

Purchase Terms and Conditions of tprosafe GmbH

Area of application: For the orders of tprosafe GmbH, (Purchaser) for the deliveries and services (delivery item) the following purchase terms and conditions shall be exclusively enforced. Changes and amendments of these purchase terms and conditions require the written acknowledgement of the Purchaser. Purchase terms and conditions that deviate or amend the general terms and conditions of the supplier shall be non-binding to the Purchaser and also in such cases in which the Purchaser would not exclusively contradict such conditions. The unconditional delivery of the goods shall be true to – irrespective of possible earlier objections and deviating conditions of the supplier – and be the acknowledgment for the purchase terms and conditions of the Purchaser. When deliveries are made as per the here mentioned purchase terms and conditions, they shall then also be binding for orders in the following.

Order, order confirmation: If the Purchaser has not received a written order confirmation within 14 days – counted from the date of order – the Purchaser shall have the right to cancel the order. With orders that have not and/or have not yet been fully delivered, the Purchaser shall have the right to demand changes with regard to construction, volume and date of delivery. The effects and especially increases or decreases of expenses as well as changes of delivery terms and delivery dates are to be adequately considered thereby. Unless otherwise regulated, recalls of deliveries become binding if the supplier does not object within two weeks.

Prices: Prices consist of packaging, loading and transport cost, including possible insurance for the transport of the goods. This is true also for cost increases, which have been incurred for necessary express transport and which are due to circumstances for which the supplier is responsible. The supplier is to procure at his own expense and jeopardy the export and import authorizations or other legally required approvals and shall handle all the customs formalities that are necessary for the export and import or as the case may be for a possible passage through third countries.

Invoices, payment conditions: Payment is rendered in accordance to the contractual agreement within 14 days by discounting 3%, or net within 30 days after delivery of the goods and after the correct and verifiable invoice has been received. The discount shall be possible also in cases the amount is set-off. Deviating conditions have to be agreed upon in writing.

Delivery date, delay: The agreed upon delivery terms and delivery dates are binding. Should the supplier recognize that he cannot keep the agreed upon delivery terms and delivery dates, he shall notify the Purchaser immediately in writing by indicating the reasons and mentioning of the likely duration of the delay. The supplier's responsibility for the timely fulfillment of the contract remains hereby unaffected. If the supplier should become delayed with his services either in whole or in part, he shall pay a contract penalty. This penalty shall be 0.1% for each day of delay, however, shall amount only to a maximum of 5% of the price of the yet to be delivered part of the service. The Purchaser's claim to the contractual penalty shall remain also if it was not specifically reserved with the receipt of the service. Further claims of the Purchaser remain unaffected.

Delivery and receipt: In its execution, volume and classification, the delivery has to be commensurate with the order. The shipping documentation of the supplier have to contain order number, data of goods, and EAN and bar code of the Purchaser on the product label, the product packaging and the outer packaging and must be added with every delivery. If required, the EU-safety data sheet is to also be included. The EAN-code relating to the product is to be posted on the packaging as well as the outer packaging of the supplier. The Purchaser shall have the right to return non-agreed upon parts or excess deliveries as well as deliveries which are shipped before an agreed upon date, or account for storage cost at the expense and jeopardy of the supplier.

Transfer of risk and reserving proprietary rights: In every case, the supplier shall carry the risk until the goods have reached the by the Purchaser indicated place of receipt. In principle, the risk transfer to us takes place upon transfer of the goods at the indicated place of receipt. Ownership is transferred to us immediately upon receipt of the goods and reservation of proprietary rights shall not be honored.

Export control: The supplier is in agreement to inform the Purchaser immediately and without his request to issue the necessary written declarations regarding the goods (e.g. country of origin, HS-code, customs tariff number, supplier declaration, transport certificate, etc.) and as the case may be also inform the Purchaser of possible additional export restrictions timely and before the first shipment. A change of origin of the goods is to be indicated immediately to the Purchaser in writing and without his request. If the shipment requires an export authorization it should be procured from the supplier in a timely manner. The Purchaser shall be supplied with a copy of the export authorization latest upon receipt of the goods.

Quality: The supplier guarantees to maintain the agreed upon specification through an in place quality assurance system. The supplier puts into place and maintains the quality assurance system in a cutting-edge technical state. He prepares drawings, especially about his quality assurance, which are to be provided to the Purchaser upon his request. The supplier is to prepare and use documentation for the production process, which insures a reproducible and traceable production and control of the supplied goods. The supplier agrees to provide access for the Purchaser, his client and regulatory division to all the facilities, associated drawings that are in connection with the order. In addition, he hereby agrees to quality audits for the evaluation and effectiveness of his quality assurance system by the Purchaser, his client and regulatory division. Furthermore, additional in the order listed and attached quality assurance requests are to be heeded. Depending on the to be delivered goods, the Purchaser and supplier enter into a separate quality-management agreement (QMV). Should the supplier notice a mistake on the to be supplied good or comparable products, or the suspicion of such exists he will notify the Purchaser immediately. Changes on the to be supplied good or for the production necessary processes require the prior written approval from the Purchaser. The supplier commits his subcontractors in accordance with the above-mentioned provisions. The supplier handles documents of drawings that due to order changes have become invalid in such manner that further use is impossible. Notwithstanding special regulations, the packaging/preservation of the good is to take place minimally in such manner that losses of quality are made impossible during transport.

Information commitments: The supplier immediately informs tprosafe in case of the following: Change in the QM-system; change in production sites; process changes; material changes; changes in the composition: product changes resulting from the Regulation (EC) No. 1907/2006 (REACH) (e.g. discontinuation of the permit for substances, preparations and articles); change of the process description; change in a supplier; change of personnel key positions (only if they were mentioned); and when non-conformity vis-à-vis the specification has been noted.

