

Delivery and Payment Terms of Johnson Electric Oldenburg GmbH & Co. KG

Effective from 10/97

Basis: "General Delivery Terms for Products and Services in the Electrical Industry" in the version of January 1990, published as nonbinding recommendation of terms and conditions by the Federal Cartel Office in the Federal Gazette No. 96 of 27th May 1978.

I. Scope of Deliveries and Services

1. This written statement is authoritative for the scope of deliveries and services. The Purchaser's General Terms and Conditions shall apply only to that extent as expressly agreed upon with the Supplier.
2. The regulations of the "Verband Deutscher Elektrotechniker" (Association of German Electrical Engineers) shall apply for all deliveries and services as far as they come into consideration with regard to the safety of the deliveries or services. Deviations are permissible, provided equal safety is ensured by other means.
3. The Supplier reserves without restriction any proprietary and intellectual property rights in all proposals, drawings and other documents; these may be made accessible to third parties only with the prior consent of the Supplier. Drawings and other documents appertaining to proposals must be immediately returned on request, if the Supplier is not granted the contract. Sentences 1 and 2 apply accordingly for documents of the Purchaser; however, these may be made accessible to such third parties who the Supplier admissibly engages in the deliveries and services.
4. Side agreements are valid only if confirmed in writing.

II. Price

All and any prices are understood ex works exclusive packaging and inclusive any contents of precious metals, as well as plus the applicable VAT rate. Unusual increases of material prices and/or exchange rates shall entitle us to correct the price without special advance notice, also in case of already confirmed prices. The minimum amount of the value of goods is EUR 50.00, even if the total of the individual prices of an order should be smaller.

III. Retention of Title

The goods remain the property of the Supplier, until all claims that he rightfully has against the Purchaser in consequence of the business transaction are satisfied. Prior to that any pledging or assignment as securities is prohibited, and resale is allowed only to resellers within the ordinary course of business on condition that the reseller receives payment from his customer. Any costs for interventions are to be borne by the Purchaser. In case that the value of all securing rights that appertain to the Supplier in accordance to sentence 1, should exceed the value of all secured claims by more than 20 percent, the Supplier shall release the respective part of the securing rights on the Purchaser's request.

If the Supplier's goods are adapted or processed, the Purchaser already now transfers to us his proprietary or co-ownership rights in the new product. If the goods subject to retention of title have been sold by the Purchaser, on their own or in combination with goods not appertaining to the Supplier, then the Purchaser already now assigns the claims resulting from the resale of the goods as to the value of the goods subject to retention of title with all appertaining rights; the Supplier accepts this assignment. If the value of the security exceeds the total of our claims by more than 20 percent, then the Purchaser shall be obliged to provide for a reassignment on the Supplier's request.

IV. Payment Terms

1. We offer 2 % discount for payment within 10 days from date of invoice, otherwise strictly net without deductions within 30 days from the date of invoice.
2. The payments must be made free Supplier's point of payment.
3. The Purchaser may charge up against undisputed or lawfully established counterclaims only.

V. Term for Deliveries or Services

1. With regard to the term for deliveries or services, this written statement is authoritative. Meeting the deadline for deliveries or services is subject to the timely receipt of all documents to be provided by the Purchaser, required permits, releases, the timely clarification and approval of plans, the compliance with the agreed payment terms and other obligations. If such preconditions are not fulfilled in time, the term shall be reasonably extended.
2. The deadline of the delivery is considered met on delivery, if the shipment has been dispatched or picked up within the agreed term of delivery or service. If the final delivery is delayed for reasons attributable to the Purchaser, then the deadline is considered met on notification about the readiness for dispatch within the agreed term.
3. If non-compliance with the term for deliveries or services is demonstrably due to mobilization, war, riot, strike, lockout or the occurrence of unpredictable obstacles, the term shall be reasonably extended.

In the case of non-compliance with the term for deliveries or services for other reasons than mentioned above in No. 3 paragraph 1, the Purchaser may demand – provided he can make believable that he has suffered damage from the delay – compensation for delayed completion for every completed week of delay equal to ½ percent up to the amount equal to 5 percent of the value of that part of the deliveries or services which could not be put into useful operation because of individual appertaining objects not being timely completed.

The Purchaser can demand payment of compensation for delayed completion also then, if the circumstances described in No. 3 paragraph 1 occur only after the originally agreed term has been transgressed by the Supplier's fault.

The Purchaser's claim for compensation exceeding the limit of 5 percent as determined above in paragraph 2 shall be excluded for delayed delivery, whatever the case may be, also after the expiry of a possible grace period granted to the Supplier. This does not apply, if there is compulsory liability in cases of intent or gross negligence.

The right of the Purchaser to withdraw from the contract after the fruitless expiry of a grace period granted to the Supplier remains unaffected.

4. If the dispatch or the delivery is delayed on request of the Purchaser, then a storage fee in the amount of ½ percent of the invoice amount can be charged to the Purchaser for each month or part thereof, starting one month after the notice of readiness to ship; the storage fee is limited to 5 percent, unless higher costs can be proven.

VI. Transition of Risk

The risk passes over to the Purchaser, even in the case that free delivery has been agreed:

- a) On delivery, as soon as the shipment has been dispatched or picked up. The packaging is done with greatest care. Shipment is arranged according to our choice, unless other agreements have been established. On request and on the account of the Purchaser, the Supplier will insure the shipment against breakage, transport damage and fire damage.
- b) If shipment or delivery is delayed on the request of the Purchaser or due to reasons the Purchaser is accountable for, then the risk passed over to the Purchaser for the time of the delay; however, the Supplier is obliged to take up any insurance that the Purchaser requests, on request and on the account of the Purchaser.

