

General Terms & Conditions

Johnson Controls Autobatterie GmbH & Co. KGaA

§ 1 Area of Application

(1) These General Terms & Conditions (hereinafter "Terms & Conditions") govern the legal relationships of Johnson Controls Autobatterie GmbH & Co. KGaA and those of its associated companies relying on these Terms & Conditions with our suppliers with respect to our suppliers' supplies, services and quotations to us.

(2) The services contracted to us are based exclusively on these Terms & Conditions unless, in individual cases, expressly conflicting Terms & Conditions are agreed between us and the supplier. The supplier's General Terms & Conditions will not be recognised by us, even if not expressly rejected by us.

(3) These Terms & Conditions apply to all current and future business relationships between us and the supplier, insofar as the latter is an entrepreneur. An entrepreneur in this context is any individual or legal entity or partnership with legal capacity undertaking a transaction in pursuit of its commercial or self-employed activity. A partnership with legal capacity is any partnership which has the legal capacity to acquire rights and incur liabilities.

§ 2 Concluding Contracts, Orders

(1) Our orders may be placed as follows: Delivery schedule (electronic/per fax), Kanban system, e-procurement, SAP ordering, written order forms. In addition, we reserve the right to introduce other ways to order at any time.

(2) The supplier must confirm our order within 2 weeks, in writing, or unconditionally execute the order (Acceptance). A delayed acceptance is deemed to be a new offer by the supplier and requires our acceptance.

(3) If the order conformation differs from the original order, the supplier must explicitly point out such difference. A contract will only come into being if we have agreed to such difference(s) in writing.

§ 3 Prices, Payment Conditions, Invoice Details

(1) Insofar as nothing has been agreed to the contrary, the suppliers' prices are fixed prices, including any statutorily valid VAT, and include delivery to/provision of service at our DDP premises (Incoterms 2010); the prices take into account all the supplier's costs, in particular the costs for freight & packing, equipment & vehicle costs, contingencies, travelling time, overtime and/or performance payments.

(2) Insofar as the nature of the packing and shipping are not expressly agreed, the supplier is obligated to select the customary packing and shipping method which is most cost-effective from our point of view.

(3) Those payment conditions included in the individual orders apply. If no payment conditions are included in an order, 60 days are deemed agreed. The payment term begins as soon as the delivery has been completed or the service provided in full and the properly issued invoice has been received. Insofar as the supplier has to provide material tests, test logs, quality documents or other documentation, that provision is a condition for the completeness of the delivery and service.

(4) In principle, the order forms/order confirmations to be used are those prescribed by us. All order confirmations, delivery documents and invoices deviating therefrom must show our order number, the item number in the order, the article number and the delivery quantity. Should one or more of those details be missing and consequently, within the framework of our normal business procedures, delay the processing, then the payment term provided for under our payment conditions will be extended by the length of the delay.

(5) Our unconditional payment of the invoiced amount does not represent an acknowledgment of the supplier's delivery or service as conforming to the contract.

§ 4 Delivery Date, Delivery, Transfer of Risk, Return of Packaging

(1) Agreed dates and deadlines are binding on the supplier. Early deliveries are not permissible.

(2) The supplier is obligated to inform us without delay if circumstances arise or are indicated whereby the delivery and/or performance date – regardless of the reasons – cannot be met. Our agreement to a revised date suggested by the supplier does not involve an extension of the contractually agreed delivery/performance deadline. Claims for compensation or other statutory or contractual claims with respect to late delivery remain reserved.

(3) We have the right, in the event of delivery or performance delays and after issuing a prior written warning, to levy a contractual penalty of 1 % of the value of the order for each started week of delay, up to a maximum of 5 % of the total value of the order. The supplier is entitled to prove that we have incurred lesser or no damage; the amount will be reduced or cancelled accordingly. The assertion of additional claims arising under these Terms & Conditions or statutory claims remains reserved. The contractual penalty is to be set off against any damage caused by delay which the supplier is obliged to compensate.

