

General Terms and Conditions

The General Terms and Conditions of Wirz Ortho Mechanics Medical Technology and Precision Engineering

Applicability of the Terms and Conditions

The terms and conditions are based on Swiss law and are applicable within Switzerland, provided that the Parties expressly or tacitly accept them. Changes and subsidiary agreements are only effective if confirmed in writing by Wirz Ortho Mechanics.

If a contract is concluded and the Customer also submits Terms and Conditions, those clauses which fully match shall apply. With respect to the differing clauses, a written agreement shall be made.

These terms and conditions apply on a non-limited basis, unless they have been changed by the Parties in written agreement.

Furthermore, the provisions of the Swiss Code of Obligations (CO) on sales contracts (Art. 184 et seqq.) shall apply, as well as other Swiss laws and ordinances. If any provision of this contract is ineffective, or should the contract contain an unintended omission, the legal validity of the remaining provisions shall remain unaffected. In place of the ineffective provision, an effective provision is deemed to have been agreed upon which, according to its commercial spirit, comes nearest to that which the Parties intended from the very beginning. The same applies in the case of an unintended omission.

Offers by Wirz Ortho Mechanics

Wirz Ortho Mechanics sells medical devices, in particular for the operating room and for orthopedic technology purposes, to interested Parties in the medical sector as well as to retailers. In addition, various precision-engineering products are also produced by way of Wirz Ortho Mechanics.

Price lists and brochures are available containing non-binding information and guide-line prices. Telephone inquiries have no long-term validity, unless it is clear that a specific offer is being made.

Offers which are made in writing, by telephone, in personal negotiations, by fax or by e-mail, are considered binding. If the Customer demands supplies, products or services which are not included therein, these will be invoiced additionally.

An offer is valid for 30 days unless otherwise agreed in writing. All documents and samples submitted with the bid remain the property of Wirz Ortho Mechanics. Without the consent of Wirz Ortho Mechanics, no Third Parties may be granted access to the offer documentation. Data which are referred to by the supplier as a guideline are not binding and serve only for a general assessment of scope or scale.

An offer is accepted by the Customer by declaring so in writing, by telephone, by fax, by e-mail or in personal negotiations. Wirz Ortho Mechanics confirms acceptance in writing by fax or e-mail.

If the Customer requests a change to the confirmation of order, Wirz Ortho Mechanics shall inform him within two weeks whether the change is possible and what impact this will have on the provision of services, the delivery dates and prices. Wirz Ortho Mechanics is bound for two weeks once it has made an offer to modify its performance. Changes in an order do not apply to products that have already been delivered.

Delivery Dates

Wirz Ortho Mechanics commits to delivering to the Customer the products agreed upon according to the delivery dates specified in the confirmation of order, while the Customer commits to taking delivery of these products at the predetermined time and to effectuating payment. In the event of a payment in advance, the products will be sent no later than one week after the payment has been received.

The delivery dates are proportionately postponed when obstacles arise that are beyond the control of Wirz Ortho Mechanics, i.e., for instance, natural disasters, mobilization, war, riots, epidemics, accidents and ill-health, substantial disruption of operations, labour disputes, late or faulty supply by sub-suppliers, and measures on the part of the authorities.

For other delays, the Customer can:

- I. renounce any further deliveries, informing Wirz Ortho Mechanics immediately should such be his intention;
- II. request partial delivery if such is possible, and making a corresponding agreement with Wirz Ortho Mechanics immediately;
- III. set a reasonable deadline for subsequent delivery by Wirz Ortho Mechanics. In the event that Wirz Ortho Mechanics fails to effectuate delivery within the expiration of this period of grace, the Customer may refuse acceptance of delivery or cancel the contract, provided this is advised without delay.

Wirz Ortho Mechanics must inform the Customer of any delivery delays as soon as possible. Any damages will be calculated according to Article 191 of the CO.

Fulfilment of Contract

The confirmation of order is decisive for the scope of supply and the execution of delivery. Wirz Ortho Mechanics delivers the products in the versions ordered; machine-readable software is delivered in the version valid at the time of delivery.

Provided no particular place of fulfilment has been agreed upon by the Parties or may be naturally inferred by the type of business, delivery will be made at the headquarters of Wirz Ortho Mechanics, where the products will be made available for collection.

If not expressly agreed otherwise, use and risk are transferred from the Supplier to the Customer when the products leave the Supplier's site.

