



Standard Terms and Conditions

THESE STANDARD TERMS AND CONDITIONS (the "**Terms and Conditions**"), along with the terms and conditions set forth in any executed purchase order form (the "**Order**") between you (the "**Customer**" or "**you**") and JCL ENERGY, LLC, a Pennsylvania limited liability company ("JCL"), constitute a binding agreement (the "**Contract**") and govern the contractual relationship and obligations between you and JCL for the products (the "**Products**") or services (the "**Services**") described herein and in the that certain Quotation issued to you by JCL (the "**Quote**").

- 1. Application, Quotations and Acceptance.** These Terms and Conditions shall govern and be incorporated in every Contract made by or on behalf of JCL with the Customer and shall prevail over any supplemental, inconsistent or conflicting terms or conditions contained or referred to in any Order or documentation submitted by the Customer or in correspondence or elsewhere or implied by trade, custom, practice, course of dealing, or usage in the trade. Acceptance by the Customer of delivery of the Products or performance of the Services shall constitute unqualified acceptance of these Terms and Conditions. A variation of these Terms and Conditions is valid only if it is in writing, if it is signed by an authorized representative of JCL, and if JCL accepts the Customer's Order. Unless otherwise expressly stated in the Quote, a Quote by JCL does not constitute an offer and JCL may withdraw or revise a Quote at any time before accepting the Customer's Order. JCL's acceptance of any Order from the Customer shall be effective only where such acceptance is in writing and signed by an authorized representative of JCL.
- 2. Price.** The prices payable for the Products and Services are as listed in the Quote in conjunction with JCL acceptance of the Customer's Order. Prices on the Quote does not include any applicable sales, use, excise or any other tax. If Customer is exempt from any taxes, Customer must furnish certificates of exemption to JCL. JCL may, at any time prior to delivery of the Products or performance of the Services, revise prices to take account of increases in its own costs including, without limitation, the costs of any materials, carriage, labor or overheads, the increase or imposition of any tax, duty or other levy, and any variation in exchange rates. Unless otherwise specified, any tax or duty assessed on the sale of Products or Services shall be added to the price, and packaging, freight and insurance shall be charged additionally.
- 3. Payment.** Unless otherwise stated in the Quote, payment of invoices shall be made in full within thirty (30) days of invoice. Time shall be of the essence of payment. All payments must be in United States dollars. JCL may suspend the supply of Products or performance of Services to the Customer where any amounts are overdue under any Contract until all such amounts have been paid. Interest is payable on overdue accounts at the rate of one and one half percent (1.5%), compounded monthly, until paid in full. If either party seeks legal recourse to impose its rights hereunder, the substantially prevailing party shall be entitled to recover a reasonable amount of its legal costs, including attorney's fees. If, in JCL's opinion, the Customer's creditworthiness deteriorates before delivery of the Products or performance of the Services, JCL may require full or partial payment prior to delivery, or JCL may require the provision of security by the Customer in a form acceptable to JCL.
- 4. Title and Risk.** Risk of loss passes on delivery of the Products. Notwithstanding delivery and passing of risk, the Products remain the property of JCL until the Customer pays to JCL the agreed price for the Products (together with any accrued interest) and any other sums whatever is due from the Customer to JCL. Until title to the Products passes to the Customer by way of full payment made to JCL, the Customer shall hold the Products on a fiduciary basis and shall not part with possession of the Products otherwise than in the ordinary course of business, shall take proper care of the Products and take all reasonable steps to prevent damage to or deterioration of them, shall keep the Products free from any charge, lien or other encumbrance, and shall segregate the Products in such a way as to show clearly that they belong to JCL. From delivery until title to the Products passes to the Customer, the Customer shall insure the Products for their full value with a reputable insurer and, upon request, shall use reasonable endeavors to have JCL interest in the Products noted on the insurance policy. Until the title to the Products passes to the Customer, the Customer shall hold the proceeds of any claim on the insurance policy in trust for JCL and shall immediately account to JCL with the proceeds. JCL reserves the right to repossess and resell any of the Products for which JCL has not been paid in full. The Customer hereby grants to JCL a purchase money security interest in all Products sold hereunder until such time as payment is made in full for the Products. The security interest applies not only to the Products purchased, but also to the proceeds of sale of the Products. The Customer shall take all reasonable steps and cooperate with JCL in perfecting JCL security interest in the Products.

