

General Terms and Conditions of 3D MicroPrint GmbH

I. General Terms

1. Unless explicitly agreed, these general terms and conditions apply to deliveries and services (hereafter “delivery”) from 3D MicroPrint GmbH (hereafter “Supplier”). By placing an order or by fulfilling the contract the customer declares his agreement to the validity of these terms and conditions. These terms and conditions also apply to future contractual relationships, even if there is no explicit agreement to confirm their validity.

2. The customer’s terms and conditions that contradict these terms and conditions or add conditions to our disadvantage are explicitly rejected. They shall only become effective, if we give our explicit consent. Unconditional execution of the order while being aware of contradictory terms and conditions does not constitute consent.

II. Conclusion of Contract

1. Brochures, advertisements etc. contained in offers are – also regarding the price quotation- non-binding and without obligation. Regarding specially prepared offers, the supplier must keep to 30 calendar days from the date of the offer.

2. Any subsidiary agreements, amendments, additions and/or other deviations from the prepared offers are only valid if the supplier has given written consent.

3. Details of the offers and/or order confirmations of the Supplier that are based on an obvious error, e.g. typing or calculation errors shall not place any commitment on the Supplier. The clearly intended explanation applies.

4. The Supplier retains his rights of ownership and copyright in their entirety to any cost estimates, drawings, and other documents (hereafter documents). The Documents may only be made accessible to third parties with the Supplier’s prior consent, and must be returned to him straightaway, should the order not be placed with the Supplier. Clauses 1 and 2 apply accordingly to the customer’s documents; access to these Documents may also be granted to any third parties to whom the Supplier has permitted the deliveries to be transferred to.

5. The Supplier accepts no liability for errors that arise from Documents submitted by the customer or that have come from unclear or oral statements.

III. Scope of Delivery

1. Unless otherwise agreed, only the Supplier's order confirmation is binding for the scope of the contracted services. Obligations shall only be binding for him through his order confirmation.
2. The Supplier's system specification as offered and presented shall apply, as long as no specification of requirements has been agreed. Safety regulations based on accident prevention regulations shall be supplied, as agreed.
3. The Supplier reserves the right to modify the design, material selection, the specification, and the design even after the order has been confirmed, provided this does not contradict the customer's order confirmation or specification.
4. The customer has the non-exclusive right to use the acquired software with the agreed performance features in an unamended form on the agreed media. The customer may not produce a backup without explicit agreement. 3D MicroPrint GmbH's end-user license agreement shall apply to the software developed and delivered by the Supplier.
5. If the Delivery provided underlies samples, drawings, and models, the customer shall accept liability for any breaches of third-party protected rights.

IV. Price and Payment Terms

1. Unless otherwise agreed, prices are free carrier, excluding packaging, dispatch and any additional tax at the currently applicable rate. Discounts may only be deducted in cases that have been explicitly agreed. Incoterms 2010 apply.
2. If more than six months have elapsed between conclusion of the contract and the agreed and/or actual delivery date, the Supplier's prices at the time of the delivery and supply of valid prices shall apply. Should subsuppliers raise their prices or wage and transport costs increase, or in the event of other unforeseeable cost rises, the Supplier is entitled to demand negotiations for a price review.
3. If the Supplier has accepted responsibility for setup and assembly, and nothing to contrary has been agreed, the customer shall bear the cost of all necessary additional costs, such as travel expenses, costs of transporting the tools and personal baggage and allowances.
4. Payments should be made free at the paying office of the Supplier.
5. The customer may only offset such claims that the Supplier has not disputed or are legally binding.

V. Retention of Title

The Supplier will only deliver on the basis of reservation of title described below. This also applies to all future deliveries, even if we do not explicitly refer to it.

1. The Supplier reserves ownership to the items supplied (Reserved Goods) until the fulfillment of all outstanding financial claims against the customer. The Supplier is entitled to withdraw the Reserved Goods, should the customer behave in a manner that violates the contract.

