



Johnson Matthey
Battery Systems

General Terms and Conditions of Purchase

GENERAL TERMS AND CONDITIONS OF PURCHASE

JOHNSON MATTHEY BATTERY SYSTEMS SP. Z O.O

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General Terms and Conditions of Purchase

Johnson Matthey Battery Systems sp. z o.o., a company having its registered office in Gliwice at ul. Portowa 28, registered in the District Court in Gliwice, Commercial Division X of the National Court Register under number 80666 purchases goods and services from the supplier only on the terms and conditions defined below.

1. DEFINITIONS

"Supplier" – means the entity that is to provide the Deliverables specified in the Purchase Order;

"Deliverables" – means goods and services purchased by the Company pursuant to an agreement concluded with the Supplier;

"Company" – means Johnson Matthey Battery Systems sp. z o.o., a company having its registered office in Gliwice at ul. Portowa 28, registered in the District Court in Gliwice, Commercial Division X of the National Court Register under number 80666;

"Parties" – means the Company and the Supplier, jointly;

"Agreement" – means an agreement concluded between the Parties comprising the Deliverables, which consists of, among others, the Purchase Order, the Terms of Purchase and also other agreements between the parties;

"Terms of Purchase" – means these General Terms and Conditions of Purchases;

"Purchase Order" – means a document made by the Company, comprising an offer made by the Company to the Supplier, the object of which is the purchase of the Deliverables by the Company, in each event subject to the Terms of Purchase.

2. PURCHASE ORDER

- 2.1 If the Supplier accepts a Purchase Order from the Company, comprising a Company's offer, it will be on these Terms of Purchase. A Purchase Order may not be fulfilled on any terms and conditions other than those set out in the Terms of Purchase, unless expressly agreed otherwise in writing by the Company and the Supplier.
- 2.2 The Supplier shall be deemed to have accepted a Purchase Order, and the Agreement between the Supplier and the Company shall be deemed to have come into force to the extent of the issues specifically covered by that Purchase Order, if the Company has placed a Purchase Order and (i) it has received acceptance of such a Purchase Order with a formal Purchase Order acknowledgement in writing; or (ii) the Supplier proceeds to carry out performance of a Purchase Order and immediately notifies the Company about it in writing or via electronic mail.
- 2.3 Acceptance of a Purchase Order by the Supplier shall also mean that the Supplier has accepted the Terms of Purchase. No change to a Purchase Order (including these Terms of Purchase) shall be valid unless in writing and signed by the Company.



General Terms and Conditions of Purchase

- 2.4 If the Supplier wishes to reject a Purchase Order and make a counter-offer, the Supplier must immediately reply to a Purchase Order in words explicitly and clearly indicating rejection.
- 2.5 The Company shall be entitled to modify the Terms of Purchase unilaterally. The Company shall notify the Supplier of any modification to the Terms of Purchase 7 days prior to such modification.
- 2.6 The Supplier must read the Terms of Purchase carefully if it intends to accept the Purchase Order or make a counter-offer.
- 2.7 Each Purchase Order shall have a purchase order number.

3. AGREEMENT

- 3.1 The content of the Agreement with the Supplier shall only consist of: the Purchase Order or if applicable an express purchase agreement or framework agreement, the Terms of Purchase as well as other agreements which are agreed and included in the Agreement documentation from time to time, such as quality agreements and other Company specific requirements which it intends the Supplier to be subject to.
- 3.2 If there is any inconsistency between the content of a Purchase Order and other agreements or the Terms of Purchase, the following rules shall apply: express agreements made in the manner and form compliant with the Terms of Purchase shall have the highest propriety of application, next, the Purchase Order placed by the Company and, lastly, these Terms of Purchase. If the Parties enter into a framework agreement, such framework agreement shall have a priority ahead of the Purchase Order and the Terms of Purchase.

4. PRICE

The Price for the Deliverables shall be set in the Purchase Order placed by the Company. Unless the Agreement provides otherwise, that price shall include all the costs related to the Deliverables, in particular the costs of storage, packaging, loading, transportation, insurance, delivery to the place of delivery, and public and private law charges or taxes other than VAT.

