



Tel.: (011) 971-0400
Fax: (011) 394-3436

ImproChem

Water & Energy Solutions

Reg No: 2005/019505/07
VAT No: 4580221424

P.O. Box 2954
Kempton Park
1620

General Conditions of Purchase

1. Definitions

The words and expressions as set out below shall be interpreted to have the following meanings, unless the context indicates otherwise or it is expressly stated to the contrary:

- 1.1 "delivery date" shall mean the date stipulated in the order for the completion of delivery of the goods to the Purchaser;
- 1.2 "goods" or "services" shall mean the items or services as specified in the Purchase Order;
- 1.3 "Purchase Order" shall mean and include the Purchase Order Document, these Standard Terms and Conditions for Single Purchase Orders, the specifications, schedules, drawings and samples attached to or referred to in the specification;
- 1.4 "purchase price" shall mean the price of the goods, excluding VAT, as stipulated on the Purchase Order;
- 1.5 "Purchaser" shall mean ImproChem (Pty) Ltd;
- 1.6 "Vendor" shall mean the legal or natural person or persons who has undertaken to fulfil the Purchase Order;
- 1.7 "parties" shall mean the Purchaser and the Vendor;
- 1.8 "Transfer of Ownership" shall mean the transfer of all the rights and obligations inherent in ownership of the goods from the Vendor to the Purchaser.

2. Headings

The headings as used in this document shall serve no interpretive purpose. They have been included for ease of reference only.

3. Acceptance

- 3.1 The terms and conditions as set out in this document shall supersede those of the Vendor, unless specifically agreed to in writing between the parties.
- 3.2 Due delivery as specified on the Purchase Order, shall be deemed to be full and complete acceptance of the terms and conditions as set out in this document, unless the parties have agreed, in writing, to amended terms and conditions.

4. Communication

- 4.1 The Purchaser's Purchase Order Number shall appear on all documents and packages related to the Purchase Order.
- 4.2 All communications shall be addressed and delivered to the buyer responsible for placing the Purchase Order with the Vendor.
- 4.3 The Purchaser's Buyer alone shall issue all modifications to the purchase order.

5. Delivery

- 5.1 All goods as specified in the Purchase Order shall be delivered to the point of delivery as specified in the Purchase Order at the date and time as specified in the Purchase Order.
- 5.2 The Vendor shall, where practicable, inform the Purchaser at the earliest opportunity of any event or circumstance, which may impact on the fulfilment of the Purchase.
- 5.3 In the event of timeous notification of a delay to the due and proper fulfilment of the Purchase Order, the Purchaser shall in its sole discretion grant or refuse an extension of the contract period. Such an exercise of the discretion shall not be unreasonably withheld.
- 5.4 All deliveries must be accompanied by the following documentation:
 - 5.4.1 Copy of original purchase order, where practical;
 - 5.4.2 Delivery note stipulating:
 - 5.4.2.1 Purchase Order Number;
 - 5.4.2.2 Stock number, where applicable;
 - 5.4.2.3 Description;
 - 5.4.2.4 Quantity;
 - 5.4.3 Material test certificates, where applicable;
 - 5.4.4 Quality Control Plan (QCP) approved by the end-user for reconditioning orders, where applicable.
- 5.5 Over delivery:
 - 5.5.1 The Purchaser shall not accept any goods in excess of the amount or quantity as specified in the Purchase Order.
 - 5.5.2 Such goods as may be in excess of the specified amount shall be removed by the Vendor from the Purchaser's premises at his own cost and the Purchaser shall not be liable for any costs whatsoever related to the over-delivery.
- 5.6 Non-conformance deliveries by the Vendor will not be accepted.

6. Stores receiving hours

Unless otherwise arranged, deliveries to the Purchaser will only be accepted between the following hours:
Mondays to Fridays: 08:00 to 15:00.

7. Reconditioning Orders

- 7.1 Purchaser's property becomes the Vendor's full responsibility immediately it leaves their premises and shall at all times be clearly marked to identify ownership.
- 7.2 The Vendor shall, upon request from the Purchaser, submit proof to their satisfaction that it has insured their property in its possession for reconditioning purposes. The Purchaser shall also have the right to examine the policies maintained by the Vendor at any time on request.
- 7.3 It is the sole responsibility of the Vendor to collect the reconditionable item from the Purchaser's premises or at an agreed point of delivery and to return it at their cost.
- 7.4 The Purchaser may issue spares to a Vendor for the repair of a reconditionable item. The spares issued shall at all times remain the property of the Purchaser and may only be used for the intended purpose.

