

General terms and conditions of sale and delivery of the company neuburger.technik

Section 1 Scope of these terms and conditions

1. Only these general terms and conditions of business apply. We do not recognise terms and conditions that conflict with or diverge from these terms and conditions, unless we have expressly consented in writing to their validity. This requirement for consent applies in every case, including, for example, if we are aware of the purchaser's T&Cs and execute the delivery to them without reservation. Unless otherwise agreed, the version of the T&Cs that is valid at the time of the purchaser's order or in any event that has been most recently notified to them in written or electronic form shall apply as a framework agreement also for similar future contracts without us having to refer to them again in each individual case.
2. These general terms and conditions of business apply exclusively to entrepreneurs within the meaning of section 14 of the *Bürgerliches Gesetzbuch* (BGB – German Civil Code).

Section 2 Formation of a contract, offer documentation

1. The offer is subject to change and valid for the duration of the delivery period if the order is made within 90 days. Previous offers for the same goods cease to be valid upon submission of a newer offer.
2. A flat-rate handling fee of EUR 50.00 is charged for orders up to a net value of EUR 150.00.
3. The order for the goods by the purchaser is deemed to be a binding offer.
4. We reserve title and copyright in images, drawings, costings and other documents. The same shall apply for documents that are expressly marked "confidential". The customer is entitled to disclose or to pass on our images, drawings, costings and other documents to third parties only after we have given our explicit consent in writing.

Section 3 Delivery and delivery period

1. Unless otherwise agreed, EXW in accordance with Incoterms[®] 2010 shall apply for our delivery obligation.
2. Any delivery period that we specify shall commence from the time that all technical and commercial details have been clarified, in particular after all information, including requirements specifications, drawings and 3D models, that is necessary for the design has been submitted.
3. If customer-specific parts are to be integrated in adapter solutions, these parts must be delivered to us free of charge (DPP Incoterms[®]) by the customer at the time the order is placed. Any matching patterns that we require are to be delivered to us on the same conditions and to be collected again free of charge after the order has been completed. If the fitting sample is not collected, we will ask you to collect it after a period of 24 months or we give it without being asked to disposal.
4. To ensure that the agreed delivery periods are met, the customer is required to issue clearance for production within three working days from receipt of our request for clearance. Depending on their nature and scope, change requests can have an effect on the agreed delivery periods.

5. Supplies from the customer must be received punctually and correctly in order for the agreed delivery periods to be met. If we are unable to meet binding delivery periods for reasons for which we are not responsible (a service is not available), we will inform the customer of this without delay and at the same time inform them of the expected new delivery date. If the service is also not available within the new delivery period, we are entitled to rescind the contract in full or in part; we will refund any consideration already performed by the purchaser without delay. Non-availability of the service in this context shall mean in particular the failure of our supplier to deliver supplies on time if we have entered into a matching hedge transaction, no fault can be attributed either to us or our supplier or we are not required to make a procurement in the individual case.
6. If we specify a delivery day/delivery week, this shall indicate the time when the goods are ready for delivery. The goods are ready for delivery by no later than 5.00 p.m. when the delivery date is specified and, when the delivery week is specified, by no later than the 5.00 p.m. on the Friday of the week in question.
7. Force majeure as well as disruptions to operations that arise at our company or at our suppliers, such as riots, strikes, lock-outs that temporarily prevent us through no fault of our own from delivering the goods at the agreed time or within the agreed period, change the agreed delivery periods and delivery dates by the length of time over which these circumstances cause disruptions to performance.
8. If the customer is in default of acceptance or if they breach other duties to co-operate, we are entitled to demand compensation of any damages that we incur, including any additional expenses. If the customer is in default of acceptance, the risk of accidental loss or accidental deterioration of the purchased goods shall be passed to the customer at this time.
9. In the event that orders are cancelled in full or in part, goods that have already been delivered or services that have already been started will be billed. Furthermore, a cancellation charge totalling no less than 15% of the net order value will become due and will be billed. The invoice for the cancellation charge is due for payment net within 14 days.

Section 4 Terms and conditions of payment

1. Unless otherwise agreed, our prices are ex works, i.e. excluding packaging and transport costs. Statutory value added tax is not included in our prices; the amount applicable at the time the invoice is issued will be shown clearly in the invoice.
2. Unless otherwise expressly agreed, the purchase price falls due for payment net within 30 days from the date of invoice.
3. The purchaser is in default when the above term of payment expires. Interest will be charged on the purchase price during the default at the statutory default interest rate applicable at the time in question. We reserve the right to assert further damages caused by default. Our claim for commercial default interest (section 353 of the *Handelsgesetzbuch* (HGB – German Commercial Code)) is not affected vis-à-vis merchants.

