

General terms and conditions of sale and delivery

Translation from the original German version of the m3profile GmbH terms.



m3profile GmbH

Version 2.0 | dated: 15.04.2025

I. Scope

1. Orders become binding only upon confirmation by the supplier. If the customer does not object to the contents of the order confirmation within 3 working days after receipt, the contract is concluded under the terms stated therein, even if these differ from the original agreement due to transmission, understanding, or typographical errors. Changes and additions should be made in text form. All offers are non-binding unless explicitly designated as fixed offers. Quantity or size specifications are approximate values unless expressly stated as binding.
2. These terms and conditions shall also apply to future business transactions in ongoing business relationships, even if not expressly referenced, provided they were referenced in a previous order confirmed by the supplier.
3. The customer's terms and conditions do not apply, even if not expressly objected to, unless explicitly accepted in writing by the supplier. The provisions of distance selling law for transactions with consumers do not apply, even analogously, to business relationships with entrepreneurs.
4. If any provision of these Terms and Conditions becomes invalid, the validity of the remaining provisions shall not be affected.

II. Prices

1. Unless otherwise agreed, prices are ex works, excluding freight, customs duties, import or export levies, and packaging, plus statutory VAT.
2. The supplier is not bound by previous prices for new orders.

III. Delivery and acceptance obligations, force majeure

1. Delivery periods begin upon receipt of all documents necessary for the execution of the order, the down payment, and any timely provision of materials agreed upon. The delivery deadline is deemed met upon notification of readiness for shipment, even if shipment is delayed or becomes impossible without the supplier's fault.
2. If the supplier fails to meet an agreed delivery period due to its own fault, the customer must in any case grant a reasonable grace period.
3. Partial deliveries are permissible to the extent reasonable.
4. Deviations from orders of up to +/- 10% are permitted.
5. If the customer fails to fulfill acceptance obligations, the supplier may, without prejudice to other rights, sell the goods at their discretion after notifying the customer.
6. Events of force majeure entitle the supplier to postpone delivery by the duration of the impediment plus a reasonable start-up period or to withdraw from the contract entirely or partially with respect to the unfulfilled part. Claims for damages are excluded in such cases. Force majeure includes pandemics, strikes, lockouts, or unforeseeable, unavoidable circumstances (e.g., production disruptions, transportation delays, raw material or energy shortages) that prevent timely delivery despite reasonable efforts. This also applies if such impediments arise during delay or with a subcontractor. The customer may request the supplier to declare within two weeks whether they will withdraw or deliver within a reasonable grace period. If the supplier does not respond, the customer may withdraw from the unfulfilled part of the contract. The supplier shall notify the customer immediately upon the occurrence of a force majeure event.

IV. Terms of payment

1. All payments must be made exclusively in euros (€) to the supplier. Unless otherwise agreed, the purchase price for deliveries or other services is payable in full within 30 days from the invoice date without any deduction.
2. In the event of a late payment, interest will be charged at the statutory rate of 9 percentage points above the base interest rate in accordance with § 247 BGB, unless the supplier proves greater damage.
3. Checks or bills of exchange are only accepted by prior written agreement and only on account of performance. All associated costs are borne by the customer.
4. The customer may only offset or assert a right of retention if their claims are undisputed or have been legally established.
5. Persistent non-compliance with payment terms or circumstances that raise serious doubts about the customer's creditworthiness entitle the supplier to declare all claims due immediately. In such cases, the supplier is also entitled to demand advance payment for outstanding deliveries and, after the unsuccessful expiration of a reasonable period, to withdraw from the contract.

V. Packaging, shipping, transfer of risk and default of acceptance

1. Unless otherwise agreed, the supplier shall select the packaging, shipping method, and shipping route. The supplier may commission one of their usual shipping providers under their standard terms.
2. Even in the case of carriage-paid delivery, risk passes to the customer when the goods leave the supplier's facility. If shipping is delayed due to reasons attributable to the customer, risk passes upon notification of readiness for shipment.
3. Upon the customer's written request, the goods will be insured at the customer's expense against risks specified by the customer.