5. PAYMENT

- 5.1 Invoices may be issued by the Supplier and delivered to the Company upon the delivery of Deliverables or later. Each invoice must contain the number of the Purchase Order placed by the Company. Unless otherwise specified in the Purchase Order, the term of payment shall be 60 days from the later of: (i) the last day of the month in which the Company has received a duly issued invoice, and (ii) the last day of the month in which the Company has received the Deliverables.
- 5.2 The Company shall be entitled to set off any amounts due by the Supplier to the Company against the Supplier's fee.

General Terms and Conditions of Purchase

6. ADDITIONAL REQUIREMENTS

- 6.1 If the Deliverables are goods, then, unless otherwise specified in the Purchase Order, the Purchase Order shall also comprise the delivery of all appropriate documentation and certificates relating to the goods and their use, which are necessary for the Company to use the goods in accordance with their designation and the Company's intended purpose, including to the extent required by the Company to comply with Directive No.2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment ("**RoHS**") and Regulation 1907/2006/EC on the Registration, Evaluation and Authorisation of Chemicals ("**REACH**"). If the Deliverables are services, then, unless otherwise specified in the Purchase Order, the Purchase Order shall be deemed to comprise a comprehensive provision of services, plus training of employees, instructions, explanations and all certificates that are necessary for the services to bring the intended purpose for the Company.
- 6.2 The Supplier shall, give a warning notice to the Company of all hazardous materials or materials subject to restrictions, which are part of the Purchase Order, with special instructions to take appropriate measures during processing, use and removal of the Deliverables. The Supplier agrees to observe all applicable laws regarding hazardous materials or materials subject to restrictions, in particular RoHS and REACH. The Supplier shall repay the Company all costs and expenses incurred as a result of failure to comply with the obligations imposed by virtue of the above-mentioned laws.
- 6.3 The quantity, quality and kind of the Deliverables must be exactly as specified in the Company's Purchase Order and in compliance with the Terms of Purchase (in particular, with the Supplier's representations in sub-clause 8.1.) or other the terms and conditions agreed with the Company in writing
- 6.4 The Company has a right to inspect the process of preparation of the Deliverables by the Supplier (including the right to enter the facilities where the Deliverables are being prepared) as well as to inspect the warehouses where the Deliverables are stored. The information on an intended inspection shall be provided to the Supplier in advance, upon at least (seven) 7 days' notice. If the Company recognizes that the quality of the Deliverables or the standard of its manufacture or storage is inadequate or inconsistent with the Terms of the Agreement, the Supplier must immediately take any actions aimed at removing all the defaults found by the Company. If the Supplier does not take such actions or if, despite such actions being taken, the Company upholds its standpoint as regards the above-described inconsistency, the Company may, within 14 days, rescind Agreement, in whole or in part, or terminate the Agreement without notice and this shall not give rise to any Supplier's claims against the Company. The Company may, however, claim redress of the damage suffered by it by reason of such rescission or termination of the Agreement.



General Terms and Conditions of Purchase

- 6.5 If before completion of the Purchase of Order by the Supplier, the Company notifies the Supplier by letter or electronic mail of any changes to the Purchase Order, the Parties envisage the following effects. If as a result of any changes being made:
- 6.5.1 there is a decrease in costs, then the price of the Deliverables shall decrease proportionally in order to reflect the level of cost decrease reliably;
 - 6.5.2 there is an increase in the costs of the Purchase Order, the Supplier shall immediately notify the Company thereof in a letter containing a proposed new price for the Deliverables, reliably reflecting only such increase in the costs which cannot be avoided. The Company jointly with the Supplier shall make every effort to agree new terms of the Agreement. Until an agreement is reached the existing prices shall remain in force. A price increase may occur only upon the Company's consent, expressed in writing.
- 6.6 The Supplier must keep the documentation connected with the manufacture or performance of the Deliverables for the minimum period of 5 years starting from the date on which the Agreement has been performed in full. The documentation must identify all the components (including the source of their origin) that make up the Deliverables or are used for the manufacture of the Deliverables, which are essential in any way as regards safety of their use. Supplier shall ensure it is in compliance with the applicable laws, decisions issued by competent authorities and applicable quality standards required for the Deliverables under the Agreement.
- 6.7 The Supplier must procure that the packaging and the manner of packing comply with the Company's reasonable requirements.
- 6.8 Tools owned by the Company** (to the extent applicable)
- 6.9 The Supplier shall bear liability for due and compliant with the designed purpose, use and storage of the tools and equipment owned by the Company and provided to the Supplier with the view of performing the Agreement, and for keeping them clean and protecting them against damage or theft. All the materials, equipment or tools provided to the Supplier free of charge shall at all times remain the Company's property and the Supplier shall be liable for their accidental loss or damage during the time they remain in its possession. Any disposal of the materials, equipment or tools provided to the Supplier shall require prior consent from the Company.
- 6.10 The Company shall be entitled to inspect how the tools and equipment are used and stored. At the request of the Company they shall be returned to the Company or to another place specified by the Company, within 48 hours of the receipt of the demand to return them. The tools and equipment shall be marked as being the Company's property. In the event the Purchase Order is annulled or the Agreement is rescinded, terminates or expires, the tools and equipment shall be returned by the Supplier to the Company on the following business day.