(4) We shall be wholly or partially released from our obligation to accept the ordered delivery or service in the event of a delay in performance due to force majeure, and shall be entitled to withdraw from the contract insofar as the delay in the delivery or service due to force majeure – from a commercial point of view – is no longer viable for us. Strikes, lock-outs and/or a supply failure are not force majeure events, unless the supplier can prove that he was unable to avert the event concerned.

(5) Subject to our prior agreement, the supplier is entitled to make partial deliveries.

(6) For supplies which include installation or assembly, and for services, risk is transferred to us upon acceptance and/or completion of the service; for deliveries not including installation or assembly, with their receipt at the agreed destination.

(7) The supplier is obligated to promptly collect all delivered packing materials at our request and to dispose thereof in conformity with statutory requirements, free of charge.

§ 5 Protection of property

(1) We reserve our copyrights to all orders and contracts as well as the drawings, illustrations, calculations, specifications and other documents placed at the disposal of the supplier. The supplier may neither make these accessible to third parties nor publish them, utilise them themselves or allow third parties to do so or duplicate them without our explicit consent. The supplier shall return these documents and possible copies in full number without requiring prior request as soon as these are no longer required in the regular course of business, or when negotiations do not lead to the conclusion of a contract.

(2) Tools, equipment and models which we place at the disposal of the supplier or which are fabricated for the contractual purposes and are invoiced separately by the supplier remain our property or pass over into our property. Such items are to be identified as our property by the supplier, are to be stored with all due care, are to be safeguarded against any danger whatsoever, and are only to be utilised in line with demands arising in connection with the contract. The supplier will inform us without any delay whatsoever about any damage incurred, be it minor or major. The supplier is committed, upon prior demand, to relinquish these items to us in good condition if they are no longer required to fulfil the contracts concluded with us.

(3) We do not recognize any extended or prolonged reservation of property. A simple reservation of ownership will in this respect only be accepted as far as it allows us to sell, process and mix the delivered goods in the scope of regular business operations.

§ 6 Inspection of Incoming Goods, Claims arising from Defects

(1) We will subject incoming goods to an inspection insofar as reasonable for us in the normal course of business. Physical defects or quantitative deviations in the goods which are detected during the incoming goods inspection will be notified by us no later than 4 working days following delivery. If a (not apparent during the incoming goods inspection) physical defect or quantitative deviation is discovered later, such physical defect or quantitative deviation will be notified to the supplier within 4 working days of its discovery, at the latest.

(2) Within the statutory time limits, beginning with the transfer of risk or, if an acceptance is provided for, our acceptance of the service, the supplier assumes the warranty for the conformity of the specifications with the contract and the freedom from defect, as well as the obligatory defect-free functionality of the supplies or services.

(3) We are entitled to the statutory claims with respect to defects which arise during the warranty period.

(4) Our acceptance or approval of submitted samples or tests does not involve a waiver of any of our claims under a warranty.

§ 7 Product Liability, Quality Controls

(1) Should a third party suffer bodily injury or physical damage as a result of a defect in goods provided by the supplier, the supplier must, upon first demand, release us from all liability insofar as the cause of the damage lies within the supplier's control and organisational sphere, and he is himself liable to the third party.

(2) Within the framework of his liability in cases of damage within the meaning of § 7.1, the supplier is further liable to reimburse all our expenses arising from or in connection with a recall action initiated by us. We will – insofar as possible and reasonable – notify the supplier of the nature and scope of such recall and give him the opportunity to comment. Further statutory claims remain unaffected.

(3) The supplier must carry out state of the art quality controls and, on demand, provide proof thereof. The supplier must provide a quality control system in accordance with applicable standards (ISO, BRC/IOP, IFS, GMP), or as contractually provided for or, at our wish, enter into an appropriate quality assurance agreement.

