

General Terms and Conditions of Sale and Delivery of neuburger.technik GmbH

§ 1 Scope of application of these terms and conditions

1. These General Terms and Conditions apply exclusively. We do not recognise any conflicting or deviating terms and conditions unless we have expressly agreed to their validity in writing. This requirement of consent applies in all cases, for example even if we carry out the delivery to the buyer without reservation in full knowledge of the buyer's terms and conditions. Unless otherwise agreed, the General Terms and Conditions valid at the time of the buyer's order or, in any case, in the version last communicated to him in text form shall also apply as a framework agreement for similar future contracts without us having to refer to them again in each individual case.
2. These General Terms and Conditions apply exclusively to entrepreneurs within the meaning of § 14 BGB (German Civil Code).

§ 2 Conclusion of contract, offer documents

1. The offer is subject to change and valid for the duration of the delivery period if the order is placed within 90 days. Previous offers for the same goods lose their validity upon presentation of a newer offer.
2. For orders up to a net goods value of €150.00, a handling fee of €50.00 will be charged.
3. The order of goods by the buyer is considered a binding contractual offer.
4. We reserve ownership rights and copyrights to illustrations, drawings, calculations and other documents. The same applies to documents that are expressly marked as 'confidential'. The customer is only entitled to make our illustrations, drawings, calculations and other documents accessible to a third party or to pass them on to a third party with our express written consent.

§ 3 Delivery and delivery time

1. Unless otherwise agreed, our delivery obligation shall be EXW in accordance with Incoterms® 2010.
2. A delivery period specified by us shall commence from the time at which all technical and commercial details have been clarified, in particular after submission of all information required for the design, including specifications, drawings and 3D models (order clarity).
3. If customer-specific parts are to be integrated into adapter solutions, these parts must be delivered to us free of charge by the customer at the time the order is placed (DDP Incoterms®). Any customisation samples required by us must be delivered to us under the same conditions and collected again free of charge after completion of the order. If the customisation sample is not collected, we will request collection after a period of 24 months or dispose of the customisation sample without further notice.
4. Compliance with the agreed delivery deadlines requires that the customer grants approval for production within 3 working days of receiving our approval request. Change requests may affect the agreed delivery deadlines depending on their nature and scope.
5. Compliance with the agreed delivery deadlines requires timely and correct delivery to us. If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the buyer of this immediately and at the same time notify them of the

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expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; and we shall immediately reimburse any consideration already paid by the buyer. In this context, non-availability of the service shall include, in particular, late delivery by our supplier, if we have concluded a congruent covering transaction, neither we nor our supplier are at fault, or we are not obliged to procure the goods in individual cases.

6. If we specify a delivery date/delivery week, this is an indication of when the goods will be ready for dispatch. If a delivery date is specified, the goods will be ready for dispatch by 5 p.m. at the latest, and if a delivery week is specified, by 5 p.m. on the Friday of that week at the latest.
7. Force majeure, as well as operational disruptions occurring at our premises or those of our suppliers, such as riots, strikes, lockouts, which temporarily prevent us from delivering on the agreed date or within the agreed period through no fault of our own, shall alter the agreed delivery periods and delivery dates by the duration of the performance disruptions caused by these circumstances.
8. If the customer is in default of acceptance or violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us, including any additional expenses. If the customer is in default of acceptance, the risk of accidental loss or accidental deterioration of the purchased item shall pass to the customer at this point in time.
9. In the event of cancellation or partial cancellation of orders, goods already delivered or services already commenced shall be invoiced. In addition, a cancellation fee of at least 15% of the net order amount shall be payable and invoiced. The invoice for the cancellation fee shall be payable within 14 days without deduction.

§ 4 Terms of payment

1. Unless otherwise expressly agreed, our prices are 'ex works', i.e. excluding packaging and transport costs. Statutory value added tax is not included in our prices and will be explicitly shown on the invoice at the rate applicable at the time of invoicing.
2. Unless otherwise expressly agreed, the purchase price is due for payment within 30 days of the invoice date, without deduction.
3. Upon expiry of the above payment period, the buyer shall be in default. Interest shall be payable on the purchase price during the period of default at the applicable statutory default interest rate. We reserve the right to assert further claims for damages caused by default. Our claim to commercial interest on arrears (§ 353 HGB) remains unaffected in relation to merchants § 5 Restrictions on the right to offset and the right to.