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	VR-Bank Mittelfranken Mitte eG		Sparkasse Gunzenhausen

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4. In case of acceptance default, the supplier is entitled to store the goods at the customer's expense. If the supplier stores the goods themselves, they may charge storage fees of 0.5% of the invoice amount per calendar week or part thereof. Higher storage costs may be claimed with proof.

VI. Retention of title

1. Goods delivered by the seller remain their property until full payment of all current and future claims against the buyer arising from the business relationship. This also applies if individual claims are included in a running account and the balance has been confirmed (current account retention).

2. The buyer is only entitled to resell, process, or install the reserved goods under the condition that the claims from resale per Clause 4.3 are effectively transferred to the seller. This entitlement ends if the seller revokes it due to the buyer's deteriorating financial condition. It also ends without revocation in the event of the buyer's suspension of payments or insolvency application.

3. If the reserved goods are processed into a new movable item by the buyer, this is done on behalf of the seller without any obligation for the seller. The seller acquires ownership of the new item. If processed with goods not owned by the seller, the seller acquires co-ownership proportionate to the invoice value.

4. (a) To secure the seller's rights, the buyer hereby assigns their future claims from resale of the reserved goods - including all ancillary rights - to the seller, who accepts this assignment. This applies equally to other claims arising in connection with the reserved goods.

(b) If reserved goods are installed in property/buildings, the buyer assigns the resulting claims for compensation or resale - including the right to a security mortgage - to the seller in the amount of the invoice value.

(c) If the buyer sells the claim through genuine factoring, the seller's claim becomes immediately due, and the buyer assigns their claim against the factor to the seller and forwards the payment.

(d) The rules for collection authorization in Clause 2 apply accordingly. If the buyer's right to collect ends, they must enable the seller to collect the claims themselves.

5. The buyer stores the reserved goods free of charge and must insure them against common risks such as fire, theft, and water.

6. All claims and ownership rights remain in effect until all contingent liabilities (e.g., bills of exchange) entered into by the seller on behalf of the buyer are fully released.

7. Goods Abroad: If the delivery item is located abroad and delivered before full payment, it remains the supplier's property to the extent permitted by local law. If retention of title is not recognized, but other rights are allowed, the supplier may exercise those (e.g., lien). The customer must assist with necessary registrations or actions to validate these rights..

VII. Liability for defects in material

1. The quality and design of the products are determined by the product description or – if agreed – the reference samples presented to the customer upon request. References to technical standards serve as performance descriptions and do not constitute guarantees of characteristics. Industry-standard tolerances apply. Unless specifically agreed otherwise in writing, production is carried out using industry-standard materials and known manufacturing processes. Minor deviations in color from originals are not seen as mistake.

2. If the supplier advises the customer outside the scope of contractual obligations, the supplier is only liable for functionality and suitability if explicitly confirmed in advance.

3. Complaints regarding defects must be submitted immediately in writing. Hidden defects must be reported immediately after discovery. Unless otherwise agreed, all defect-related claims expire twelve months after the transfer of risk.

4. In the case of justified complaints, the supplier is obligated to provide subsequent performance (either repair or replacement, at the supplier's discretion). If the supplier fails to meet this obligation within a reasonable period or the remedy fails repeatedly, the customer may reduce the purchase price or withdraw from the contract. Further claims, especially for reimbursement of expenses or damages due to defects or consequential damage, are subject to the liability limitations in section VIII.

5. Unauthorized modifications or improper handling result in the loss of all defect claims. The customer may only remedy defects themselves to prevent disproportionate damage or in case of the supplier's delay and must notify the supplier in advance; only reasonable costs may be claimed.

6. Normal wear, aging, or standard usage do not constitute grounds for warranty claims.

7. Recourse claims under §§ 478, 479 BGB only apply if the consumer's claim was justified and within legal limits – not for goodwill gestures uncoordinated with the supplier – and require the claimant's own compliance with obligations (e.g., timely defect notification).

VIII. General liability limitations

1. The supplier is only liable for damages or reimbursement of expenses if they, their executives, or agents are guilty of intent, gross negligence, or injury to life, body, or health.