(4) We have the right, during normal business hours, for us or persons authorised by us to carry out controls of the production facilities of supplies and services intended for us, in order to assure compliance with the contractual obligations. Excluded herefrom are production areas in which work is carried out or production procedures are applied which are subject to secrecy.

§ 8 Liability for Defects, Third-Party Industrial Protection Rights

(1) The supplier is liable for ensuring that the goods and services being supplied by him are free of any third-party industrial protection rights which could restrict or preclude their use in accordance with the contract.

(2) The supplier is obligated, upon our first demand, to release us from all claims asserted against us by third parties for the infringement of industrial or intellectual property rights as per § 8.1 above. This release obligation also covers the assumption of all expenses incurred by us in connection with claims by third parties.

§ 9 Rights and Duties upon the ending of the Contract

With the ending of the contract, all the user rights granted by us to the supplier and all relevant documentation and reproductions, all notes/documents/stored information based thereon and/or other data carriers are, at our choice, to be handed over to us or, insofar as originals are not involved, destroyed.

§ 10 Confidentiality

(1) Insofar as any contract contains nothing to the contrary, the supplier undertakes to maintain strict confidentiality with respect to our and our customers' operational and business secrets and other technical and business information of which he becomes aware within the framework of the implementation of this contract, to impose a corresponding duty of confidentiality on his employees and sub-contractors and to only make use of information subject to confidentiality in connection with the implementation of the contract.

(2) The confidentiality obligation does not cover information which (a) was verifiably in the public domain at the point in time of the disclosure; (b) to whose use or disclosure the other party in each case had expressly consented, in writing; (c) whose disclosure was required in order to fulfill obligations under the contract; or (d) whose disclosure was prescribed by statute or by order of the authorities.

(3) The confidentiality obligation under this § 10 continues after an ending or unraveling of this contract for as long and insofar as one of the conditions referred to in § 10.2 above with respect to such information has not been met.

(4) The supplier may not refer to our business relationship and/or delivery items made for us in advertising material, brochures, etc., without our prior written consent.

§ 11 Assignment, Liens, Set-Off

(1) The supplier is not entitled to assign his claims arising from the contractual relationship to third parties. If the transaction is a commercial one for both parties, then the assignment is nevertheless valid. However, we may continue to make payments to the supplier as a previous creditor, with binding effect.

(2) The supplier has no rights of lien insofar as they are based on counterclaims arising from other transactions with us.

(3) The supplier may only exercise set-off against claims which are undisputed or legally enforceable.

§ 12 Compliance

The supplier, his employees and sub-contractors must observe our ethical rules (www.jci.com/corpvalues/ethics.htm) and our sustainability principles (www.jci.com/sustainability.asp).

§ 13 Closing Provisions

(1) The place of performance is the destination named by us for the supplies and services

(2) The conclusion of the contract, as well as later contractual amendments and supplements, including deviations from these Terms & Conditions, must be in writing. This also applies to amendments to this written form clause. Insofar as not otherwise statutorily regulated, E-mails are not considered as being written form compliant.

(3) If the supplier is a merchant, a legal entity or a special fund under public law, then the exclusive jurisdiction for all disputes arising from or in connection with contracts between the supplier and ourselves is Hanover. However, we are entitled to assert our claims against the supplier at his general place of jurisdiction.

(4) These Terms & Conditions and contracts concluded between ourselves and the supplier are subject to the laws of the Federal Republic of Germany, excluding references to private international law and the UN Convention on Contracts for the International Sale of Goods (CISG).

(5) Should one or more of the provisions of these Terms & Conditions be or become invalid, contain an impermissible time limit or a gap in the regulations, then the overall validity of the Terms & Conditions will be unaffected. Insofar as the invalidity does not arise from an infringement of the rules governing the application of the General Terms & Conditions, the invalid provision is agreed to have been replaced by a valid provision which comes closest to the commercial wishes of the parties. The same applies in the event of a gap in the regulations. In the event of an impermissible time limit, the legally permitted standard shall apply.