2. The customer is obliged to handle the Reserved Goods with care until ownership is transferred. He is particularly obliged to insure such goods adequately at their replacement value against theft, fire, and water damage. If servicing and inspection work has to be carried out, the customer must undertake this promptly at his expense. Until ownership is transferred, the customer must inform the Supplier immediately in writing, if the Reserved Goods are pledged or are infringed in any other way by third parties. If the third party is not in a position to reimburse us for any legal and out-of-court costs of a claim according to Section 771 of the German Code of Civil Procedure (ZPO), the customer is liable for such expenditure.

3. The customer is entitled to resell the Reserved Goods during the normal course of business. The customer herewith assigns to the Supplier any monies paid by the customer in the resale of the Reserved Goods up to the value of the final invoice amount agreed with us (including sales taxes). This transfer applies regardless of whether the Reserved Goods have been sold on without or after processing. The Customer remains authorized to recover the debt even after the assignment. This shall not affect the authority of the Supplier to collect the debt himself. However, the Supplier will refrain from collecting the debt, provided the customer meets his payment obligations from the revenues received, is not in arrears, and in particular, no application for bankruptcy or foreclosure has been made.

4. The handling, processing and converting of the delivery by the customer takes place on behalf of and by order of the Supplier. In this case, the customer's expectant rights to the Reserved Goods continue in the remodeled item. If the Reserved Goods are processed with other items not belonging to the Supplier, the Supplier acquires co-ownership of the new item proportionate to the objective value of the Reserved Goods to that of the processed items at the time of processing. The same applies if the case of a mixture. If mixing is carried out in such a way that the customer's item is the main item, it is considered as agreed that the customer will transfer ownership prorata to the Supplier and that the sole ownership and co-ownership be detained for the Supplier. Regarding security for the Supplier's claims against the customer, the customer also assigns such claims to the Supplier that have arisen from a third party by combining the Reserved Goods with real property. The Supplier herewith accepts such assignment.

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5. The Supplier is obliged to release any stated securities to which he is entitled at the customer's request, if their value exceeds the claims to be secured by more than 20%.

VI. Delivery; Arrears

1. Unless otherwise agreed, part deliveries that are reasonable for the customer are permissible.

2. The delivery time is taken from the special agreement between the parties. Deadlines and delivery dates are only binding, if they have been explicitly agreed as such. Adherence to deadlines for deliveries is dependent upon prompt receipt of all Documents to be delivered by the customer, necessary licenses and approvals, in particular, plans and adherence to the agreed payment terms and other obligations of the customer and clarification of any arisen technical queries that may subsequently arise. If these conditions are not met promptly, or if changes are agreed after the contract has been concluded, a reasonable extension shall be added to the deadlines. This does not apply, if the Supplier is not responsible for the delays.

3. The deadlines shall be extended accordingly and/or appropriately, if non-adherence to deadlines is due to an Act of God.

4. The Supplier must notify the customer in any case about any occurrence of default in delivery and its causes.

5. If the Supplier is responsible for a delay, provided the customer is able to prove that he is at fault, after giving a period of grace of ten (10) working days, the customer can demand compensation for each complete week of arrears of 0.5%, up to a maximum of 5% of the manufacturer's price for the part of the Delivery that could not be taken into service due to the delay. This only applies if the Supplier is responsible for the delay.

6. The customer may not make any claims for compensation due to a delayed delivery or claims for compensation in lieu of performance outside the limits mentioned in Art. 5 in all cases of delayed delivery, also after a period of grace granted to the Supplier has ended. It does not apply in cases of mandatory liability where there is intent, gross negligence, or damages arising from loss of life, bodily injury or damage to health.

7. The customer may only withdraw from the contract within the scope of the statutory conditions, if the Supplier is responsible for the delayed delivery. These regulations do not entail a reversal of the burden of proof to the detriment of the customer.

8. The customer is obliged to state within 14 days of becoming aware of the delayed delivery whether he intends to withdraw from the contract or insist upon the Delivery.

9. Should dispatches or deliveries be delayed by more than a month at the customer's request after notification that the goods are ready; the customer may be charged a storage fee of 0.5% of the price of the items to be delivered, up to a maximum of 5% for each month commenced. The parties reserve the right to prove that the storage costs were higher or lower.

