

Procurement Conditions of InProCoat Emsland GmbH

I General Stipulations

- 1 Only the stipulations at hand apply to all orders of InProCoat Emsland GmbH, except as expressly otherwise agreed. Stipulations of the contractor in his GTC or order confirmation are herewith explicitly rejected. Acceptance of order confirmations or deliveries without reservation does not amount to recognition of such conditions.
- 2 With first-time delivery under the procurement conditions at hand, the supplier recognises that they will exclusively apply to all future orders.
- 3 Orders are binding if they are made in writing or have been confirmed in writing. The offer may only be accepted within a period of 14 days, except as agreed otherwise.

II Delivery and Dispatch

- 1 Deliveries must be made in accordance with the order respectively the following instructions of InProCoat Emsland GmbH, by the agreed deadlines. The contractor must forthwith report changes in deadlines.
- 2 The contractor must comply with the dispatch regulations of InProCoat Emsland GmbH and of the haulier respectively carrier. The order numbers and article numbers of InProCoat Emsland GmbH are stated on all dispatch papers, correspondence and invoices.
- 3 The cost of transportation, including packaging, insurance and all other ancillary costs are for account of the contractor, except as expressly otherwise agreed.

III Delivery Periods, Delivery Deadlines

- 1 The delivery deadlines or periods that are mentioned in orders are binding and are in terms of arrival at the fulfilment location.
- 2 InProCoat Emsland GmbH has to right of refusing to receive goods that are not supplied by the delivery deadline agreed in the order or of returning them or of storing them with third parties, at the expense and for risk of the contractor.

IV Quality and Acceptance

- 1 The contractor assures that the goods will be in accordance with the provided functional specifications, the pertinent norms and the prevailing technological standards.
- 2 InProCoat Emsland GmbH reserves the right of checking the goods forthwith upon arrival for obvious and visible deficiencies and of accepting only after having done so. In case of complaints, the costs of the testing and replacement delivery may be charged to the contractor. In terms of any kind of deficiency, the period during which complaints can be lodged is always 14 days from them coming to light. During the guaranty period, the contractor cannot appeal to delayed notification of hidden deficiencies.
- 3 In respect of dimensions, weights and quantities of a delivery, the values that are determined upon inward goods inspection are binding.
- 4 In case of an agreed contractual penalty for delayed delivery, the entitlement to the contractual penalty will remain upheld, even it is not expressly enforced upon acceptance of the delivery. Any entitlements beyond that also remain upheld, without any particular reservation upon acceptance.

V Prices and Payment Conditions

- 1 Agreed prices are highest prices; price reductions in the period between ordering and payment of the invoice must benefit InProCoat Emsland GmbH.

- 2 Invoices must be raised immediately upon dispatch of the goods, stating the order and article numbers. Turnover tax must be shown as a separate item.
- 3 Payments will be made subject to proper delivery and arithmetical accuracy in terms of pricing and calculation. When determining a deficiency that falls under mandatory guaranty, InProCoat Emsland GmbH will have the right of withholding payment until the guaranty obligations have been honoured.
- 4 Payments will be made 14 days after receipt of the goods and invoicing with a discount of 3 % or after 30 days without any deductions, if no deficiencies are obvious from the outside.

VI Offsetting and Cession

- 1 The contractor only has the right of offsetting against undisputed claims or against claims that have been legally established.
- 2 Claims against InProCoat Emsland GmbH may only be ceded with their written consent.

VII Guaranty

- 1 The guaranty obligation of the contractor is governed by the relevant legal stipulations, except as may be agreed otherwise below. Upon first request, the contractor must indemnify InProCoat Emsland GmbH against all claims of third parties that may be lodged on account of deficiencies, of violations of proprietary rights of third parties or of damage to the products in his delivery in terms of the proportion for which he is responsible. The contractor assures that he has taken out a suitable insurance policy providing cover against product liability.
- 2 In principle, the guaranty period runs for at least 12 months from delivery to the fulfilment location. If the statutory guaranty period lasts longer, that one will apply.
- 3 Except as may be otherwise agreed, in respect of coating materials the guaranty period will last for 24 months from the rendering of our services in respect of the goods/services that were the subject of them. In case of a deficiency in the supplied goods/rendered services, the guaranty will cover all costs and expenditure in conjunction with the damage. It is never limited to the value of the goods.
- 4 In case the delivered goods are beset with deficiencies, the contractor must replace them free of charge, must apply a discount in accordance with legal stipulations governing impairment or have the deficiencies remedied free of charge, all at the discretion of InProCoat Emsland GmbH. In urgent cases, InProCoat Emsland GmbH will have the right of remedying the deficiencies itself – after consultation with the contractor – at the expense of the contractor or of having them remedied by a third party or of procuring replacement in other ways. The same applies if the contractor should default on honouring his guaranty obligation. If, in accordance with the statistical test method specified in the order, the maximum permissible percentage of faults is exceeded, InProCoat Emsland GmbH will have the right of lodging claims for deficiencies in respect of the entire delivery or of inspecting the entire delivery at the expense of the contractor, after prior consultation with the contractor.
- 5 In respect of replacement deliveries and remedial work, the contractor is liable to the same extent as for the originally supplied goods, in other words also for transportation, travel and labour costs, without limitation. The guaranty period for replacement deliveries will not begin before the date of arrival of the replacement delivery.
- 6 The contractor is obliged to reimburse reasonable costs in respect of any recall action under product liability legislation. InProCoat Emsland GmbH must send the contractor as soon as possible a notification in advance, for seeking his opinion.

VIII Data Protection

We have the right of processing within the meaning of the federal data protection legislation the data of the principal that have been acquired within the framework of the business relationship or in conjunction with that relationship, regardless of whether they come from the principal himself or from third parties.

IX Fulfilment Location and Jurisdiction

- 1 Location of fulfilment for all delivery and payment obligations under this agreement is Schapen.
- 2 If the principal is a merchant, jurisdiction will be vested in the courts of Osnabrück. That also applies to disputes about processing documents, cheques or bills of exchange. However, we also reserve the right of suing the principal in the courts of his statutory seat.

X Applicable Law

This agreement is exclusively governed by the laws of the Federal Republic of Germany, under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The German version of the text of the agreement will always prevail.

XI Final Provisions

- 1 If individual stipulations should be void or unenforceable, the effectiveness of the remaining stipulations of these Procurement Conditions and/or the agreement will not be affected.
- 2 The parties are committed to replacing the relevant void or unenforceable stipulation by such legally effective stipulation that does agree with the obviously intended commercial purpose of the void or unenforceable stipulation or at least comes closest to it.
- 3 Should hiatuses exist in this agreement or these Procurement Conditions, those legally effective arrangements will apply to filling those hiatuses that the partners would have agreed in accordance with the economic objectives of the agreement and these Procurement Conditions, if they had been aware of the hiatus.

Status: 1 January 2019