

JOHNSON MATTHEY JAPAN GODO KAISHA ("JMGK") STANDARD CONDITIONS OF PURCHASE – ECT

1. **INTERPRETATION** "contract" means any contract for the purchase of goods, incorporating these conditions: "goods" and/or "services" means the goods and/or services agreed in the contract to be purchased, "we", "us" and "our" mean or refer to JMGK; "you" and "your" mean or refer to the supplier from whom we purchase the goods or services, "business day" means any day (other than a Saturday, Sunday or public holiday) when banks in Japan are open for business. Each provision of these conditions is to be construed as a separate provision applying and surviving even if one or other of them is held void or unenforceable.
2. **ACCEPTANCE AND VARIATION OF CONDITIONS** If the terms and conditions stated in the supplier's acceptance of the order or in any other communication of the supplier relating to the order are inconsistent with the conditions of the order or contain a provision purporting to override these conditions, the supplier shall be deemed to have accepted these conditions if he supplies goods in compliance or purported compliance with the order. No change to these conditions will be valid unless in writing and signed by us. In entering into the contract you do not rely on any express or implied representation made by us and any representation does not form part of the contract or a collateral contract.
3. **VALIDITY** We will accept no responsibility for any order which is not given on one of our standard order forms unless we otherwise give express notice in writing.
4. **VARIATION OF ORDER** No variation from the specifications contained in the order will be permitted by us unless such variation shall previously have been approved in writing by our Purchasing Department. In particular, but without limitation, no price increase (arising from whatever cause) will be accepted without such prior approval.
5. **DELIVERY** All goods shall be delivered to us carriage paid and, in the event of their not being delivered to us by the delivery date specified in the order (time being of the essence of these conditions and each contract), then (without prejudice to Condition 9 below) such goods shall at our option be delivered courier or other express delivery service as nominated by us at the supplier's cost. We will accept no responsibility for any goods delivered to us without an advice note giving full details and quoting our order number (given overleaf). Labels must also bear our order number and the supplier's name.
6. **PACKING** All goods must be packed so as to reach us in good condition and in compliance with our packaging standards. Unless otherwise agreed, packaging will be non-returnable. We reserve the right to reject goods damaged in transit.
7. **PASSING OF PROPERTY AND RISK** The property and risk in the Goods shall pass to us on delivery at the address specified in the order but without prejudice to any right of rejection.
8. **PAYMENT** 8.1 Unless otherwise stated in the order, the price quoted by the supplier shall be deemed to be all inclusive for example, but not limited to, of all taxes, duties, freight, insurance and packaging charges. 8.2 Subject always to Condition 16, provided invoices are submitted within three days of the goods having been delivered or the services having been completed to our satisfaction, payment will normally be made by the end of the month following that of delivery or completion. Monthly statements will be required. 8.3 Payment by us for any of the goods ordered shall not constitute any admission by us as to the performance by the supplier of his obligations and shall not constitute a waiver of any of our rights hereunder, nor shall such payment terminate any of the supplier's warranties.
9. **SUPPLIER'S DEFAULT** It shall be a condition of the contract that the goods will conform to the requirements of the order in all respects (and, in particular, as to quantity, quality, fitness, description and specification, and the sample supplied, if any) and with any statements or undertakings made by the supplier or its servants or agents prior to the giving of the order. If the supplier fails to complete this order strictly according to such requirements, or in accordance with these conditions, or the goods shall prove to be defective within 12 months of delivery, then, without prejudice to any other rights that we may have, we shall in each case have the following rights: 9.1 to cancel the order and to reject the goods and to purchase them from a third party; and 9.2 to call upon the supplier to rectify the defects or replace the goods (at our option) at the supplier's own expense. All the obligations in this Condition 9 shall further apply to any such rectified or replacement goods. The supplier shall reimburse us with any additional costs which we may suffer as a result of such failure or defect, and shall indemnify us against any and all actions, proceedings, damages, costs, claims, demands and expenses whatsoever, whether direct or consequential, resulting therefrom.
10. **SEPARATE DELIVERIES** Where the order is for the sale of goods by a number of separate deliveries, we shall be entitled at our option to treat a breach by the supplier under Condition 9 in respect of any delivery either as a breach of contract in respect of that delivery only, entitling us to cancel the order in respect of that delivery, or as a breach of contract affecting the whole order, entitling us to cancel the whole order.
11. **FORCE MAJEURE** Neither party shall be liable to the other for any delay or failure in performing its obligations under a contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the supplier shall use all reasonable endeavours to cure any such events or circumstances and resume performance under the relevant contract. If any events or circumstances prevent the supplier from carrying out its obligations under a contract for a continuous period of more than 5 days, we may terminate the relevant contract immediately by giving written notice to the supplier.