Section 5 Restrictions on the right of set-off and the right of retention

1. The customer is not entitled to declare any set-off against our claims for payment, unless the claim with which the set-off is declared by the customer is uncontested or has been legally established by a final judgement. The customer is furthermore entitled to set-off if there is mutuality of obligation between the claim with which they declare the set-off and our claim for payment.

Section 6 Retention of title

1. We retain title in the purchased goods until all payments arising from the underlying delivery contract have been received. The customer is required to store the purchased goods free of charge with the due diligence of a prudent businessperson.
2. The customer is not entitled to pledge the goods subject to retention of title or assign them as security. If the goods subject to retention of title are distrained or third parties otherwise gain access to them, the customer has to inform us immediately in written or electronic form and hand to us all documents necessary to protect our rights and especially to file third-party proceedings to prevent execution of a judgement pursuant to section 771 of the *Zivilprozessordnung* (ZPO – German Code of Civil Procedure).
3. The customer is entitled to resell the goods subject to retention of title in the ordinary course of business. They shall, however, assign to us here and now all claims in the amount of the gross purchase price agreed with us that accrue to it against its customers or third parties from the resale of the goods subject to retention of title. This shall apply irrespective of whether the goods subject to retention of title have been resold without having been processed or after having been processed. The customer remains authorised to collect the claim even after assignment. This shall not affect our power to collect the claim ourselves, however. We undertake, however, not to collect the claim ourselves as long as the customer properly fulfils their payment obligations, is not in default of payment and in particular no application for the institution of insolvency proceedings has been filed and payments have not been suspended. If there is payment in default, payments have been suspended or an application for insolvency has been filed, the right of the customer to sell the goods subject to retention of title as well as the power to collect the assigned claims from the buyer's customers are extinguished. The customer is required in this event to provide us with all information that is necessary to collect the claim, to hand over to us the documents required for this and to disclose the assignment to the third party.
4. Amounts that the customer collects from assigned claims have to be managed separately until they are transferred to us in order to exclude settlements and set-offs.
5. The processing or remodelling of the goods subject to retention of title by the customer is always carried out on our behalf. If the purchased item is processed with other objects that do not belong to us, we acquire joint ownership of the new item based on the proportion of the objective value of our purchased item to that of the other objects processed at the time of processing. The item created as a result of processing shall be treated in all other respects in the same way as the purchased item delivered subject to retention of title.
6. If the goods subject to retention of title are inseparably combined with other items that do not belong to us, we shall acquire joint title in the new item based on the proportion of the objective value of our purchase item to that of the other combined items at the time they are combined. If the items are combined in such a way that the customer's item has to be regarded as the main item, it is agreed that the customer shall transfer joint title to us on a pro rata basis. The customer shall hold the sole/joint title created in this way on our behalf.
7. Retention of title also remains in force if individual claims are recorded in an open account and the balance has been established and is recognised, unless the balance is settled.
8. We undertake to release the collateral to which we are entitled upon the request of the customer in so far as the realisable value of the furnished collateral is more than 10% higher than our claims. The selection of the collateral to be released is at our discretion.

Section 7 Execution and documentation

1. Goods that we develop specially for the task described are designed, constructed and documented in accordance with neuburger.technik standards. For this reason, we can diverge from our execution and documentation standards only if this is offered, commissioned and remunerated as an extra service. All copyrights in the goods offered/delivered, unless they are bought-in parts exclusively, remain the property of neuburger.technik.
2. One-time documentation based on the neuburger.technik standard is included in the scope of delivery if this has been offered and ordered as a separate item. If our delivery changes in divergence from the documented execution, the amended documentation can be provided by neuburger.technik. Depending on the scope of and reason for the change, we will invoice the costs incurred for amending the documentation.
3. Within the framework of manually operated QUICK-SCHOTT quick adapters, no documentation concerning the EU machinery directive, the *Gesetz über die elektromagnetische Verträglichkeit von Betriebsmitteln* (EMVG – German Act Governing the Electromagnetic Compatibility of Operating Equipment) and DIN 10 012/ISO 10 012-1 Part 1 and manufacturers' declarations, declaration of conformity, CE symbols as well as FMEA are not included in the scope of delivery. Should the customer ask for documents of this kind, they must state this expressly with the request for a proposal.

