



General Terms of Sale (Tools)

WENDT GmbH

1. Validity: The sale of our products and other services is subject exclusively to the following General Terms of Sale. These General Terms of Sale are deemed to have been accepted without reservation by the purchaser at the latest when he takes delivery of our products or accepts our services. Contrary conditions of the purchaser do not apply unless we would have expressly agreed to such terms in writing when the contract was concluded. These General Terms of Sale shall also exclusively apply if we effect delivery or provide the service without reservation in the knowledge of the purchaser's contrary terms. These General Terms of Sale apply only in relation to enterprises as defined in § 14 of the German Civil Code (BGB).

2. Offers: Our offers are subject to prior sale. Samples and specimens are intended as additional information and are not binding. We reserve the right to deliver up to and including 10% more or less than the ordered quantity.

3. Prices: Unless otherwise indicated, our prices are net prices. The statutory VAT, if applicable, will be separately listed in the invoice in the statutory amount. In the case of deliveries of goods the prices are quoted ex factory or warehouse and include our standard packaging charges, unless otherwise agreed. If it has been agreed that the goods shall be delivered freight paid, the freight charges shall be paid as far as the purchaser's local station and do not include carriage from there to the purchaser's premises. Any additional expenses that are incurred because the purchaser stipulates a particular form of delivery (e.g. express goods, fast freight, air freight) shall be borne by the purchaser. Unless otherwise agreed, the purchaser shall pay the delivery costs.

4. Dispatch; Passing of risks: The goods are always dispatched at the purchaser's risk. The risk passes to the purchaser as soon as the goods are handed over to the forwarding agent, at the latest when they leave our factory or warehouse or, in the case of drop shipments when they leave our supplier's factory or warehouse. The statutory regulations on the passing of risks in the case of default of acceptance shall remain unaffected.

5. Deliveries: The delivery times quoted by us represent the probable dates of delivery which we shall endeavour to observe. We are entitled to make partial deliveries to the extent this can be reasonably considered acceptable to the purchaser. Partial deliveries will be invoiced separately and in accordance with the payment conditions in Section 6.

Agreed delivery dates are only binding if all details of the order are clarified in advance and the purchaser duly fulfils all his obligations. If a delivery date that has been expressly agreed is not observed due to our fault, the purchaser will grant us an appropriate extension period in writing. If we still fail to deliver during this extension period, the purchaser is entitled to withdraw from the sales agreement. It is not necessary to grant an extension period provided that such period is dispensable as an exception pursuant to § 323 of the German Civil Code (BGB).

If we are in default in delivery due to slight negligence, our liability for financial losses (damages in addition to performance) is limited to 5% of the purchase price of the goods delivered with delay. Liability for injury to life, the body or health shall remain unaffected. Claims of the purchaser for damages in lieu of performance are subject to the provisions of Section 10.

Circumstances or events beyond our control that make deliveries delayed, impossible or unreasonably difficult, such as war, pandemic, epidemic, intervention by sovereign powers, natural disasters, accidents, traffic breakdowns, operational stoppages, shortages of raw materials and power, strikes and lawful lock-outs, release us from our delivery obligations for the duration of the disruption plus an appropriate set-up time. If, due to the duration of the disruption, it is no longer acceptable for a party to adhere to the contract in consideration of the parties' mutual interests, each party is entitled to withdraw from the contract either in full or in part; however, the purchaser may only do so after giving a prior warning.

Delivery is subject to correct and timely self-delivery. If, despite the conclusion of a congruent cover agreement, we are not supplied by our supplier on time for reasons for which we are not responsible, we are entitled to postpone the delivery date accordingly. If the delivery fails to materialize or is delayed by an unreasonable amount of time, sentence 2 of the previous paragraph applies accordingly.

If the purchaser defaults on acceptance or culpably fails to comply with other obligations, we are entitled to demand damages including the payment of possible additional expenses. We reserve the right to bring other claims.

6. Payments: Our invoices for the delivery of goods are payable without deduction within 30 days after receipt of the invoice. Our invoices for services and royalties are payable without deduction within 10 days after receipt of the invoice. Payments shall be considered to have been made on time once the amount has been received by us and is at our unrestricted disposal. Checks will be accepted as conditional payment only. Payment by bill of exchange is not acceptable.

If the payment period is overdrawn the purchaser shall be considered to be in default. As soon as the purchaser is in default, we are entitled, without prejudice to any other claims, to charge interest on arrears at a rate of 9 percentage points over the current base rate in accordance with § 247 of the German Civil Code (BGB).

If there are good reasons to doubt the purchaser's ability to pay after the contract has been concluded, so that there is the risk that our payment claim will not be fulfilled, we are entitled to make all outstanding deliveries dependent on an advance payment or the provision of a security by the purchaser. If the purchaser does not meet our request for an advance payment or the provision of a security after an appropriate period set by us, we shall be entitled to withdraw from all existing agreements.

The purchaser can only offset undisputed or legally proven claims and can only exercise a right of retention in respect of claims arising from the same contract. This limitation shall not apply for claims of the purchaser for defects or for partial non-performance that are based on the same contract as our claim.

7. Property rights: The goods supplied remain our property until the purchase price and all other existing or future claims from the transaction have been paid in full (goods under reserve).

The purchaser is entitled to sell the goods under reserve in the course of his normal business as long as he meets his contractual obligations to us. He is not allowed to pledge the goods or use them as security. He must notify us without delay of any infringement of our property rights by third parties. If the third party is not in a position to refund our court and out-of-court costs for our defense against the infringement, the purchaser shall be liable for the loss we incurred.

If the purchaser does not meet his contractual obligations towards us, we shall be entitled to withdraw from the contract subject to the statutory requirements and to request that the goods under reserve be returned to us.