VII. Transfer of Risk

1. Risk is transferred to the customer as follows, even for a freight-paid delivery:

a) for deliveries without installation or assembly when they are dispatched or collected; the Supplier will insure deliveries against the usual transport risks at the customer's request and cost;

b) for a delivery with installation or assembly on the day of handing over to the customer's business or, if agreed, after a fault-free trial operation and upon acceptance.

2. Once the dispatch, delivery, beginning, implementation of installation or assembly work is handed over to his own holding or trial operation is delayed for reasons for which the customer is responsible, or the customer refuses to agree to acceptance for other reasons, risk shall be transferred to the customer on the day handover is agreed.

3. If the delivery is used by the customer without successful acceptance as described in sentence IX., the risk will transfer on the date of signing the minute of non-acceptance, but not later than the date of beginning to use the delivery. The decision made by the customer to use the delivery without acceptance must be noted on the minutes; the date of beginning of use has to be noted in writing to the Supplier.

VIII. Installation and Assembly

Unless otherwise agreed in writing, the following conditions apply:

1. The customer is responsible for providing on time and at his expense:

a) all ground, building, and other additional work outside the industry, including the related skilled and unskilled labor, materials, and tools required;

b) the items and materials required for the installation and commissioning, such as scaffolding, lifting gear, and other equipment, fuels, and lubricants;

c) energy and water from the point of use, including the connections, warehousing, and lighting;

d) sufficiently large, suitable, dry, and lockable rooms at the assembly site to store machine parts, equipment, materials, tools etc. and reasonable working and recreation rooms for the assembly staff, including sanitation facilities appropriate for the location. The customer also has to take steps to protect the Supplier's and the assembly personnel's possessions that he would take to protect his own possessions;

e) protective clothing and protective equipment that are necessary due to the assembly site's particular circumstances.

2. Before starting any assembly work, the customer must provide the necessary details about the location of any concealed electricity, gas, water pipes, or similar systems, as well as the necessary static details without being asked.

3. Before starting the installation or assembly, the supplies and items required to commence work must be located at the installation or assembly site and all preparatory work be progressed so far before the start of the construction to enable the installation or assembly to commence as agreed without interruption. Access routes and the site of assembly and installation must be leveled and cleared.

4. If the installation, assembly, or commissioning is delayed due to circumstances for which the Supplier is not responsible, the customer has to bear a reasonable proportion of the costs for service time in addition to the Supplier's or assembly personnel's additional travel expenses.

5. The customer must weekly certify the number of working hours spent by assembly personnel and the end of the installation, assembly, or commissioning to the Supplier.

6. If the Supplier requires acceptance of the Delivery after completion, the customer must do this within two weeks. If this does not happen, acceptance will be deemed to have taken place. Acceptance shall also be deemed to have taken place, if the Delivery is taken into use, possibly after completion of an agreed test phase.

IX. Acceptance

1. Acceptance takes place after notification of completion and readiness for acceptance by the Supplier and always takes place at his premises. Acceptance is always carried out by a person authorized by the customer.

2. With acceptance of the product, functionality, mechanics, pneumatics, electrical installation, programming, safety and documentation of the control units and switch boxes are announced and confirmed.

3. The customer cannot refuse deliveries due to negligible defaults.

4. In case of sentence VII. No. 3 the acceptance cannot be denied because of material defects not contested during the first acceptance test, unless there are hidden material defects.

X. Material Defects

The Supplier accepts liability as follows for material defects:

1. All the respective parts or services that show a material defect within the statutory period of limitation shall, at the Supplier's discretion, be repaired, replaced, or provided again free of charge, regardless of their service life, provided such defect existed at the time of risk was transferred.
2. Any claims for material defects shall lapse after 12 months following the transfer of risk. This does not apply, if the law provides for longer periods and in the event of loss of life, bodily harm, or damage to health, intent or grossly negligent breach of a contractual obligation on the part of the Supplier and in the case a defect is fraudulently concealed. This does not affect the statutory periods pertaining to suspension, interruption, and recommencement.
3. The customer must raise a complaint with the Supplier about any material defects straightaway in writing.
4. In the event of complaints, the customer may withhold a reasonable level of payments that are proportionate to the material defects that have arisen. The customer may only withhold payments, if a justified complaint is made, where there is no doubt as to its justification. If a complaint is submitted without justification, the Supplier is entitled to demand any expenditure he has incurred from the customer.
5. The Supplier must first be given the opportunity to supplementary performance within a reasonable period of time.
6. If supplementary performance should fail, the customer can withdraw from the contract regardless of any claims for damages based on Article XII.
7. Claims due to a material defect will not be accepted in the case of just a minor deviation from the agreed quality, for only a minor deviation from the use set out in the order, normal wear and tear, or damage that arises after the transfer of risk as a result of incorrect or negligent use, excessive load, unsuitable production equipment, substitute materials, defective construction work, unsuitable foundations, chemical, electro-chemical effects or as a result of particular external influences that are not anticipated in the order, as well as raw material faults that cannot be reproduced, and for which the Supplier cannot be held responsible.