General Terms and Conditions of Purchase

- 6.11 The Price of the Deliverables may not include the costs of tools and equipment to be provided by the Company. Such costs shall be specified in the Purchase Order. The Supplier may not refuse the Company, in any event, to give access to the Company's tools and equipment.
- 6.12 The tools and equipment may not be rendered available, used or transferred to any third parties without the Company's consent in writing.

7. PERFORMANCE OF THE PURCHASE ORDER

- 7.1 The Deliverables shall be delivered or performed within the term and at the place specified in the Purchase Order.
- 7.2 If the Deliverables are to be delivered or performed in parts, the Company shall be entitled to treat any non-conformance in respect of each part of a delivery either as a breach of the Agreement in respect of that part of the delivery only, entitling the Company to cancel the Purchase Order in respect of that delivery, or as a breach of the Agreement affecting the whole Purchase Order, entitling the Company to cancel the whole Purchase Order.
- 7.3 The Company may refuse to receive the Deliverables, if the Deliverables do not comply in full with the Agreement.
- 7.4 The receipt of the Deliverables shall not mean their acceptance, if the Company has not been given sufficient time or possibility to examine the Deliverables and also in the event any latent defects are found.
- 7.5 The Company is not obliged to return the packaging, however, if it becomes necessary to recycle it, the Company may demand that the Supplier collects it, free of charge, by the deadline set by the Company. If the Supplier fails to collect the packaging by the deadline set by the Company, the Company will be able to have the packaging recycled at the Supplier's cost and risk.
- 7.6 The risk of an accidental loss of or damage to the Deliverables shall pass to the Company upon receipt of the Deliverables by the Company, unless the Purchase Order, an express purchase agreement or framework agreement provides otherwise.
- 7.7 The title to the Deliverables shall pass to the Company upon receipt or, if a part payment for the Deliverables has been made in the form of prepayment, upon manufacture or preparation of the Deliverables for delivery to the Company, subject to the rule defined in sub-clause 7.6.
- 7.8 If the Company delivers materials to the Supplier to be used in connection with the implementation of the Agreement, processing or copying, those materials shall remain the Company's property. They must be stored ensuring their safety and confidentiality against disclosure to any third party. The Company shall have a right, upon reasonable notice, to enter the Supplier's facilities with the view of inspecting such materials. The Supplier shall be entitled to use the materials or copy them in any manner only and exclusively for the purpose of

General Terms and Conditions of Purchase

performing the Agreement. The Company reserves all copyrights and intellectual property rights to materials delivered (products, plans, drawings, designs, computer programmes, databases, specifications etc.). The Supplier shall pay the Company damages in the amount covering all losses suffered by the Company, as well as covering all profits the Supplier obtained as a result of violation of the Company's rights described above or as a result of the Supplier's failure to perform the obligations described above.

- 7.9 If the Deliverables are to be performed on the premises of the Company's facility, the Supplier shall apply appropriate standards of action in order to ensure the protection of health and safety of Supplier's personnel as well as of all other persons visiting the facility on the instructions of the Supplier. When staying on the premises of the Company's facility, the Supplier's personnel must observe the Company's instructions as well as the principles and rules in effect with the Company. The Supplier shall bear full and exclusive liability for its personnel's actions and omissions.