Guarantees, notice of defects, liability of defects: The Purchaser notifies the supplier about defects in a shipment immediately in writing and as soon as they are noted during a orderly course of business. In this respect, the supplier renounces a claim in case of a belated notice of defects. A possible down payment rendered up front and before a defect is noticed shall not constitute the acknowledgment that the goods are free of defects and that the shipment was conducted in accordance to instructions. The supplier guarantees the accuracy of the delivered goods with regard to construction, manufacture and material as well as the compliance with the given specification and quality. The Purchaser's claim for warranty is subject to limitation and as of the date the goods were received, expires after 30 months. In the case of rectification of defects, the period will prolong for such time the Purchaser was unable to use the goods. For replacement deliveries, the warranty period shall also be 30 months as of date of delivery. The supplier will, as per the choice of the Purchaser either provide replacement at no cost, or eliminate defects at no cost to the Purchaser. In urgent cases (e.g., if the customer would otherwise suffer considerable damage), the Purchaser shall have the right to rectify defects on his own accord, or have the defects eliminated by a third party and/or procure replacement otherwise. Further going claims remain unaffected by this rule. If a mistake is noticed upon receipt of the goods, the Purchaser shall have the right to make warranty claims with regard to the entire shipment. The same is true if a mistake is discovered during subsequent processing. Rectified parts are to be packaged separately from newly processed parts and are to be listed as a separate item on the bill of sale. This item is to be marked "rectified" on the bill of sale. The quality assurance number, order number and item number of the Purchaser shall be listed on the bill of sale. As far as nothing else has been agreed upon, the supplier is to render a defect analysis to the Purchaser and latest with the return of the corrected goods.

Product liability: The supplier releases the Purchaser of all claims from the manufacturer liability as well as from those of the product liability law and with respect to this will carry the responsibility in case defects do appear. This shall not be true, if damages can be demonstrably proven and traced back to negligent behavior of the Purchaser.

Industrial property rights: In accordance with regulatory provisions the supplier's liability will be such that the uses of goods delivered by him do not cause infringement to either domestic or foreign industrial property rights and/or patent applications and releases the Purchaser or his customers from all claims that could arise therewith. This liability is valid also then, if such infringement could have been avoided by the supplier in heeding appropriate precautionary measures, (e.g., research). The supplier will release us and our customers of any third party claims, which came about due to infringements of intellectual property rights, trademarks or patents unless the draft of the to be delivered item was our own.

Tools, secrecy requirements: Tools as well a drawings, designs, samples, other tools, calibers etc., which are provided to the supplier by the Purchaser or the ones that are produced by the supplier as per the order information received from the Purchaser, shall remain the property of the Purchaser and may not be sold, pledged or otherwise given to nor used in any way for third parties. All tools, which have been provided by the Purchaser, shall be voluntarily returned at the expense and jeopardy of the supplier upon ending of the contract. In particular, the supplier will also after completion of this order, keep secret and not use the knowledge gained with regard to our manufacturing processes for his own manufacture or to supply our competition. We reserve all rights for new traits derived from us, particularly in cases of granting patents or utility patents – registration. The supplier himself may not use products which have been designed with draft documentation from us, such as drawings and designs etc., or which are manufactured according to our data, nor may they be offered or shipped to third parties. Furthermore, the Purchaser reserves the right of handover upon a first request. The supplier renounces enforcement to the right of retention. A separate agreement is needed should the Purchaser take over any of the tools. The supplier shall maintain and service all tools at his own expense. The storage of tools takes place at no cost to the Purchaser.

Use of our brand names: In as far as goods are returned or are not accepted by us, and if they carry one of our brand names or the tprosafe logo then they may not be sold to third parties. For every case of noncompliance a contractual penalty in the amount of double the amount of the goods in question is agreed upon and shall be paid, but shall be no less than EUR 10,000.00.

Environmental protection: The supplier commits to uphold local regulations (in particular environmental protection, labor laws, security provisions, REACH [EU - Regulation on Registration, Evaluation, Authorization and Restriction]). The Purchaser has the right to control that these provisions are upheld by conducting an applicable audit. The supplier will, with the constructing and manufacture of the goods furthermore adhere to that the environmental pollution is kept to a minimum as much as possible, as such also with regard to a later use and waste management (recycling management). In as far as the supplier performs work on the factory premises of the Purchaser, local instructions are here to be adhered to (newsletter).

Prohibition of child labor: The supplier commits to not employ any children. The supplier ensures that his suppliers also do not employ children. Children are to be seen as all persons under the age 15 years. The exception is that children may be employed in cases in which the laws of the production country does allow children to work as of the age of 14 years.

Force majeure: Strike, lockout disruption of business, authoritative directive and other uncontrollable circumstances, which cause a reduction in consumption, shall be viewed as force majeure and shall give us the right to rescind from the contract.

General information: Orders and deliveries are exclusively subject to the law of the Federal Republic of Germany. The United Nations agreement over contracts of the international purchase of goods dated 11 April 1980 (CISG) does not apply. The supplier empowers the Purchaser to process personal data within the scope of permissibility of that of the Federal Data Protection Act and according to the necessity of the fulfillment of the contract and to transmit such to offices within the company concerned with the fulfillment of the contract and without being specifically notified thereof. Jurisdiction shall be the place of fulfillment. The Purchaser shall also have the right to bring suit in the domicile or branch jurisdiction of the supplier.

Severability clause: Should one of the clauses agreed upon above become ineffective in whole or in part, the general effectiveness of the purchase terms and conditions shall thereby not be affected. The parties agree that such ineffective clause shall be replaced with one that is effective and which in it's meaning shall come very close to the ineffective one.