

# Johnson Controls (UK) Ltd

## Terms and Conditions of Supply

### 1. Definitions

“**Applicable Law**” means any law, statute or subordinate legislation of England & Wales, enforceable community right within the meaning of section 2, European Communities Act 1972, the Foreign Corrupt Practices Act (“FCPA”) or other applicable anti-corruption law and any other regulation, decision or authorisation having the force of law of any body having jurisdiction in relation to matters dealt with by the Order.

“**Buyer**” means Johnson Controls (UK) Ltd.

“**Buyer’s Customer(s)**” means customer(s) to which Buyer provides the Supplies (as incorporated into products supplied to such customer(s)) or the ultimate recipient or end-user of the Supplies, where such entity is not the Buyer.

“**Consequential Loss**” means any consequential, indirect or economic loss or damage, including but not limited to: (i) increased costs or expenses, (ii) loss of production, loss of profit, loss of business, loss of contracts or loss of revenues, or (iii) exemplary and/or punitive damages arising out of or in connection with provision of the Supplies.

“**Order**” means the written document issued by Buyer comprising an offer made by the Buyer to the Seller to purchase the Supplies, subject always to the Terms.

“**Price**” means the price the Buyer shall pay for the Supplies as stated in the Order.

“**Seller**” means the party who shall provide the Supplies as identified in and pursuant to the Order.

“**Seller’s Property**” means all machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns and other items that are necessary for the production of Supplies.

“**Supplies**” means the goods and/or services to be provided by the Seller.

“**Terms**” means these Terms and Conditions of Supply.

## 2. Offer and Acceptance

- 2.1 Each Order incorporates and is governed by the Terms which, subject to Sections 13.3 and 18.6, supersede all prior agreements, orders, quotations, proposals and other communications between the parties relating to the Supplies.
- 2.2 Any modification of the Terms must be by the written agreement of both parties and expressly stated in the Order.
- 2.3 The Order does not constitute an acceptance of any offer or proposal made by Seller.
- 2.4 Seller accepts these Terms and forms a contract by doing any of the following:
  - (a) Commencing any work under the Order;
  - (b) Accepting the Order in writing; or
  - (c) Any other conduct that recognizes the existence of a contract with respect to the subject matter of the Order.
- 2.5 Any additional or different terms proposed by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise will not become part of the Order.

## 3. Duration

- 3.1 Subject to earlier termination by Buyer, the Order is binding on the parties for one year from the date it is transmitted to Seller or, if an expiration date is stated in the Order, until that date. ("Initial Period").
- 3.2 Upon expiry of the Initial Period, the Order will automatically renew for successive one-year periods unless either party provides written notice at least 60 days prior to the end of such a period of its desire that the Order shall not be renewed.

## 4. Quantities and Delivery

- 4.1 The Supplier shall supply the quantities of Supplies as listed in each Order.
- 4.2 Unless expressly stated on the face of the Order, Buyer is under no obligation to purchase Supplies exclusively from Seller.
- 4.3 Unless otherwise agreed in writing by Buyer, title in the Supplies passes from Seller to Buyer upon delivery to Buyer's designated facility as identified in the Order.
- 4.4 Time for delivery of the Supplies is of the essence. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which actions entitles Seller to modify the Price. Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries or excess deliveries.

## 5. Price and Payments

- 5.1 The Price shall be as stated in the Order and, unless stated otherwise, shall include shipping, storage, handling, packaging, insurance to cover all steps in the delivery process and all other expenses and charges of Seller including all duties and taxes, which must be shown separately on Seller's invoice for each shipment.
- 5.2 Unless otherwise specified, the Price will be deemed inclusive of all shipping charges based on Supplies being shipped FCA (loaded) at Seller's final production location using Buyer's transportation. In the event that an alternative means of delivery is required by Buyer, including but not limited to ex works, CIF, FOB OR FOB Airport, all as defined in the ICC Incoterms 2000, the Price shall be adjusted based on agreed criteria included in the Order.
- 5.3 Seller shall be entitled to invoice Buyer on or at any time after delivery of the Supplies and each invoice shall quote the Order number, amendment or release number, Buyer's part number, Seller's part number where applicable, quantity of pieces in the shipment, number of cartons or containers in the shipment, bill of lading number, and any other information required by Buyer.
- 5.4 Seller acknowledges and agrees that Buyer will not pay any invoice without the correct Order number quoted on it.
- 5.5 Invoices shall be submitted to the address of Buyer as specified on the Order.
- 5.6 Unless otherwise stated on the Order, Buyer shall pay the Price within 60 days of the later of: (i) the last day of the month during which Buyer receives a proper invoice from Seller for the Supplies and (ii) the last day of the month during which Buyer accepts the Supplies in question.
- 5.7 Buyer shall be entitled to set off against the Price (including any V.A.T. payable) any sums owed to Buyer by Seller under the Order or any other agreement it has with the Supplier.