8. GUARANTEE AND LIABILITY

8.1 The Supplier warrants that:

- 8.1.1 the quantity, quality, description and specification of the Deliverables shall comply with the Purchase Order;
- 8.1.2 the Deliverables shall be free of any physical and legal defects;
- 8.1.3 the Deliverables shall meet the requirements arising out of the provisions of law and all the required quality standards;
- 8.1.4 all the Supplier's actions shall be performed by personnel having relevant qualifications, training and experience;
- 8.1.5 the Company's use of the Deliverables in compliance with the Agreement shall not result in the violation of anybody's rights, including intellectual property rights;

8.2 The regulations arising out of the provisions of law, relating to the guarantee and statutory warranty are not subject to any restrictions and fully apply to the Deliverables. To avoid any doubt, the provisions of the Terms of Purchase shall be construed in their broadest sense permitted by statutory regime, pursuant to Art. 558 § 1 of the Civil Code.

8.3 The Supplier assures that the Deliverables shall be fit for their intended purpose and that exclusive liability for any inconsistency with that intended purpose shall be borne by the Supplier, who must notify the Company of such inconsistency as quickly as possible (and in any event before the commencement of performance of the Deliverables).

General Terms and Conditions of Purchase

- 8.4 The Supplier shall bear all liability and it shall indemnify the Company for and hold the Company harmless against any costs, claims or liability arising from the circumstances for which, pursuant to the Agreement, the Supplier is liable. The Supplier shall indemnify the Company for and hold the Company harmless against all claims for damage to property and injury to people or for persons' deaths, if, directly or indirectly, the events giving rise to the foregoing claims for damages: (i) take place during the performance of the Agreement, (ii) result from the Supplier's undue performance or failure to perform its obligations arising out of the Purchase Order, or (iii) result from compliance with the Supplier's instructions relating to the Deliverables, provided always and to the extent only that such events are the effect of the failure to perform or undue performance of these Terms of Purchase or this Agreement by the Supplier, or by the Supplier's employees, representatives, suppliers or sub-contractors.
- 8.5 The Supplier shall indemnify the Company for and hold the Company harmless against all claims for damages, all liability and costs (including reasonable legal and other professional fees, settlements and judgments) arising out of the defects in the Deliverables or the Supplier's breach of any of the representations in sub-clause 8.1. To avoid any doubt, sub-clauses 8.4 and 8.5 shall be interpreted as an agreement to release the debtor by a third party from the obligation to make a performance as defined in Art. 392 of the Polish Civil Code.
- 8.6 The Supplier shall hold at all times during the term of the Agreement a third party liability insurance (covering all the events of Supplier's liability comprised by the Agreement) for the amount agreed between the Company and the Supplier. The Supplier must, at the Company's request, present the policy (or another document evidencing its holding of an insurance agreement) immediately.
- 8.7 If the Deliverables do not comply in any respect with the requirements arising out of the Agreement, the Company may refuse to accept the Deliverables, and the Supplier shall not have a right to claim payment of the price for the unaccepted Deliverables.
- 8.8 If any element of the Deliverables do not comply in any respect with the requirements arising out of the Agreement, the Company may, at its discretion, either demand that the Supplier repairs or replaces the Deliverables with such that complies with the contractual requirements within 7 days of the demand or exercise its right to refuse to accept the Deliverables and demand the repayment of the price paid for it.
- 8.9 The Company shall not be liable for any delay or other failure to perform or undue performance of its contractual liabilities, if it has arisen as a result of the circumstances beyond the Company's control or for which the Company is not liable.