Provided no other particular acceptance procedure has been agreed, the Customer must inspect the products himself and declare possible faults or defects in writing. Should the Customer fail to advise the Supplier of faults or defects within two weeks after delivery, then the products will be deemed without fault or defect in all functions and the delivery will be considered accepted. The Customer is then obliged to pay within the timeframe agreed.

Prices and Terms of Payment

The prices are fixed in the offer. The value added tax and customs fees are added. The Seller, Wirz Ortho Mechanics, bears the costs for measurements, weighing and packaging. The Customer pays the transportation costs and the cost of checking the goods.

The Customer is obliged to pay within 30 days after delivery. For deliveries of over CHF 30,000, a quarter of the sales price is to be remitted upon conclusion of the contract; the balance of the payment is to be transferred 30 days after delivery. If the Customer pays by credit card or is granted a credit, the full amount is charged 10 days after delivery.

Service charges fall due within 30 days after date of invoice without deductions.

If the terms of payment are not observed, Wirz Ortho Mechanics reserves the right to:

- I. demand immediate payment from the Customer;
- II. demand securities for all outstanding payments;
- III. and/or carry out outstanding deliveries only after payment has been made in advance.

Should securities not have been presented or payment not have been made by expiration of a reasonable timeframe, Wirz Ortho Mechanics may cancel the contract even if the goods or part of the goods have already been supplied.

If the Customer has not fulfilled the terms of payment, Wirz Ortho Mechanics reserves the right to demand compensation for damages.

The Customer has the right to offset against the claims of Wirz Ortho Mechanics with counterclaims, provided that such counterclaims are undisputed or upheld by a court of law.

If the Customer fails to meet the deadlines for payment, he shall be liable, without any overdue notice required, to pay a default interest from the time payment was due. The default interest shall be calculated at four percent above the rate of the Swiss National Bank.

If the purchase is paid with an advance payment, the above-listed conditions become unnecessary.

Warranty

Wirz Ortho Mechanics commits to performing its services with due care and to delivering the products at a high level of quality. In addition, it commits to undertaking careful selection and training of employees deployed, to guaranteeing their professional work methods, and to supervising their performance. The warranty period lasts 1 year.

In the case of faults or defects of the products supplied, the Customer may, in accordance with the CO, cancel the contract, demand a price reduction, or demand similar goods as a replacement. The provisions of the CO apply.

Excluded from the warranty are faults and defects for which Wirz Ortho Mechanics is not responsible, such as, e.g., natural wear and tear, force majeure, improper handling, interventions on the part of the Customer or a Third Party, excessive usage, unsuitable operating materials, or extreme environmental conditions.

Should the Customer resell the products, he is responsible for the observance of the domestic and foreign export regulations. Should the Customer change the product for resale, he is liable for any damages resulting from this vis-à-vis Wirz Ortho Mechanics, the Buyer, or Third Parties. The provisions of the Swiss Product Liability Law remain reserved.

Liability

The liability of Wirz Ortho Mechanics is limited to replacement of the defective objects in the form of a merchandise credit. Any further liability for direct or indirect damage, in particular, lost profits and claims by Third Parties arising directly or indirectly from the goods supplied, their use or their shortcomings, is rejected.

For any further damage resulting from non-compliance with instructions or other improper treatment and/or inappropriate use of a product, any liability whatsoever will be rejected. Each user of the products of Wirz Ortho Mechanics shall check the product's suitability for the intended purpose prior to using it. The user formally assumes all risks associated with the use of the product and shall have sole responsibility for any damages arising from its use.

Obligation to inform

The Parties undertake to inform each other in a timely fashion of special technical requirements as well as the legal, administrative and other regulations at the place of destination, provided these are of significance for the properties and use of the products. In addition, the Parties inform each other in good time of any hindrances or disturbances which may prevent contract fulfilment or which may jeopardize the appropriate fulfilment of the order.

Taking back

As per the pertinent Swiss Ordinance, Wirz Ortho Mechanics commits to taking back equipment and disposing of it in an environmentally friendly manner. The Customer bears the costs for transportation and disposal.

Final provisions

The place of jurisdiction is the headquarters of Wirz Ortho Mechanics. Wirz Ortho Mechanics may, however, also call on the court of law at the headquarters of the Customer.

The Parties shall undertake to attempt to resolve disputes arising from the implementation of this contract in an amicable manner.