## 6. Shipping

- 6.1 Seller will: (a) properly pack and ship Supplies and clearly mark the identity of the carriers and the country of destination; (b) route the shipments according to Buyer's instructions; (c) label or tag each package according to Buyer's instructions; (d) provide papers with each shipment showing the Order number, amendment or release number, Buyer's part number, Seller's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, Seller's name and number, and the bill of lading number; and (e) promptly forward the original bill of lading or other shipment receipt for each shipment according to Buyer's instructions and carrier requirements.
- 6.2 The ICC Incoterms 2000 shall apply to all shipments.
- 6.3 Before the Supplies are shipped, Seller will give Buyer sufficient warning in writing (including appropriate labels on all Supplies, containers, and packing, including without limitation disposal and recycling instructions, material safety data sheets and certificates of analysis) of any hazardous or restricted material that is part of the Supplies, together with any special handling instructions that are needed to advise carriers, Buyer, and their employees how to take appropriate measures while handling, transporting, processing, using or disposing of the Supplies, containers, and packing. Seller agrees to comply with all Applicable Laws and warning labels, including without limitation the European Union Directive 2002/96/EC and 2002/95/EC and Regulation 1907/2006/EC regarding restrictions of certain hazardous substances. Seller will reimburse Buyer for any expenses incurred as a result of improper packing, marking, routing, or shipping.
- 6.4 Buyer may, at its option, require the Supplies to be delivered ex works.

## 7. Inspection and Defective Supplies

- 7.1 Buyer may enter Seller's facility to inspect Supplies plant and materials related to the Order. Buyer's inspection of Supplies whether during manufacture, prior to delivery, or within a reasonable time after delivery does not constitute acceptance of any work-in-process or finished goods Nor does it relieve Seller of any of its responsibilities or warranties.
- 7.2 In addition to other remedies available to Buyer: (i) Seller agrees to accept return of the Supplies, at Seller's risk and expense, plus transportation charges, and to replace defective Supplies as Buyer deems necessary; (ii) Buyer may have corrected at any time prior to shipment from Buyer's premises Supplies that fail to meet the requirements of the Order; and/or (iii) Seller will reimburse Buyer for all reasonable expenses that result from any rejection or correction of defective Supplies.

## 8. Changes

- 8.1 Buyer reserves the right to direct changes, or to cause Seller to make changes, to drawings, specifications, samples or descriptions of Supplies. Buyer also reserves the right to otherwise change the scope of the work covered by the Order, including work with respect to such matters as inspection, testing or quality control. Buyer may also direct the supply of raw materials from itself or from third parties.
- 8.2 In the event that any change made to the Order by the Buyer should impact on the Price or time for delivery or performance as a result of such a change, Seller must notify Buyer in writing within ten days after receiving notice of any impact on the Price. Buyer can request additional documentation from Seller relating to any change detailing and demonstrating the reason of the above quoted impact on the Price or time for delivery or performance. Seller will not make any change in the Supplies' design, specifications, processing, packing, marking, shipping, Price or date or place of delivery except at Buyer's written instruction or with Buyer's written approval.

## 9. Warranties

- 9.1 Seller expressly warrants that the Supplies will:
- (a) Conform to the specifications, standards, drawings, samples, descriptions and revisions as furnished by Buyer;
  - (b) Conform to all Applicable Laws, orders, regulations and standards;
  - (c) Be of good quality and free of defects in design, materials and workmanship;
  - (d) Be selected, designed, manufactured and assembled by Seller based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer; and
  - (e) Any work will be performed in a professional and workmanlike manner, consistent with all standards and specifications agreed on with Buyer and otherwise consistent with industry standards.
- 9.2 The warranty period for the Supplies shall be the longer of two years from (i) the date Buyer accepts the Supplies, (ii) the warranty period provided by Applicable Law, or (iii) the warranty period offered by Buyer to the Buyer's Customer.
- 9.3 Seller will immediately notify Buyer in writing when it becomes aware of any ingredient, component, design or defect in Supplies that is or may become harmful to persons or property.
- 9.4 Buyer's payment of the price, approval of any design, drawing, material, process or specifications will not relieve Seller of liability under these warranties.