At the time of the purchase of the goods under reserve, the purchaser assigns to us all claims against his customers and all secondary rights that arise from the sale of the goods. He is entitled to collect payments from the claims he has assigned to us until such right is cancelled. The purchaser is bound to inform us upon request of the extent of his claims and the names of his debtors.

If the goods under reserve are processed, we rank as the manufacturer and acquire a title to the new product without the purchaser's obtaining any claims from this transfer of rights. If the processing involves the use of other materials, we acquire a share of the ownership of the manufactured product proportionate to the ratio of the gross invoice value of the goods under reserve to that of the other materials. In the event of a combination, blending or mixing with another material where the latter is the main component, we acquire joint ownership of the new product in proportion to the gross invoice value of the goods under reserve.

If the reservation of title or the assignment are not valid under the laws of the jurisdiction where the goods are located, the security that is equivalent in this jurisdiction to the reservation of title or the assignment shall be considered agreed. If the participation of the purchaser is required so that such security materializes, the purchaser shall be obliged upon our request to take all reasonable measures at his cost that are necessary to create and maintain such rights.

If the value of the securities assigned to us exceeds our entire claims on the purchaser by more than 10 %, we are willing at any time and at our discretion to transfer the security rights back to the purchaser at his request.

8. Information; Advice: All verbal or written information about the suitability of our products for certain applications is given in good faith. This does not exempt the purchaser from the obligation to verify for himself the suitability of the product for his intended purpose.

9. Warranty claims: Before making any warranty claims, the purchaser must first have duly complied with the obligations relating to product examination and the proper complaints procedures contained in § 377 of the German Commercial Code (HGB). Warranty claims by the purchaser are not permitted if the defect was caused by the improper transport, storage, handling or processing of the goods supplied. Moreover, warranty claims are not permitted for natural wear and tear. If the purchased goods are legitimately defective, the purchaser is entitled at our discretion either to have the defect remedied or to receive a defect-free replacement. If this does not succeed in solving the problem, if this is impossible or unreasonable or if we refuse to do so, the purchaser is entitled at his discretion to demand a reduction in the purchase price or to be released from the contract. Our liability for damages is subject to the provisions of Section 10.

The special statutory provisions on reimbursement of expenses in the context of supplier recourse in case of final delivery of the goods to a consumer remain unaffected.

The period of limitation for warranty claims is 12 months from the delivery of the goods. By derogation therefrom, the period of limitation for willful intent or gross negligence or due to a culpable injury of the life, body or health shall be 2 years from the delivery of the goods. The statutory period of limitation in the event of supplier recourse as well as the guarantee period in the cases of § 438 (1) no. 2 of the German Civil Code (BGB) remain unaffected.

10. Liability: We accept liability for intent and gross negligence. We are also liable for any culpable breach of major contractual obligations. Major contractual obligations are those obligations that have to be met in order to achieve the purpose of the contract and on the compliance with which the purchaser regularly trusts and may regularly trust. If a breach of major contractual obligations is due to negligence, our liability is limited to the foreseeable damage associated with this type of contract. This does not affect our liability for culpable fatal or bodily injury or damage to health; this also applies to liability in cases of fraudulent concealment of a defect, if a guarantee has been assumed as well as under the German Product Liability Act („Produkthaftungsgesetz“) and the German Medical Preparations Act („Arzneimittelgesetz“). Other claims for compensation are excluded.

The aforementioned limitations of liability shall also apply if the purchaser asserts a claim for a refund of futile expenses instead of a claim for damages in lieu of performance.

11. Export Control: We point out that the goods sold may be subject to restrictions under foreign trade law when they are resold by the purchaser. A potential listing pursuant to Annex 1 of the EC Dual Use Regulation or an ECCN listing may be taken from the relevant business documents. The purchaser shall be solely responsible to check if there are further restrictions under foreign trade law with regard to an intended resale and to apply for any authorizations which might be required in this context.

Purchaser shall not sell, release, transfer, export, re-export or otherwise make available the goods subject to the contract or any products manufactured therefrom directly or indirectly to any individuals or entities located in Russia or Belarus or any individuals or entities located outside Russia or Belarus if the goods or products manufactured therefrom will be sold, released, transferred, exported, re-exported or otherwise made available directly or indirectly to or for use in Russia or Belarus. Purchaser shall immediately inform us if it becomes aware of activities by it or third parties involving our goods that would violate this paragraph. Failure to comply with this provision will be considered a material breach and may be reported to relevant government agency(ies), including consistent with the requirements of Regulation (EU) 833/2014.

12. Compliance with statutory regulations; Standards of conduct: The purchaser undertakes to comply with the applicable statutory regulations, in particular anti-money laundering regulations and regulations for compliance with the principles of fair competition. The purchaser has to ensure by taking suitable measures that his legal representatives and employees do not offer, promise or grant undue benefits in order to influence business decisions, and not themselves accept such benefits.

In the event of a breach of the aforementioned obligations, we are entitled to withdraw from the contract after an adequate extension period has expired or, in the case of a long-term agreement, to terminate the contract. It is not required to set an extension period if special circumstances, in particular the gravity of the breach, justify an immediate withdrawal or an immediate termination respectively in consideration of the parties' mutual interests.

13. Place of performance: The place of performance for our deliveries is the respective place of dispatch. The place of performance for the purchaser's payment obligations is Neuss, Germany.

14. Applicable law; Place of jurisdiction: All legal relations between the purchaser 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) shall be excluded.

If the purchaser is an entrepreneur, a legal entity under public law or a special fund under public law, all disputes arising from and in connection with the contract shall come under the jurisdiction of the courts at our place of business. This shall be the exclusive place of jurisdiction for the purchaser. However, we can also take legal action against the purchaser in the courts of the purchaser's place of general jurisdiction.

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