12. **DESIGN AND TOOLS** All blueprints, designs, drawings and instructions supplied by us, and all tools, dies, jigs, moulds, and the like specially manufactured in connection with the order (whether supplied by us or not) for the manufacture of the goods shall be our property and shall be surrendered to us forthwith on demand. The supplier shall not furnish any third party with any goods made in accordance with our blueprints, designs, drawings or instructions without the prior written approval of our Purchasing Department.
13. **INDEMNITY** The supplier shall indemnify us against all actions, proceedings, damages, costs, claims, demands and expenses whatsoever in respect of loss of life or personal injury or damage to property resulting, either directly or indirectly, from any defect in the goods supplied or from compliance with any instructions given by the supplier in connection with the goods or from the execution of any work covered by the order, unless such loss of life or personal injuries or damage to property is directly and exclusively attributable to our sub-contractors or to those in our or their employ.
14. **CANCELLATION OF ORDER** Without prejudice to any other rights that we may have, we shall be entitled to cancel the order at any time (without payment of any penalty to the supplier) by written notice if:
 - i. the supplier shall go into liquidation; or
 - ii. the supplier shall have an administration order made against it; or
 - iii. a distress or execution shall be levied or enforced upon any of the property of the supplier and is not paid out or discharged within 14 days; or
 - iv. an encumbrancer shall take possession or a receiver shall be appointed of the undertaking of the supplier or any of the supplier's property; or
 - v. if the supplier stops payment of any debt due to us or ceases or threatens to cease to carry on its business or pay its debts as and when they fall due.In any other case we shall be entitled to cancel this order at any time by giving written notice to the supplier in which event we shall be bound to pay a reasonable sum for any work already completed but shall otherwise be free from liability.
15. **INTELLECTUAL PROPERTY** The supplier warrants that the goods included in this order do not infringe any patent, registered design, copyright, trademark or trade name or any other proprietary right.
16. **TESTING** We shall have a period of thirty days from the date of receipt of the goods (or, if applicable, the date, if later, of completion of installation and/or commissioning by the supplier) within which to test the goods. In the meantime, we shall not be deemed to have accepted the goods or be liable to pay for the same.
17. **BREACH OF WARRANTY** Without prejudice to any other remedy available to us under these conditions or at law, the supplier shall indemnify us against all actions, proceedings, damages, costs, claims, demands and expenses whatsoever, whether direct, indirect, special or consequential, arising out of any breach by the supplier of any of the supplier's warranties or obligations herein contained.
18. **GOVERNMENT CONTRACTS** Where the goods or services ordered are to be used in carrying out, or in connection with, a Government contract or sub-contract as shown overleaf, the order is subject to any special conditions stipulated by the Government Department concerned and to these conditions (so far as they are not inconsistent with such special conditions). Details of such conditions will be supplied on request.
19. **STATUTORY REQUIREMENTS** The supplier warrants that all goods and services supplied pursuant to the order comply with all applicable statutory requirements and in particular (but without prejudice to generality of the foregoing) that the supplier has complied with all relevant packaging and labelling regulations, and that they are designed, constructed or installed in such manner and with such tools as to be without risk to health and safety and that we have been provided with adequate information as to their proper use and storage.
20. **ANTI-CORRUPTION AND BRIBERY** The supplier agrees that it will not directly or indirectly, pay, offer, promise to pay or authorize the payment of, any monies or financial or other advantage in violation of any anti-corruption laws and in particular (but without prejudice to the generality of the foregoing) the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977. Further, the supplier confirms that it has not taken nor will take directly or indirectly, any action that would cause JMGK's officers, directors, employees and/or affiliates to be in violation of any anti-corruption laws including but not limited to the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977. In circumstances where we determine, in good faith, that the supplier has breached this provision we will be entitled, in addition to our other rights, to terminate any contract with the supplier by giving written notice with immediate effect. The supplier will indemnify us from any claims, suits, investigations, penalties and fines of any kind arising from any breach of this provision. This provision shall survive the termination of any contract.
21. **PAYMENT NO WAIVER** Payments by us for any goods or services ordered shall not constitute a waiver of any of our rights, nor shall such payment terminate any of the supplier's obligations.
22. **NOTICES** Notices may be sent by first-class post to the parties' registered offices and shall be deemed served either 48 hours after posting (Japan) or 5 days after posting (outside of Japan).
23. **HEADINGS** The headings to the paragraphs of these conditions are inserted only for convenience of reference and shall not affect their interpretation.
24. **LAW AND JURISDICTION** The construction, validity and performance of all our contracts shall be governed by Japanese law and the parties submits to the exclusive jurisdiction of the Tokyo District Court, however nothing in these conditions shall prevent a party from applying to any court of competent jurisdiction for interim relief and/or conservatory measures.