§ 5 Restrictions on the right to offset and the right to retention

4. The customer is not entitled to declare an offset against our payment claims unless the claim with which the customer declares the offset is undisputed or has been legally established. The customer shall also be entitled to offset if the claim with which he declares the offset is reciprocal to our payment claim.

§ 6 Retention of title

1. We retain title to the purchased item until all payments from the respective underlying delivery contract have been received. The customer is obliged to store the purchased item free of charge with the care of a prudent businessman.

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2. The customer is not entitled to pledge or transfer ownership of the goods subject to retention of title as security. In the event of seizures or other access by third parties to the goods subject to retention of title, the customer must notify us immediately in writing and provide us with all documents necessary to safeguard our rights, in particular to bring an action against third parties pursuant to Section 771 of the German Code of Civil Procedure (ZPO).
3. The customer is entitled to resell the goods subject to retention of title in the ordinary course of business. However, the customer hereby assigns to us all claims in the amount of the gross purchase price agreed with us which accrue to the customer from the resale of the goods subject to retention of title against its customers or third parties. This applies regardless of whether the goods subject to retention of title have been resold without or after processing. The customer remains authorised to collect the claim even after the assignment. However, this does not affect our right to collect the claim ourselves. We undertake not to collect the claim ourselves as long as the customer duly meets his payment obligations, is not in default of payment and, in particular, has not filed for insolvency proceedings or suspended payments. In the event of default in payment, cessation of payments or the filing of an application for insolvency, the customer's right to sell the goods subject to retention of title and the authority to collect the assigned claims from the customer's buyers shall expire. In this case, the customer is obliged to provide us with all information necessary for the collection of the claim, to hand over the necessary documents to us and to disclose the assignment to the third party.
Amounts collected by the customer from assigned claims must be kept separately until they are transferred to us in order to exclude offsetting and/or set-off against bank accounts managed as accounts receivable.
4. The processing or transformation of the goods subject to retention of title by the customer shall always be carried out on our behalf. If the purchased item is processed with other items that do not belong to us, we shall acquire co-ownership of the new item in proportion to the objective value of our purchased item to the other processed items at the time of processing. The same shall apply to the item created by processing as to the purchased item delivered under reservation.
5. If the goods subject to retention of title are inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the objective value of our purchased item to the other mixed items at the time of mixing. If the mixing is carried out in such a way that the customer's item is to be regarded as the main item, it is agreed that the customer shall transfer proportional co-ownership to us. The customer shall hold the resulting sole/co-ownership in safekeeping for us.
6. The retention of title shall also remain in force if individual claims are included in a current account and the balance has been struck and acknowledged, unless the balance has been settled.
7. We undertake to release the securities to which we are entitled at the customer's request to the extent that the realisable value of the securities granted exceeds our claims by more than 10%. The selection of the securities to be released is at our reasonable discretion.

§ 7 Execution and documentation

1. Goods that we develop specifically for the task described are designed, built and documented in accordance with neuburger.technik standards. For this reason, we can only deviate from our execution and documentation standards if this is specifically offered, commissioned and remunerated. All copyrights to the goods offered/delivered, unless they are exclusively purchased parts, remain with neuburger.technik GmbH.

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2. The scope of delivery includes one-time documentation in accordance with neuburger.technik standards, provided that this has been offered and ordered as a separate item. If our delivery is changed in deviation from the documented design, the changed documentation can be provided by neuburger.technik GmbH. Depending on the scope and reason for the change, we will invoice the costs incurred for the documentation change.
3. The scope of delivery of manually operated QUICK-SCHOTT quick adapters does not include any documentation relating to the EC Machinery Directive, EMVG and DIN 10 012/ISO 10 012-1 Part 1 or manufacturer's declarations, declarations of conformity, CE marks or FMEA. If such documents are required by the customer, this must be expressly stated in the request for quotation.