If the customer has arranged for modifications or repair works to be undertaken by third parties, these and any resulting consequences will also be excluded from claims for material damages.

8. The customer shall have no claim with respect to the expenditure required during the course of supplementary performance, in particular transport, handling, labor, and material costs, if expenditure increases because the delivery was made to a location other than the customer's site, unless doing so satisfies its intended use.

9. The customer is entitled to a right of recourse against the Supplier, pursuant to Section 478 of the German Civil Code (BGB) (recourse by the company) only insofar as the customer has not met any agreements with the Supplier that extend beyond the statutory claims for material defects. No. 8 complies accordingly to the treatment of the customer's right of recourse pursuant against the Supplier in Section 478 (paragraph 2) of the German Civil Code (BGB) due to a material defect.

XI. Commercial Property Rights and Copyright; Defects of Title

1. Unless otherwise agreed, the Supplier is obliged only to supply the Delivery in his country free from commercial property rights and third-party copyright laws (hereafter "trademark rights"). If a third party brings a claim against the customer due to a breach of trade mark rights by using the deliveries raised by the Supplier in accordance with the contract, the Supplier is liable to the customer within the specific period outlined in Art. X no.

2., as follows:

a) The Supplier may choose whether to obtain the right to use the affected deliveries at his expense, modify them in such a way that the protected right is no longer breached, or replace them. If this is not possible for the Supplier at a reasonable cost, the customer is entitled to statutory rights of rescission and reduction.

b) The obligation of the Supplier to provide compensation is determined in accordance with Art. XIII.

c) The aforementioned obligations of the Supplier only exist, provided the customer clearly makes the Supplier aware of any claims made by third parties in writing, does not acknowledge an infringement and leaves all defensive action and negotiations for settlement to the Supplier. Should the customer stop using the Delivery to reduce losses or for another important reason, he is obliged to inform the third parties that no longer using it does not constitute any recognition of an infringement of trademark rights.

2. No claims from the customer shall be recognized, if he is involved in the infringement of trademark rights.

3. No claims will be accepted from the customer, furthermore, if the infringement of trademark rights is the result of the customer's own specifications, of an application not provided for by the Supplier, or is caused by the customer's delivery being modified or used in conjunction with products not supplied by the Supplier.
4. The conditions of Art. X no. 4, 8, and 9 apply accordingly to the customer's claims regulated in no. 1 a) in the event of an infringement of trademark rights.
5. The conditions of Art. X apply accordingly in the event of other defects of title.
6. No further claims or claims other than those regulated in this Art. XI against the Supplier and his agents due to defects of title shall be recognized.

XII. Impossibility of Performance; Adaptation of Contract

1. If the Delivery is impossible, the customer is entitled to demand compensation, unless the Supplier is not responsible. The customer's claim for compensation is limited to 10% of the value respective part of the Delivery that cannot be taken into proper operation. This restriction does not apply in cases where there is a mandatory liability due to intent, gross negligence, or loss of life, bodily harm, or damage to health; this does not entail a reversal of the burden of proof to the detriment of the customer. The customer's right to withdraw from the contract remains unaffected.
2. If unforeseeable events, as defined by Art. VI, no. 3, significantly change the commercial relevance or the content of the Delivery, or significantly impact the Supplier's business, the contract will be amended, taking reasonable account of the principles of good faith. If this is not economically reasonable, the Supplier is entitled to withdraw from the contract. If he intends to withdraw, he must notify the customer as soon as he becomes aware of the significance of the event and even if he has initially agreed an extension to the delivery date with the customer.