Section 8 Warranty

1. The customer is required to inspect the purchased item for defects – also in the event of resale – and submit complaints about defects identifiable in this process without delay. If the customer does not fulfil the above obligation to inspect the goods and submit complaints, the goods are deemed to be in accordance with the contract.
2. We reserve the right to accept returns only after advance notice has been given and they are sent back on a DPP basis (Incoterms® 2010).
3. Samples that have been manufactured for approval can feature minor deviations from the series products as a result of the production process. These deviations do not constitute grounds for a complaint.
4. When we design our products, we pay the greatest possible attention to preventing adaptation marks on the customer parts to be inspected. In special cases, however, minor traces of adaptation cannot be completely prevented because of the materials to be used in conjunction with form-locking clamping techniques. Unavoidable adaptation marks of this kind do not constitute grounds for complaint.
5. If there are only minor defects in quality and title, we are entitled in principle to remedy defects on two occasions. If the nature of the matter or the defect or the other circumstances means that it has to be expected by the contracting partner that the remedy will fail, even though it has not yet proved unsuccessful, we are entitled to carry out further repairs. If the remedy has failed, the contracting partner is entitled to make a reduction or, at their discretion, to rescind the contract and to assert

the right to compensation of damages in accordance with the statutory provisions.

6. The period of limitation for warranty claims is 24 months from delivery of the purchased item. This shall not apply for claims of the customer arising from injury to life, limb or health or for other damages of the contracting partner that are based on a wilful or grossly negligent breach of duty by us or on a wilful or grossly negligent breach of duty by our legal representatives or vicarious agents as well as for claims under the *Produkthaftungsgesetz* (German Product Liability Act).
7. We are entitled to make the subsequent performance that we undertake to carry out dependent on the purchaser paying the purchase price that is due. The purchaser is entitled, however, to retain a part of the purchase price that is reasonable in proportion to the defect. The purchaser has to give us the time and the opportunity necessary to carry out the subsequent performance that we undertake to provide and has in particular to hand over the goods that are the subject of the complaint to be inspected. In the event of a replacement delivery, the purchaser has to return the defective item to us in accordance with the statutory regulations. The subsequent performance does not include either the disassembly of the defective item or its re-installation if we were not originally required to install it. The subsequent performance will be carried out in our plant in Heroldstatt.
8. The warranty requires that the user operates the products correctly in accordance with the operating instructions, follows all the instructions and carries out the stipulated maintenance. Wearing parts are subject to separate terms and conditions.
9. Changes made by the customer and maintenance work that is not carried out properly on our products can result in the warranty claims becoming void. We recommend arranging for us to carry out any repair work on our products.

Section 9 Limitation of liability

1. The contractor is liable without limitation in accordance with the statutory regulations for any injury to life, limb or health that is based on a negligent or wilful breach of duty by the contractor, its legal representatives or vicarious agents, for damages that are covered by the German Product Liability Act and for damages that are based on wilful or grossly negligent breaches of contract as well as fraudulent intent on the part of the contractor, its legal representatives or vicarious agents. If the contractor has issued a warranty of quality and/or durability with regard to the goods or parts of the goods, they shall also be liable within the framework of that warranty. For damages that are based on the absence of the guaranteed quality or durability, but do not arise directly from the goods, the contractor shall be liable, however, only if the risk of damages of this kind is clearly covered by the warranty of quality and durability. The contractor is also liable for damages that are caused by simple negligence if this negligence concerns the breach of contractual duties where compliance with these duties is of particular importance for achieving the purpose of the contract. The same shall apply if the client is entitled to claims for compensation instead of performance. The contractor shall nevertheless be liable only if the damages are typically connected with the contract and are foreseeable. Any further liability of the contractor upon the sale of an item is excluded irrespective of the legal nature of the claim that is asserted; this shall also apply in particular for tortious claims or claims for compensation for wasted expenditure instead of performance. If the liability of the contractor is excluded or limited, this shall also apply for the personal liability of their office employees, factory workers, staff members, legal representatives and vicarious agents.
2. The goods that we offer are not intended for the market and for use in the USA or Canada.
3. The customer is required to comply with all embargo regulations that are in force at the time of the order.

Section 10 Place of performance, choice of law, venue

1. The place of performance for all mutual claims arising from the contractual relationship is our place of business.
2. The law of the Federal Republic of Germany applies; the UN Convention on Contracts for the International Sale of Goods (CISG) does not apply.

The German version of the T&Cs shall prevail in any issues concerning their interpretation.