequate grace period has expired without success. It is not necessary to set a grace period if particular circumstances, especially the gravity of the violation, justify an immediate withdrawal or an immediate termination respectively in consideration of the mutual interests.

**12. Applicable law; Place of jurisdiction:** All legal relations between you and us shall be subject exclusively to the laws of the Federal Republic of Germany. The United Nations Convention on the International Sale of Goods (CISG) is excluded.

If a contract is concluded with an entrepreneur, a legal entity under public law or a special fund under public law, any legal disputes arising from and in connection with this contract shall come under the jurisdiction of the courts at our place of business. However, alternatively, we are also entitled to take legal action against you in the courts of your place of general jurisdiction.

**In addition to the above, the following provisions apply in the event that we pay either all or part of the costs of the purchase of production equipment by you:**

**13. Purchase of production equipment:** If we pay either all or part of the costs of purchasing production equipment (including tools, models and moulds), you will transfer the ownership or joint ownership of all such production equipment directly to us.

If you purchase the production equipment or parts thereof from third parties, it is agreed that you will arrange for the direct transfer of ownership from the seller to our company. In the event that this direct transfer of ownership is not possible, you even now declare that you will subsequently immediately transfer the ownership of the production equipment to us. We even now accept such transfer.

If you manufacture the production equipment yourself, it is agreed that for the purpose of the acquisition of ownership by our company the requisite processing of raw materials shall be done for us as the sole manufacturer or, in the event of an only partial assumption of the costs, as joint manufacturer.

Our share of the ownership of production equipment which we acquire in the event of an only partial assumption of the costs, shall be determined as a proportion of our contribution to the costs to the production value of the equipment. It must be at least 50%.

In the event that we make advance payments to you in the form of a loan for the manufacture of production equipment, the ownership of such equipment shall always be assigned to us as security.

In all such cases in the place of actual transfer you even now agree with us that you will keep the production equipment concerned in the same way as supplied material. You are responsible for the maintenance, care and insurance of the production equipment.

We are entitled to inspect the production equipment at any time. We are also entitled to take direct possession of the production equipment and for this purpose to dismantle the production equipment on your premises either ourselves or through another authorized party. We shall then compensate you in cash for any residual value of the equipment after allowing for our share of the ownership and for normal wear and tear. You cannot claim any right of retention and/or raise any other objections, regardless of the legal basis therefore, against our right to take possession of the equipment.

The responsibility for ensuring compliance with all legal requirements during the operation of the production equipment and in connection with the maintenance and care thereof lies with you alone.

You shall permit us access to the production equipment for the purpose of exercising our rights. Such access must be during normal operating hours.

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