## 10. Quality

- 10.1 Seller will conform to the quality control standards and inspection system of the Buyer and will also participate in supplier quality and development programs of Buyer as directed by Buyer.
- 10.2 At Buyer's request, Seller will make service literature and any other materials relating to the Supplies considered necessary by the Buyer available free of charge.

## 11. Liability and Remedies

- 11.1 Seller shall indemnify Buyer against personal injury to or the death of any person in so far as such injury or death arises in the course of or by reason of the Seller, carrying out, or failing to carry out, its obligations under the Order provided always and only to the extent that the same is due to negligence or breach of these Terms on the part of the Seller or negligence of the Seller's employees, agents, suppliers and/or sub-contractors,.
- 11.2 Seller shall indemnify Buyer and Buyer's Customer and all of their respective agents, successors and assigns, against all damages, losses (including Consequential Loss), claims, liabilities and expenses (including reasonable legal and other professional fees, settlements and judgments) arising out of or resulting from any defective Supplies, or from any negligent or wrongful act or omission of Seller or Seller's agents, employees or subcontractors, or any breach or failure by Seller to comply with any of Seller's representations or other terms and conditions of the Order (including any part of these Terms).
- 11.3 The rights and remedies reserved to Buyer in the Order will be cumulative with and in addition to all other or legal or equitable remedies.
- 11.4 In any action brought by Buyer to enforce Seller's obligation to produce and deliver Supplies under the Order, the parties agree that Buyer will not always have an adequate remedy at law and as such, Buyer is entitled to specific performance of Seller's obligations under the Order.

## 12. Applicable Laws and Ethics

- 12.1 Seller, and the Supplies will comply with all Applicable Laws, and standards, relating to the manufacture, labelling, transport, import, export, licensing, approval or certification of the Supplies, including laws relating to anti-corruption, environmental matters, employment, discrimination, occupational health or safety and motor vehicle safety. The Order incorporates by reference all obligations and conditions thereby required.
- 12.2 Seller shall use only legitimate and ethical business practises in the activities contemplated by the Order and shall not submit inflated or otherwise false invoices to Buyer. No part of the payments received by Seller will be used for any purpose that could constitute a violation of any Applicable Laws, including the FCPA or any other anti-corruption law.
- 12.3 Buyer has established an Ethics Policy (available at <http://www.johnsoncontrols.com/ethics>) and expects Seller, and Seller's employees and contractors, to abide by this policy or an equivalent ethics policy of its own.

## 13. Buyer's Customer Requirements

- 13.1 As directed by Buyer in writing, Seller agrees to comply with the applicable terms of any agreements between Buyer and Buyer's Customers.
- 13.2 Buyer shall supply Seller with information regarding purchase orders from its customer(s) insofar as this information relates to the Supplies.

13.3 Seller will be responsible for ascertaining how such information affects Seller's obligations under the Order, and Seller will meet all such disclosed Buyer's Customer terms to the extent within Seller's control. By written notice to Seller, Buyer may elect to have the provisions of this Section 13 prevail over any conflicting term between the Buyer and Seller.

## 14. Insurance

14.1 Seller will maintain the insurance coverage listed below or in additional amounts as may be reasonably requested by Buyer.

Type of Insurance	Minimum Limits
Commercial General Liability* insurance for bodily injury arising from premises, operations, personal injury, products/completed operations and contractual liability covering the indemnities required pursuant to the Liability and Remedies (Clause 11)	\$5,000,000 Per Occurrence, General Aggregate, Product and Completed Operations Aggregate, Personal & Advertising Injury
Automobile Liability covering all autos used in connection with the work performed	\$2,000,000 combined single limit covering property damage and bodily injury per occurrence or the limit mandated in law
Workers' Compensation/Employee Injury	As required by local law and/or statute governing such insurance in the jurisdiction where work is to be performed and/or as applicable to the employees conducting the work
Employer's Liability	\$1,000,000 each accident, each employee, each disease – policy limit or as required by local law or statute
Professional Liability (if applicable)	\$1,000,000 each claim
Blanket Fidelity Bond (Crime Insurance)	Where and as applicable

\* Commercial General Liability limits may be met with a combination of General Liability and Umbrella/Excess Liability policy limits.