XIII. Other Claims for Compensation

1. The customer's claims for damages and compensation (hereafter "Compensation Claims"), regardless of their legal basis, in particular, due to the breach of obligations in the contractual relationship and tort are excluded.
2. This does not apply in the case of mandatory liability, e.g., based on the Product Liability Act, in cases of intent, gross negligence, due to loss of life, bodily harm or damage to health, or the result of infringing key contractual obligations.

However, the Compensation Claim for infringing key contractual obligations is limited to foreseeable damages typical of the contract, with the exception of intent or gross negligence, or the result of death, bodily injury, or damage to health. These regulations do not entail a change to the burden of proof to the disadvantage of the customer.

3. If the customer is entitled to compensation based on Art. XIII, this shall lapse at the end of the statutory period of limitation pursuant to Art. X no. 2. The statutory limitation periods shall apply in the event of claims for damages based on the Product Liability Act.

XIV. Sample Manufacturing

1. Deadlines for the construction of samples are approximate, unless the Supplier has made an explicit binding written commitment for a specific deadline.

2. It should be stated explicitly if submission of an estimate is required before completing samples/prototypes. The costs of the estimate must be reimbursed, even if the work does not result in an order.

3. Initial samples also essentially serve to fine tune production and communication between production and the customer, as well as testing materials and production options. A legal right to perfect initial samples is also excluded. There is therefore also no right to warranty of defects.

4. It is not possible to guarantee working order of samples.

5. If during the course of tests, the customer requires new or different types of test materials, or he wants a new or different type of process for the materials, and the Supplier is unable to do this without considerable adaptation efforts to produce further samples, the Supplier will provide a subsequent offer prior to carrying out any further work. Any further processing will only be carried out after the customer has accepted the subsequent offer, and an advance on costs has been made, if required. The same applies, if the customer requires a further improvement to the process and the Supplier is not able to do this without significant adaptation efforts.

6. The Supplier's liability is determined solely on an individual contract basis. Compensation Claims by the customer due to faults when the contract was concluded, breach of secondary obligations, and tort will not be recognized, unless they are based on intent or gross negligence on the part of the Supplier or one of his agents. The Supplier is also liable even for simple negligence, if essential contractual obligations are breached. In this case, his liability is limited to the typical and foreseeable damages.

7. These claims expire 1 year after receipt of goods and/or acceptance of performance by the customer.

8. These regulations do not affect claims based on the Product Liability Act.

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XV. Court of Jurisdiction and Governing Law

1. Chemnitz is the sole court of jurisdiction for all disputes that arise directly or indirectly from the contractual relationship, if the customer is a businessman, legal entity under public law or special fund under public law. The Supplier is, however, also entitled to make a claim at the customer's registered offices.
2. The law of the German Federal Republic applies to legal relationships pertaining to this contract to the exception of the UN Convention on the International Sale of Goods (CISG).

XVI. Severability Clause; Language

1. Should individual regulations or parts of the regulations in these terms of conditions be or become ineffective, this shall not affect the effectiveness of the remaining clauses or parts thereof. In this case, the parties shall aim to agree a regulation that comes closest to the economic purpose of the regulation that is invalid. The law applies, if the parties fail to reach an agreement.
2. Unless otherwise agreed, only the German version of these terms and conditions is decisive. If we provide a translation, this serves only as information for the customer and does not form part of the contract.

Chemnitz, November 2013

About 3D MicroPrint GmbH

3D MicroPrint GmbH is known for high-precision micro parts manufactured by Micro Laser Sintering. Since the company was founded in 2013 by EOS GmbH and 3D-Micromac AG, the additive manufacturing process has been further developed for micro parts and has been adapted to run an industrial production. Today we are providing our customers the entire portfolio of design consulting for additive manufacturing, feasibility studies and parts production up to their own 3D MicroPrint Micro Laser Sintering system. Furthermore 3D MicroPrint offers material developments for exclusive technologies on demand. The key applications for micro parts are medical industry, wearables, semiconductors and micro industries, high frequency applications as well as aerospace.