§ 8 Warranty

1. The customer is obliged to inspect the purchased item for defects – even in the event of resale – and to report any recognisable defects immediately. If the customer fails to comply with the above obligations to inspect and give notice of defects, the goods shall be deemed to be in accordance with the contract.
2. We reserve the right to accept returns only after prior notification and delivered DDP (Incoterms® 2010).
3. Samples produced for approval may differ slightly from the series products due to manufacturing reasons. These deviations do not justify a complaint.
4. When designing our products, we pay the utmost attention to avoiding marks on the customer parts to be tested. In special cases, however, slight marks cannot be completely avoided due to the materials used in conjunction with form-fitting holding mechanisms. Such unavoidable marks do not justify a complaint.
5. In the event of material defects and defects of title that are not insignificant, we are generally entitled to make two attempts at rectification. If the nature of the item or the defect or other circumstances indicate that the rectification has not yet failed and that this can be reasonably expected of the contractual partner, we are entitled to make further attempts at rectification. If the repair has failed, the contractual partner is entitled to reduce the price or, at their discretion, to withdraw from the contract and claim damages in accordance with the statutory provisions.
6. The limitation period for warranty claims is 24 months from delivery of the purchased item. This does not apply to claims by the customer arising from injury to life, limb or health, or to other damages suffered by the contractual partner that are based on an intentional or grossly negligent breach of duty on our part or on an intentional or grossly negligent breach of duty on the part of our legal representatives or vicarious agents, or to claims under the Product Liability Act.
7. We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer is entitled to retain a portion of the purchase price that is reasonable in relation to the defect. The buyer must give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the buyer must return the defective item to us in accordance with the statutory provisions. Subsequent performance does not include the removal of the defective item or its reinstallation if we were not originally obliged to install it. Subsequent performance shall be carried out at our factory in Heroldstatt.
8. The warranty presupposes that the operator uses the products correctly in accordance with the operating instructions, observes all instructions and carries out the prescribed maintenance. Wear parts are subject to separate conditions.

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9. Modifications carried out by the customer and improper maintenance work on our products may lead to the loss of warranty claims. We recommend that repairs to our products be carried out exclusively by us.

§ 9 Limitation of liability

1. The contractor shall be liable without limitation in accordance with the statutory provisions for damage to life, body and health resulting from a negligent or intentional breach of duty by the contractor, its legal representatives or its vicarious agents, as well as for damages covered by liability under the Product Liability Act, and for damages resulting from intentional or grossly negligent breaches of contract and malice on the part of the contractor, its legal representatives or vicarious agents. Insofar as the contractor has given a quality and/or durability guarantee with regard to the goods or parts thereof, it shall also be liable within the scope of this guarantee. However, the contractor shall only be liable for damage based on the absence of the guaranteed quality or durability, but not directly occurring to the goods, if the risk of such damage is clearly covered by the quality and durability guarantee. The contractor shall also be liable for damage caused by simple negligence, insofar as this negligence concerns the breach of contractual obligations whose fulfilment is of particular importance for achieving the purpose of the contract. The same shall apply if the client is entitled to claims for damages instead of performance. Nevertheless, the contractor shall only be liable insofar as the damage is typically associated with the contract and is foreseeable. Any further liability on the part of the contractor in the event of the sale of an item is excluded, regardless of the legal nature of the claim asserted; this also applies in particular to tortious claims or claims for reimbursement of futile expenses instead of performance. Insofar as the contractor's liability is excluded or limited, this also applies to the personal liability of its employees, workers, staff, representatives or vicarious agents.
2. The goods we offer are not intended for the market and use in the USA and Canada.
3. The customer is obliged to comply with all embargo regulations valid at the time of ordering.

§ 10 Place of performance, choice of law, place of jurisdiction

1. The place of performance for all mutual claims arising from the contractual relationship is our registered office.
2. The law of the Federal Republic of Germany applies, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

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