14.2 Seller will furnish to Buyer proper evidence of such cover within 10 days of Buyer's written request.

14.3 The existence of insurance does not release Seller of its obligations or liabilities under the Order.

14.4 Where insurance coverage and/or limits are mandated by local law or statute, local requirements apply subject to the minimum limits stated above.

## 15. Termination

15.1 Buyer may terminate the Order, without liability to Seller if any of the following or comparable events occur, and Seller will reimburse Buyer for all costs incurred by Buyer in connection with any of the following, including without limitation legal and other professional fees: (a) Seller becomes insolvent; (b) Seller files a voluntary petition in bankruptcy; (c) an involuntary petition in bankruptcy is filed against Seller; (d) a receiver or trustee is appointed for Seller; or (e) Seller executes an assignment for the benefit of creditors.

15.2 Buyer may terminate the Order, without liability to Seller, if Seller: (a) repudiates, breaches or threatens to breach any of the Terms; (b) fails or threatens not to deliver Supplies or perform services in connection with the Order; (c) fails to make progress or to meet reasonable quality requirements so

as to endanger timely and proper completion or delivery of Supplies and does not correct the failure or breach within 10 days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying the failure or breach; or (d) enters or offers to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of Supplies for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change in control of Seller. Seller will notify Buyer within ten days after entering into any negotiations that could lead to the situation specified in subsection (d) above, provided that upon Seller's request, Buyer will enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction.

- 15.3 In the event that either party is unable, delayed or prevented in performing its obligations under the Order by reason or circumstances beyond its reasonable control and which it has not brought about at its insistence for a period of more than 60 days, the Order shall terminate forthwith.
- 15.4 In addition to any other rights of Buyer to cancel or terminate the Order, Buyer may at its option immediately terminate all or any part of the Order at any time and for any reason by giving written notice to Seller.
- 15.5 Upon receipt of notice of termination, and unless otherwise directed by Buyer, Seller will: (a) promptly terminate all work under the Order; (b) transfer title and deliver to Buyer the finished Supplies, the work in process, and the parts and materials that Seller reasonably produced or acquired according to quantities ordered by Buyer and that Seller cannot use in producing goods for itself or for others; (c) verify and settle any claims by subcontractors for actual costs incurred directly as a result of the termination and ensure the recovery of materials in subcontractors' possession; (d) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest until disposal instruction from Buyer has been received; and (e) upon Buyer's reasonable request, cooperate with Buyer in transferring the production of Supplies to a different supplier.
- 15.6 Upon termination by Buyer under Section 15.4, Buyer will be obligated to pay only the following: (i) the Price for all finished Supplies in the quantities ordered by Buyer that conform to the Order; (ii) Seller's reasonable actual cost of work-in-process and the parts and materials transferred to Buyer under part (b) above; (iii) Seller's reasonable actual costs of settling claims regarding its obligations to its subcontractors to the extent directly caused by the termination; and (iv) Seller's reasonable actual cost of carrying out its obligation under subsection (d). Seller will furnish to Buyer, within one month after the date of termination (or such other period as may be required by Buyer's Customer), its termination claim, which will consist exclusively of the items of Buyer's obligation to Seller permitted by this Section.
- 15.7 Notwithstanding anything other provision contained in this Section 15, Buyer will have no obligation for and will not be required to pay Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, tooling, facilities and equipment rearrangement costs or rental, unamortized capital or depreciation costs, finished goods, work-in-process or raw materials that Seller fabricates or procures in amounts exceeding those authorized in the Order, or general administrative burden charges from termination of the Order, except as otherwise expressly agreed.
- 15.8 Buyer's obligation upon termination under this Section 15 will not exceed the obligation Buyer would have had to Seller in the absence of termination.
- 15.9 Buyer may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim. Buyer will have no obligation for payment to Seller under this Section if Buyer terminates the Order or portion thereof because of a default or breach by Seller.

## 16. Force Majeure

- 16.1 Buyer shall not be responsible for any loss or damage of any kind occurring as a result of a failure of, or delay in, performance under the Order in the event such performance is delayed or prevented by circumstances beyond its reasonable control and which have not been brought about at its insistence.
- 16.2 The parties shall use reasonable diligence to seek to overcome any circumstance or event falling within Section 16.1.
- 16.3 No charges shall be payable by Buyer to Seller during any period to which this Section 16 applies.