8. Purchase Price

- 8.1 The purchase price shall be fixed and firm and not subject to variation for any reason whatsoever.
- 8.2 The purchase price shall include all costs, including but not limited to labour, delivery and packaging.

9. Site Work

In all cases where site work has to be done, the Vendor shall sign an agreement to comply with the Purchaser's Occupational Health, Risks and Safety requirements before commencing with any work at the Purchaser's premises. The agreement and all other relevant documents are available from the Procurement Manager's office.

10. Payment

- 10.1 The Vendor shall, upon request by the Purchaser, provide the necessary documentary proof to substantiate any invoice or portion thereof.
- 10.2 If a Purchase Order is subject to a settlement discount, such discount shall be deductible from the invoice value if payment is effected within the period stipulated in 10.7.
- 10.3 Any payment effected in terms of an order shall be subject to the Purchaser's right to refuse payment of an invoice, which the Purchaser may contest in good faith on account of:
 - 10.3.1 the purchase price as stated in the Vendor's invoice being incorrect;
 - 10.3.2 the order not having been issued by the Purchaser;
 - 10.3.3 the goods not having been received by the Purchaser through stores receiving;
 - 10.3.4 the goods, as supplied by the Vendor, not being in accordance with the specification and quality as stipulated in the order;
 - 10.3.5 offset payments due under any order against which damages or losses were sustained as a result of the Vendor's failure to perform in terms of the order.
- 10.4 All invoices and statements of account shall be e-mailed or posted to Accounts Payable.
- 10.5 The Vendor shall comply in all instances with the Value Added Tax Act, Act 89 of 1991, any amendments thereto or Acts passed in substitution thereof.
- 10.6 All payments shall be made by means of an Electronic Funds Transfer only. All invoices shall reach accounts payable on or before the 25th day of every month. Should the invoice be received after the 25th day of the month, payment for such invoice will be effected at the end of the following month.
- 10.7 Failure to comply with these terms of payment or those agreed to in the Purchase Order, may result in late payment of the total value of the invoice. The Purchaser shall not be liable for any costs incurred by the Vendor as a result of such late payments.

11. Risk

- 11.1 All risks relating to loss or damage to the goods shall only pass from the Vendor to the Purchaser upon Transfer of Ownership of the goods.
- 11.2 Ownership of the goods shall only transfer to the Purchaser upon delivery and acceptance of the goods by the Purchaser at an agreed point of delivery.
- 11.3 The fulfilment of the Purchase Order may require the Vendor to travel or to visit predetermined venues or enter the premises occupied by the Purchaser; the Vendor shall, at his own expense:
 - 11.3.1 ensure that the necessary precautions are taken for the protection of life and property on the premises occupied by the Purchaser; and
 - 11.3.2 be liable to the Purchaser for all risks involved and, in order to indemnify the Purchaser and himself against any liability in terms of common law or statute, insure all risks involved.
- 11.4 The fulfilment of the Purchase Order may require the Vendor to supply, transport and deliver materials deemed hazardous by the Purchaser or any relevant authority in terms of legislation, by-laws, regulations or proclamations. The Vendor shall exercise due care in the supply, transport and delivery of such materials and, where necessary, obtain the necessary documentation and permission to transport said materials. All hazardous materials must be accompanied by the necessary hazardous information.
- 11.5 In the instance where the Purchase Order requires the Vendor to remove goods owned by the Purchaser from his premises to that of the Vendor's, all risks such as, not limited to, transportation, handling and storage shall transfer to the Vendor the moment the goods are transferred to the Vendor's vehicle or the vehicle of his nominee. The risk shall only revert back to the Purchaser upon successful offloading at the Purchaser's stores.

12. Packaging

- 12.1 The Vendor shall ensure that the goods are packaged as per the instructions in the Purchase Order. In the event of no instructions being given in the Purchase Order, the Vendor shall meet the packaging standards as is customary in his industry so as to ensure the adequate protection for the goods and to eliminate all damage.
- 12.2 All packaging materials shall become the property of the Purchaser unless otherwise agreed.