VII. Acceptance

1. Delivered objects shall be accepted by the Purchaser, even if they show minor defects.
2. Partial deliveries are admissible. In case of deliveries of special models and specification, i. e. products deviating from the standard version described in the latest effective catalogue, we reserve the right of the delivery amount deviating $\pm 10\%$ from the ordered and confirmed amounts.

VIII. Liability for Defects

For defects, which also include the lack of promised features, the Supplier shall be liable as given below:

1. All those parts or services which become unusable or which's usability is significantly impaired within the warranty period pursuant Art. 477 BGB (German Civil Code) – irrespective of the operating period – calculated from the date of the transition of risk, due to a circumstance that was present before the date of the transition of risk, particularly because of faulty design, inadequate material or manufacturing fault, shall be, at the choice of the Supplier, repaired/touched up or replaced free of charge. The Supplier must be immediately notified in writing of the discovery of such defects.
2. The Purchaser must comply with his contractual obligations, in particular the agreed payment terms. In the case of a notice of defects, the Purchaser may withhold payments to an extent which is appropriate to the defects occurred. However, if the contract relates to the operation of a trade of the Purchaser, then the Purchaser may retain payments only, if a notice of defects is made that is substantiated without any doubt.
3. For the removal of defects, the Purchaser must grant the required time and opportunity to the Supplier, using equitable discretion. If he refuses that, then the Supplier shall be released from his liability for defects.
4. If the Supplier allows a granted appropriate grace period to expire without removing the defect, then the Purchaser can demand the rescission of the contract or a reduction of price.
5. The Purchaser's right to enforce claims for defects shall, in any case, lapse 6 months after the date of the notice. If no agreement is found within this period of time, then Supplier and Purchaser can agree on an extension of this statute of limitations.
6. The liability for defects does not cover natural wear and tear, or damage arising after the transfer of risk owing to faulty or negligent handling, excessive strain, unsuitable materials, or such chemical, electrochemical or electrical influences that were not intended according to the contract. In particular, it does not cover contact defects caused by, in the case of contacts containing silver, by chemisorption due to environmental impact or, generally for all contacts, by adsorptive or physical soiling of surfaces caused by environmental impact (e.g. fine dust).
7. The liability for consequences of inadequate alterations or repairs performed by the Purchaser or third parties is excluded.
8. The liability period for touch-ups is 3 months, for replacement deliveries or replacement service 6 months. It continues at last until the expiry date of the original warranty period for the supplied object. The term of liability for defects shall be extended by the period of interruption of operation caused by the necessity to have touch-ups or replacements done, for those parts which cannot be used for their intended purpose because of the interruption.
9. The provisions on warranty periods stated in Nos. 1, 5 and 8 do not apply, if the law compulsory requires longer periods of time.
10. Further claims of the Purchaser against the Supplier shall be excluded, in particular claims for compensation for damages that did not occur on the supplied object. This provision does not apply, if there is a compulsory liability, e. g. in cases of personal injury or damage to private property, according to the German Product Liability Act in cases of intent, gross negligence or the lack of promised features.
11. Nos. 1 to 10 shall accordingly apply for such claims of the Purchaser as for touch-ups, replacements or compensation for damages as have incurred due to suggestions or advice given within the frame of the contract due to the violation of contractual accessory obligations.

IX. Impossibility, Adjustment of Contract

1. If the due delivery or service may become impossible for the Supplier or the Purchaser, then the general legal regulations shall apply subject to these stipulations:
If the impossibility is due to a fault of the Supplier, then the Purchaser shall be entitled to demand compensation for damages. However, the Purchaser's claim for damages is restricted to 10 percent of the value of that part of the delivery or service, which cannot be put into useful operation due to the impossibility. The Purchaser's claims for damages exceeding the extent of 10 percent are excluded. This provision does not apply, if there is a compulsory liability in cases of intent or gross negligence. The Purchaser's right to withdrawal from the contract remains unaffected.
2. In the case that unforeseen events within the meaning of V., No. 3, paragraph 1, significantly change the economic significance or the contents of the delivery or service, or have a significant impact on the Supplier's business, the contract shall be reasonably adjusted in good faith. If this is not acceptable for economic reasons, the Supplier shall have the right to withdraw from the contract. If the Supplier wants to exercise this right to withdraw, then he must notify the Purchaser without delay, as soon as he becomes aware of the consequences of the event, even if first an extension of the storage period had been agreed upon with the Purchaser.

X. Other Claims for Damages

The Purchaser's claims for damages for positive violation of claims, for the non-compliance with obligations during contract negotiations and for unlawful acts are excluded. This provision does not apply, if there is a compulsory liability, e. g. in cases of personal injury or damage to private property, according to the German Product Liability Act in cases of intent, gross negligence, or the lack of promised features. This limitation of liability shall apply for the Purchaser only.

XI. Place of Fulfilment and Place of Jurisdiction

1. If the Purchaser is a registered merchant, the sole place of jurisdiction for all and any disputes arising directly or indirectly from the contract shall be Oldenburg (Oldb).
2. The contract is subject to the German law.

XII. Binding Character of the Contract

If individual provisions should be or become legally invalid, the remaining provisions of the contract shall remain binding. This provision shall not apply, if the adherence to the contract would constitute unreasonable hardship for either party.

In accordance to Art. 26 paragraph 1 of the Federal Data Protection Act (Bundesdatenschutzgesetz, BDSG) we inform you that we have saved your data in our customer database for the purposes of business transactions.