5. **Delivery.** Any delivery date given by JCL is approximate only and, unless specifically provided in the Quote, JCL shall not be liable to the Customer for failure to deliver on any particular date or dates. Time for delivery is not of the essence and shall not be made so by the service of any notice. Delivery shall be F.O.B. Factory unless otherwise agreed by JCL. If the Customer refuses or fails to take delivery of Products tendered in accordance with the Contract, JCL may terminate the Contract, may dispose of the Products as it sees fit and may recover from the Customer any loss and additional costs incurred as a result of such refusal or failure (including, without limitation, storage costs from the due date of delivery). Unless agreed otherwise by JCL in writing, the Products may be delivered in installments and each such installment shall be treated as a separate Contract. The Customer shall pay for the actual quantity delivered.
6. **Force Majeure.** If JCL is prevented, hindered or delayed from or in supplying the Products or performing any Services in accordance with these conditions by any event or circumstance beyond the reasonable control of JCL (including, without limitation, acts of God, war, mobilization, civil commissions, riots, pandemics, embargoes, fires, floods, domestic or foreign governmental regulations or orders, strikes, lockouts and industrial disputes relating to JCL's workforce, or shortages of or inability to obtain shipping space or transportation), then JCL may at its option suspend deliveries of Products or Services while such event or circumstance continues, apportion available stocks between its other customers as it decides, and terminate any contract so affected with immediate effect by written notice to the JCL.
7. **Termination; Effect of Termination.** In the event Customer becomes insolvent, is adjudicated bankrupt, files a voluntary petition in bankruptcy, has a receiver appointed for it, makes an assignment for the benefit of creditors, is subject to filing of an involuntary petition in bankruptcy which is not discharged within thirty (30) days after filing, or takes any action or is subject to any action equivalent to any of the foregoing, then, to the extent permitted by law, JCL shall have the right, at its option, at any time thereafter, to terminate the Order and Contract and its obligations hereunder by giving Customer written notice thereof. Also, if the Customer violates, or is officially charged with a violation of any law, regulation or ordinance which may govern the sale, handling or disposition of any of the Products, then JCL may, at its sole discretion, terminate the Order and Contract and may refuse to make any further deliveries. In the event that any additional customs duty or tariff shall be imposed between the date hereof and the date of arrival at the appropriate point of entry or location for Customer, JCL shall have the right to terminate the Order and the Contract and any further deliveries thereunder, unless the Customer shall pay such additional duties or tariffs.
8. **Liability.** JCL is not liable (and shall not be liable) to the Customer for late delivery, for incorrect quantities, for defects in the Products caused by normal wear and tear, or unsuitable conditions of storage or use; nor shall JCL be liable for any act, neglect or default of the Customer unless the Customer notifies JCL within seven (7) days of delivery. If such notice is given, JCL's only obligation is (at its option) to make good any shortage or non-delivery, to replace or repair any Products found to be damaged or defective, or to refund to the Customer the amount paid by the Customer for the Products that are the subject of such claim. IN NO EVENT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, SHALL JCL BE LIABLE TO CUSTOMER OR ANY THIRD PARTY (INCLUDING WITHOUT LIMITATION CUSTOMER'S CLIENTS) FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES, INCLUDING CLAIMS FOR LOST PROFITS, ARISING FROM THE PRODUCTS OR SERVICES PROVIDED HEREUNDER, EVEN IF JCL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER AGREES THAT JCL WILL NOT BE LIABLE FOR ANY CLAIM OR DEMAND AGAINST CUSTOMER BY ANY OTHER PARTY. JCL'S AGGREGATE LIABILITY TO THE CUSTOMER, WHETHER FOR NEGLIGENCE, BREACH OF CONTRACT, MISREPRESENTATION OR OTHERWISE, SHALL IN NO CIRCUMSTANCES EXCEED THE PURCHASE PRICE OF THE PRODUCTS AND SERVICES AS DETERMINED BY THE NET PRICE INVOICED TO THE CUSTOMER WITH RESPECT OF ANY OCCURRENCE OR SERIES OF OCCURRENCES.
9. **Warranties.** EXCEPT FOR ANY WRITTEN WARRANTY PROVIDED WITH THE QUOTE TO CUSTOMER, IF APPLICABLE, JCL EXTENDS NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, CONCERNING THE PRODUCTS OR SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL JCL BE LIABLE TO CUSTOMER, ANY USER OF THE PRODUCTS, OR ANY THIRD PARTY FOR LOST PROFITS, LOSS OF BUSINESS, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR OTHER DAMAGES WHATSOEVER ARISING FROM THE USE OR PERFORMANCE OF THE PRODUCTS OR SERVICES, OR FROM THE NON-DELIVERY, DELAYED DELIVERY, DAMAGE OF PRODUCT OR OTHERWISE, EVEN IF JCL HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. ANY TECHNICAL INFORMATION, PRODUCT LITERATURE, JCL TECHNICAL ASSISTANCE OR OTHER INFORMATION IS GIVEN TO AND ACCEPTED BY CUSTOMER AT ITS OWN RISK.

10. **Indemnity and Release.** Customer agrees to indemnify, defend and hold harmless JCL, its owners, officers, directors, employees, representatives and any affiliate of JCL and the owners, officers, directors, employees and representatives thereof, from and against any and all damages, claims, expenses (including reasonable attorneys' fees), losses or liabilities of any nature whatsoever, and whether involving injury or damage to person or property, and any and all suits, causes of action and proceedings thereon arising or allegedly arising out of, based upon or attributable to the Products sold hereunder or from the use thereof.
11. **Confidentiality.** Each of the parties hereto commits, promises and undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained as a result of the discussions leading up to or the entering into or implementation of this Contract, or which it may have learned during the term of this Contract, other than information which is already in its possession other than as a result of a breach of this clause, and in the public domain other than as a result of a breach of this clause. Each of the parties commits, promises, and undertakes to the other to take all such steps as shall be necessary from time to time to ensure compliance with the provisions of this clause by its employees, agents and subcontractors and other companies within its group of companies.
12. **Assignment.** The Customer may not assign or transfer, or purpose to assign or transfer, any of its rights or obligations under a Contract without JCL prior written consent.
13. **Governing Law and Jurisdiction.** These Terms and Conditions and any Contract made under them shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania, and the state and federal courts of the Commonwealth of Pennsylvania, Mercer County, shall have exclusive jurisdiction.
14. **Severability, Non-Waiver and Entire Agreement.** Every provision of these Terms and Conditions is intended to be severable. If any term or provision is illegal, invalid, or unenforceable, such shall not affect the remainder. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically, as part of these Terms and Conditions, provisions similar in terms as necessary to render such provision legal, valid, and enforceable. JCL's failure to enforce any or all of these Terms and Conditions shall not constitute a waiver of its rights with respect to the same or any subsequent breach. These Terms and Conditions state the entire agreement between the parties, are binding and controlling, and supersedes all prior proposals and understandings, whether oral or written and all other prior communications between the parties relating to the subject matter of these Terms and Conditions.

2270590.v3