13. Compensation

- 13.1 If, for no reasonable reason, the Vendor fails to deliver the goods by the date as specified in the Purchase Order, the Purchaser may deduct Compensation for Damages equal to one per cent (1%) of the total Purchase Order value per full day for every day after the date of delivery that the goods are late.
- 13.2 The Compensation for Damages shall, however, not exceed ten per cent (10%) of the total Purchase Order value.
- 13.3 The Vendor is to supply proof to substantiate his reasons for late delivery upon request from the Purchaser.

14. Gifts, Donation and Courtesy

- 14.1 The Vendor will not offer, give or agree to any person in the service of the Purchaser or any member of their family or any person claiming to set on behalf of any such person, any gifts or consideration of any kind as an inducement or reward for doing or for bearing to do or for having done or forborne to do acts in relation to the obtaining or execution of the order.
- 14.2 Upon breach of this provision by the Vendor, or anyone employed by it or acting on its behalf, whether with or without the Vendor's knowledge, the Purchaser shall have the right to cancel the order without notice and to recover from the Vendor forthwith the amount of any loss resulting from such termination, including the value of such gift or consideration.

15. Cancellation

- 15.1 An order accepted by the supplier cannot be cancelled without written consent from the Purchaser.
- 15.2 The Purchaser may, at his own discretion, cancel any Purchase Order in the event that the delivery is 30 days late or would appear to be 30 days late.
- 15.3 Non-delivery shall render the Purchase Order voidable. The additional costs incurred by the Purchaser in order to obtain the goods, as specified in the original Purchase Order, from another Vendor shall be for the Vendor's account.

16. Guarantee

- 16.1 The Vendor shall, unless otherwise agreed to in writing, guarantee all goods for a period of no less than one year from the date of delivery. Such a guarantee shall exclude fair wear and tear on the goods.
- 16.2 If the goods fail for any reason other than fair wear and tear within the guarantee period, the Vendor shall, at his own cost, remove such goods and issue the Purchaser with a credit note. The Purchaser reserves the right to terminate issuing of any future orders.
- 16.3 Where it is not practicable for the Vendor to remove the defective goods, the Purchaser shall remove such goods and the costs shall be for the Vendor's account.
- 16.4 Where the Vendor fails to honour his obligation in terms of the guarantee, the Purchaser reserves the right to cancel any existing or future orders.

17. Insolvency

If the Vendor becomes insolvent or is placed under judicial management, the Purchaser may give the Vendor notice in writing to cancel the Purchase Order. Upon notice the Purchaser may then proceed to place the Purchase Order with another Vendor.

18. Force Majeure

- 18.1 Should the due fulfilment of the Purchase Order be delayed for any unforeseen reason, which is out of the Vendor's ability to control, the Vendor shall inform the Purchaser of such event within 10 days.
- 18.2 The Vendor may request an extension of the contract period. Such an extension may be granted at the Purchaser's discretion, which extension shall not be unreasonably withheld. Should the extension not be practicable, the Purchaser may cancel the Purchase Order.

19. Arbitration

- 19.1 Should any difference or question arise at any time between the Purchaser and the Vendor as to the construction, meaning or effect of the Purchase Order and should the parties fail to come to a mutually acceptable agreement, then such difference or question shall be determined by arbitration under the Arbitration Act, Act 42 of 1965, or any statutory modification or law passed in substitution thereof.
- 19.2 Notwithstanding 19.1 above, the Vendor shall proceed with the due fulfilment of the Purchase Order unless the Purchaser orders the suspension or cancellation thereof.

20. Law to Apply

The laws of the Republic of South Africa shall apply to the Purchase Order and any difference that may arise between the Purchaser and Vendor in regard thereto shall be settled within the Republic of South Africa.

21. Prohibition of assignment

Neither the Purchaser nor the Supplier shall cede, make over, assign or dispose of this order, or any of its rights or obligation therein to any other person without first obtaining the written consent of the other party to this agreement, who shall not be bound to give such consent, but may withhold the same without assigning any reason thereof or grant such consent subject to such terms and stipulations as it may in its absolute discretion deem fit.

22. Indemnity

Contract/Supplier agrees to indemnify, hold harmless and defend ImproChem (Pty) Ltd, and their officers, employees, agents and representatives, from and against claim, demands, cause of action, loss, expense or liability arising from actual or asserted infringement, improper appropriation, or use of trade secrets, proprietary information, know-how, copyright or patent.

23. Loss or Damage

The Supplier shall be responsible for all loss of or damage from whatsoever cause arising until delivery is made to the point stated on the order; all claims in respect thereof must be made by the Supplier.

Accepted

Date.....

Company Stamp