2. Liability without fault under the German Product Liability Act and liability for guaranteed characteristics remain unaffected.

3. Liability for breach of essential contractual obligations also remains unaffected, but is limited – except in the cases mentioned above – to foreseeable, typical contractual damages. Essential obligations are those fundamental duties critical to the proper performance of the contract or which significantly influence the mutual trust relationship, particularly delivery obligations and key advisory duties.

4. These provisions do not alter the burden of proof to the detriment of the customer.

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IX. Molds (tools)

1. The price for molds includes the cost of one initial sampling but not for test and processing devices or changes requested by the customer. Costs for further samplings caused by the supplier are borne by the supplier.
2. Unless agreed otherwise, the supplier retains ownership of molds produced for the customer by the supplier or third parties on their behalf. Molds will only be used for the customer's orders as long as the customer fulfills payment and acceptance obligations. The supplier's storage obligation ends two years after the last delivery using the mold. The customer will be informed before disposal.
3. If the contract is terminated and the molds are not yet amortized, the supplier is entitled to invoice the remaining amortization amount immediately.
4. If ownership of the molds is to be transferred by special agreement, it passes to the customer after full payment. Actual delivery is replaced by safekeeping for the customer. The supplier may retain possession until delivery of the agreed minimum quantity and full performance of all obligations. The supplier shall mark the molds as third-party property and insure them at the customer's request and expense.
5. For customer-owned molds or those provided on loan, the supplier's responsibility is limited to the care applied to its own property. Maintenance and insurance costs are borne by the customer. If the customer does not collect the molds within a reasonable period after order completion and request, the supplier's obligations cease. If the customer is in breach of contract, the supplier may retain the molds.

X. Designs / printing plates / documents

1. The supplier retains exclusive implementation and copyright rights to designs, documents, illustrations, drawings, and other materials. If the customer provides templates or ideas, the supplier obtains co-copyright to the extent the supplier has shaped the final version.
2. If no order results, the customer must immediately return all documents to the supplier and destroy any copies made, including digital versions.
3. When providing templates and ideas, the customer indemnifies the supplier from third-party claims related to those rights.
4. Designs, final artwork, printing plates, and similar remain the property of the supplier, even if their production costs have been invoiced.
5. The customer only acquires usage rights to the supplier's designs upon separate payment, and unless agreed otherwise, only a simple right of use is granted.

XI. Material provided by customer

1. If materials are provided by the customer, they must be delivered at the customer's cost and risk, with at least a 5% quantity surplus, in good condition and on time.
2. Failure to meet these requirements appropriately extends delivery time. Except in force majeure cases, the customer bears additional costs, including those caused by production interruptions.

XII. Industrial property rights and legal defects

1. If the supplier manufactures according to drawings, models, samples, or parts provided by the customer, the customer guarantees no third-party rights are infringed in the destination country. The supplier is not obligated to perform their own research but will inform the customer of any known rights. The customer indemnifies the supplier from third-party claims on first demand and compensates for damages. The supplier may suspend work until legal clarification. If continuation becomes unreasonable, they may...
2. Drawings and samples not resulting in an order will be returned upon request or destroyed after three months. The other party must also inform before destruction.
3. The supplier retains ownership, copyrights, and, where applicable, industrial property rights to all models, tools, drawings, etc. the customer must return all items and copies on request.
4. For all other legal defects, section VII applies accordingly.

XIII. Food safety and recycled materials

1. If a product is intended for contact with food, the customer is responsible for testing the suitability of the material for specific foodstuffs.
2. Recycled raw materials are selected carefully, but regenerated plastics may vary in surface quality, color, purity, odor, and physical or chemical properties from batch to batch. These do not justify defect claims. However, claims against upstream suppliers may be assigned to the customer without warranty.

XIV. Place of fulfillment and jurisdiction

1. The place of fulfillment is the location of the supplier's facility.
2. The place of jurisdiction is, at the supplier's discretion, either the supplier's headquarters or the customer's registered office.
3. German law exclusively applies, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

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