General Terms and Conditions of Purchase

- 8.10 Unless the Agreement (in particular a Purchase Order, express purchase agreement or framework agreement) provides otherwise, by accepting the Purchase Order the Supplier agrees to grant a 36-month guarantee for the Deliverables. Whenever it is necessary for the Supplier to conclude an additional agreement or issue an additional document to grant a guarantee, the Supplier shall execute such agreement or issue such document immediately after accepting the Purchase Order.
- 8.11 Under the 36-month guarantee, running from the date of delivery of the Deliverables, the Supplier shall, forthwith, but no later than 14 days after receiving a notice from the Company delivered to the Supplier within the 36-month guarantee period, repair or replace any and all defective Deliverables delivered under the Agreement, in particular if the defect or damage occurred as a result of a faulty design, use of improper or faulty material, improper workmanship or inaccurate instructions for use or the provision of untrue data.
- 8.12 The Supplier shall bear all the costs of repair or replacement of the Deliverables, including the costs of transport, labour, removal of defective Deliverables or parts thereof. The Deliverables that have been repaired or replaced shall be subject to an additional guarantee for a period of 12 months starting from the date of completion of the repair or of replacement, but for a period no shorter than until the end of the 36-month period which would have been in force if the goods had not been repaired or replaced.
- 8.13 The guarantee shall be exercised by the Company or the entities nominated by the Company.
- 8.14 If the Supplier does not fulfil its obligations arising under sub-clauses 8.10 – 8.12, the Company shall have the right to carry out, at the Supplier's cost and risk, the repairs on its own account or purchase a quantity of the same or similar goods equal to the quantity of the defected Deliverables. Such actions by the Company shall not result in a loss of any guarantee rights vested in it.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 If it is necessary for the appropriate use of the Deliverables to grant a licence to the Company, the Supplier shall grant such a licence to the Company in the widest possible scope, in all fields of use necessary for the proper use of the Deliverables. The fee for such licence shall be included in the price for the Deliverables to which the licence pertains.
- 9.2 If, at the Company's request and at the Company's cost, either in full or in part, the Supplier carries out any upgrading, inventive, innovative or improvement works, the Company shall have all the intellectual and industrial property rights in the results of such works, in particular in the scope of copyrights in all fields of use.



General Terms and Conditions of Purchase

- 9.3 If the granting of a license or transfer of rights requires any additional action to be taken or any additional statements to be made, the Supplier shall fulfil all the Company's reasonable demands made during or after the performance of the Agreement, to facilitate the transfer of rights or granting of licences to rights to the Company pursuant to the provisions of this clause or to assist the Company in the registration or confirmation of such rights.
- 9.4 The Supplier warrants that the performance of the Purchase Order shall not infringe any industrial property rights, copyright, or any other intellectual property rights of third parties. The Supplier shall indemnify the Company and hold it harmless against any liability for any possible breach of third party intellectual property rights, if such breaches are caused, even partly, by the Supplier's actions.

10. RESCISSION AND TERMINATION OF THE AGREEMENT

- 10.1 The Company may, at any time up to the delivery of Deliverables, cancel the Purchase Order without stating any reasons, by notifying the Supplier of the rescission of the Agreement, in whole or in part. If the cancelled Purchase Order concerned:
- 10.1.1 the Deliverables that were offered by the Supplier or if they are standard or stock items of the Supplier, the Company shall not be liable to reimburse any costs;
- 10.1.2 other Deliverables, the Company shall be liable to reimburse the Supplier for all irrecoverable costs incurred or unavoidably committed by it up to the point of cancellation. The Company shall be entitled, if it wishes, to the benefit of the part-finished Deliverables in question. For the purpose of this sub-clause, "costs" means the direct and actual costs of the Supplier incurred for the performance of the Purchase Order.
- 10.2 If the Supplier breaches the terms of the Agreement, the Company may, without any obligations to the Supplier terminate the Agreement with immediate effect or suspend the performance of the Agreement and then, at any subsequent time, terminate it with immediate effect.
- 10.3 The Company may, without any obligations to the Supplier: (i) rescind the Agreement, in whole or in part, within 30 days of becoming aware of any of the below listed event, entitling it to rescind the Agreement; (ii) terminate the Agreement with immediate effect; or (iii) suspend the performance of the Agreement and then, at any subsequent time, terminate it with immediate effect, if:
- 10.3.1 the Supplier ceases to pay its financial liabilities in due time;
- 10.3.2 a petition to have the Supplier declared bankrupt is filed;
- 10.3.3 declaration of the bankruptcy of the Supplier is refused due to the lack of sufficient assets to carry out the bankruptcy proceedings;