## 17. Information Rights

- 17.1 Seller shall not to assert any claim against Buyer, Buyer's customers, or their respective suppliers, with respect to any technical information that Seller has disclosed or may disclose to Buyer in connection with the Supplies, except to the extent expressly covered by a separate written confidentiality and/or license agreement signed by Buyer or by a valid patent expressly disclosed to Buyer prior to or at the time of the Order.
- 17.2 Seller shall indemnify and hold harmless the Buyer, its successors and customers against claims of infringement of any intellectual property right (including any patent, trademark, copyright, moral, industrial design right) and against any resulting damages or expenses, including legal and other professional fees arising in any way in relation to the Supplies (including without limitation their manufacture, purchase, use and/or sale), except to the extent such infringement is actually embodied in designs created by Buyer and provided in writing to Seller
- 17.3 Copyright in the all drawings, documents and other information produced by or on behalf of the Seller shall remain vested in the Seller.
- 17.4 Seller will grant Buyer a non-exclusive, irrevocable, royalty-free license to use any intellectual property owned by Seller that is necessary or incident to the reasonably intended use or application of the Supplies.

## 18. Confidentiality

- 18.1 Seller acknowledges that proprietary and confidential information will be received from Buyer or developed for Buyer under the Order, regardless of whether such information is marked or identified as confidential.
- 18.2 Seller agrees to keep all proprietary or confidential information of Buyer in strictest confidence, and further agrees not to disclose or permit disclosure to others, or use for other than the purpose of the Order, any proprietary and confidential information of Buyer.
- 18.3 Following the expiration or termination of the Order, upon Buyer's request, Seller will promptly deliver to Buyer any and all documents and other media, including all copies thereof and in whatever form that contain or relate to Buyer's confidential or proprietary information.
- 18.4 Seller's obligations under this Section will continue for a period of six years from the date of disclosure of information covered by this Section, unless a longer period is specified in writing by Buyer.
- 18.5 The restrictions and obligations of this Section will not apply to information that: (a) is already publicly known at the time of its disclosure by Buyer; (b) after disclosure by Buyer becomes publicly known through no fault of Seller; or (c) Seller can establish by written documentation was properly in its possession prior to disclosure by Buyer or was independently developed by Seller without use of or reference to Buyer's information.

18.6 Notwithstanding anything to the contrary in these Terms, any confidentiality or non-disclosure agreement between the parties that predates the Order will remain in effect except as expressly modified by the Order, and to the extent of a conflict between the express terms of such an agreement and this Section, the terms of that agreement will control.

## 19. Publicity

Seller will not advertise, publish or disclose to third parties (other than to Seller's professional advisors on a need-to-know basis) in any manner the fact that Seller has contracted to furnish Buyer the Supplies covered by the Order or the terms of the Order, or use any trademarks or trade names of Buyer in any press release, advertising or promotional materials, without first obtaining Buyer's written consent.

## 20. Relationship of Parties

20.1 Seller and Buyer are independent contracting parties and nothing in the Order will make either party the employee, agent or legal representative of the other for any purpose. The Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

20.2 Seller will be solely responsible for all employment and income taxes, insurance premiums, charges and other expenses it incurs in connection with its performance of the Order, except as expressly provided in a written agreement signed by Buyer. All employees and agents of Seller or its respective contractors are employees or agents solely of Seller or such contractors, and not of Buyer, and are not entitled to employee benefits or other rights accorded to Buyer's employees. Buyer is not responsible for any obligation with respect to employees or agents of Seller or its contractors.

## 21. Assignment

Seller shall not assign or delegate its obligations under the Order without Buyer's prior written consent. In the event of any approved assignment or delegation authorized by Buyer, Seller retains all responsibility for Supplies, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer.

## 22. Governing Law

22.1 The Order shall be construed and governed in all respects in accordance with the laws of England & Wales and any disputes or differences shall be subject to the exclusive jurisdiction of the English courts.

22.2 Nothing herein contained shall be construed or deemed to constitute a partnership or joint venture between the parties hereto and neither party shall be bound by any representation, act or omission of the other.

## 23. Severability

If any term of the Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, the term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with Applicable Law. The remaining provisions of the Order will remain in full force and effect.

#### 24. Waiver

The failure of either party at any time to require performance by the other party of any provision of the Order will not affect the right to require performance at any later time, nor will the waiver of either party of a breach of any provision of the Order constitute a waiver of any later breach of the same or other provision of the Order.

#### 25. Survival

The obligations of Seller to Buyer survive termination of the Order, except as otherwise provided in the Order.

#### 26. Third Party Rights

No term of the Order is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person or body who is not a party to it.