General Terms and Conditions of Purchase

- 10.3.4 it makes any voluntary arrangement with its creditors;
 - 10.3.5 an administrative receiver is appointed or the Supplier goes into liquidation;
 - 10.3.6 any third party takes possession of, or enforces rights over any of its property or assets under any form of security;
 - 10.3.7 the Supplier stops or threatens to stop carrying on business;
 - 10.3.8 it suffers any process equivalent to any of these, in any jurisdiction; or
 - 10.3.9 the Company reasonably believes that any of the events mentioned above is about to occur and it notifies the Supplier accordingly.
- 10.4 Any right of rescission, termination or suspension under this Clause is additional to any rights available to the Company under the law of any relevant jurisdiction.

11. GENERAL

- 11.1 The Supplier shall keep in confidence all information on the Company or the Company's customers, acquired during the cooperation with the Company and it shall use this information only for the purpose of performing the Agreement. The confidentiality obligation shall continue to be in force until (five) 5 years after all contractual relationships cease with the Company. The foregoing obligation shall not apply to the information that has been in public domain at the time the Supplier has used it.
- 11.2 The relationship between the Company and the Supplier shall be as between independent undertakings and not partners or a principal and agent, representative, intermediary or proxy.
- 11.3 The Supplier may not assign any rights under the Agreement to third parties without prior consent of the Company in writing. The Company may assign the rights under the Agreement to its related entities, as defined by the Accountancy Act, without Supplier's consent. The Supplier may subcontract or entrust the performance of the Agreement to an entity only in some specified scope and not in whole. The Supplier shall be liable for its subcontractor's actions or omissions as for its own.
- 11.4 The Supplier shall be liable, on the terms defined in these Terms of Purchase, for damage made to the entities related to the Company as if the Supplier has made such damage to the Company.
- 11.5 Any partial exercise or waiver by the Company of any provision of these Terms of Purchase shall not affect the Company's right to exercise such or any other provision at any other time. No waiver by the Company of any remedies in the event of a breach of the Agreement by the Supplier shall be considered as a waiver of such remedies in respect of any subsequent breach of the same or other provision or as a waiver of the provision of the Agreement that has been



General Terms and Conditions of Purchase

breached by the Supplier. No delay by the Company in exercising any legal remedies shall be considered as a waiver of rights vested in the Company.

- 11.6 If any provision of these Terms becomes invalid, ineffective or unenforceable for any reason, such invalidity, ineffectiveness or unenforceability shall not affect the other provisions of these Terms.
- 11.7 The Company shall not be obliged to place Purchase Orders with the Supplier only.
- 11.8 All written notices made by under these Terms of Purchase shall be considered duly delivered, if sent by recorded delivery mail against confirmation of receipt or electronic mail against successful transmission report and only where the parties have regularly communicated with each other by use of an electronic mail in matters relating to the Agreement.
- 11.9 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 in relation to the Agreement and in particular (but without prejudice to the generality of the foregoing) the UK Bribery Act 2010, the US Foreign Corrupt Practices Act 1977 and the Polish Criminal Code. Further, the Supplier confirms that it has not taken nor will take directly or indirectly, any action that would cause officers, directors, employees and/or affiliates of the Company or other Johnson Matthey PLC company to be in violation of any anti-corruption laws including but not limited to the above-mentioned acts. In circumstances where the Company determines, in good faith, that the Supplier has breached this provision, the Company will be entitled, in addition to its other rights, to terminate any Agreement with the Supplier with immediate effect. The Supplier will indemnify the Company, any other Johnson Matthey PLC company or their officers, directors, employees and/or affiliates from any claims, suits, investigations, penalties and fines of any kind arising from any breach of this provision by the Supplier. For the avoidance of doubt, this provision shall survive the rescission, termination or expiration of the Agreement.
- 11.10 The Agreement and all matters connected therewith shall be governed by laws of Poland and the Supplier undertakes to submit itself to the jurisdiction of the Polish court appropriate for the Company's registered office. The Company may claim its rights against the Supplier in any other court of competent jurisdiction.