



STANDARD TERMS AND CONDITIONS OF SALE AND SERVICE RELATING TO JCE GROUP (UK) LTD, JCE (EUROPE) LTD & JCE ENERGY LTD, HEREINAFTER REFERRED TO AS JCE

1. DEFINITIONS

For the purpose of these Terms and Conditions the following definitions apply:-

“**Customer**” means person, persons, firm or company named in the Contract to whom JCE will be providing Services and/or Equipment;

“**Equipment**” means all equipment, tools, products, materials and supplies and/or merchandise sold by it and/or provided in connection with services performed by JCE under the Contract;

“**Services**” means all services furnished by JCE, including services of employees and equipment, tools and/or other merchandise necessary to perform the Contract;

2. APPLICABILITY

- 2.1 The agreement in writing concluded between JCE and the Customer including any Special Conditions, specifications and any other documents that are expressly referred to therein together with these Terms and Conditions shall constitute the entire contract (the “**Contract**”) between the parties and may not be amended except with the consent in writing by a JCE authorised representative.
- 2.2 All Services and/or Equipment furnished to the Customer will only be on these Terms and Conditions, notwithstanding different or additional terms and conditions contained on any of Customer’s forms, which are hereby rejected and which will not be applicable or binding on JCE. In the event of a conflict between these Terms and Conditions and the provisions of any of the Customer’s printed or other prepared form of purchase orders, work or service orders, job or delivery tickets, or other similar forms, the provisions of these Terms and Conditions shall prevail. These Terms and Conditions shall not be altered, changed or modified, except as specifically provided herein or by the written agreement of the Customer and JCE.
- 2.3 Any quotation issued by JCE is valid for a period of 30 days only from the date of issue provided that it has not previously been withdrawn by JCE. Quotations issued by JCE do not constitute an offer and are subject to change at any time. Any orders placed in response to a quotation or otherwise will only be binding when accepted in writing by JCE. All instructions, notices, agreements, authorisations, approvals and acknowledgements shall be in writing by the Customer’s authorised representative as designated by the Customer.

3. SHIPPING, DELIVERY, TITLE & RISK OF LOSS

- 3.1 All Equipment shall be delivered EXW (at the location identified by JCE), whereby delivery shall be deemed to have been received at the date when JCE has notified the Customer that the Equipment is ready for delivery and has been placed at the disposal of the Customer.
- 3.2 The risk for the Equipment shall pass to the Purchaser at the time of delivery, even if JCE agrees to perform additional services, such as arranging of transportation of the Equipment to another destination.
- 3.3 Title shall pass to the Customer upon receipt of payment by cleared funds to JCE of the amounts due in respect of the Contract. JCE shall retain Title to the Product or Equipment until full payment has been made. For the avoidance of doubt, any such transfer of Title in the Equipment shall not imply transfer of ownership of any intellectual property therein.
- 3.4 JCE Group may deliver the Equipment in instalments. Each instalment shall be a separate Contract and no cancellation termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel the remaining part of the global Contract. Delivery dates are intended to be an estimate and time and date for delivery shall not be made of the essence by notice or otherwise and are dependent on prompt receipt by JCE of all information and assistance required or requested by JCE to permit JCE to carry out its obligations under the Contract. JCE shall not be liable for any damages, losses or expenses incurred by the Customer should JCE fail to meet the estimated delivery dates.
- 3.5 In the event that the Customer does not collect the equipment on the actual date of delivery, JCE may (at its discretion) place the Product/Equipment in storage at the sole expense of the Customer. JCE’s insurance policy does not cover equipment or materials to be stored/held at any of our Facilities. It will therefore be the responsibility of the Customer to arrange the appropriate cover.

4. NON-DELIVERY

The quantity of any consignment of Equipment as recorded by JCE on dispatch from JCE’s place of business or other designated location shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide evidence to the contrary. JCE shall not be liable for non-delivery of Equipment (even if caused by JCE’s alleged negligence) unless the Customer gives written notice to JCE of the non-delivery within forty-eight (48) hours of the date and time when the Equipment would in the ordinary course of events have been received. Any liability of JCE for non-delivery of the Equipment shall be limited to, at JCE’s sole discretion, either replacing the Equipment or issuing a credit note relating to an invoice for Equipment.

5. WARRANTY

- 5.1 JCE warrants the Equipment sold by JCE, when properly stored, commissioned, installed, used and maintained, and Services performed by JCE, shall be free from defects in material and workmanship. JCE shall not be liable for any damage resulting from the incorrect installation and use of their Equipment. JCE’s obligation under this warranty shall be limited to replacing or repairing the part or parts of the Equipment, at JCE’s option, which prove to be defective in material or workmanship within; in respect of Equipment commencing on the date of delivery and expiring twelve (12) months after delivery; in respect of Services commencing on the date on which JCE has determined that the performance of the Services has been completed and expiring six (6) months thereafter (“**Warranty Period**”), provided the Customer gives JCE prompt notice of any defect and provides proof in a form and substance satisfactory to JCE (acting in its sole discretion) including all relevant data and documentation needed to assess equipment performance and operations. Any defective part or parts must be returned freight prepaid by the Customer to an authorised service centre designated by JCE for inspection. JCE will deliver any replacements for defective Equipment to the Customer prepaid to the delivery destination provided by the original order. Equipment returned to JCE for which JCE provides a replacement under this warranty shall become the property of JCE.

- 5.2 The foregoing warranty is in lieu of all other warranties or guarantees, whether oral, written, expressed, implied or statutory and JCE makes no warranty as to fitness for purpose or merchantability of the Equipment supplied. JCE's warranty obligations and the Customer's remedies are solely and exclusively as stated herein.
- 5.3 The Warranty Period shall not be extended for repaired or replaced parts or Equipment or re-performed Services. Such parts or Equipment or Services shall remain under warranty only for the unexpired portion of the Warranty Period. JCE's sole liability shall be (at its option) to repair or replace parts or Equipment or reperform Services under this condition. JCE may in its sole discretion credit Customer's account for a portion or such parts or Equipment and/or Services determined by JCE to be defective.
- 5.4 The foregoing warranty does not apply to (a) defect caused or contributed to by abrasive materials, corrosion due to aggressive fluids, lightening, improper voltage supply, mishandling or misapplication; (b) Equipment or parts which are normally consumed in operation, or have a normal life inherently shorter than the Warranty Period; (c) alterations or repairs carried out without prior written approval of JCE, or using equipment and accessories for a purpose other than that for which such equipment and accessories are intended; (d) installations carried out by the Customer unless Customer's personnel have been appropriately trained and certified by JCE; (e) installations in which the Customer has not used the application engineering practices for the Equipment as approved by JCE; (f) defective Equipment or Services where Customer makes further use of the Equipment after the earlier of the Customer's awareness of the defect or the time when the Customer ought to have become aware of such defect; (g) defects arising from or in connection with information, drawings, chart interpretations, technical specifications or instructions provided by the Customer to JCE.

6. PATENT INFRINGEMENT

- 6.1 If the Customer receives a claim or otherwise becomes aware that any Equipment or part thereof manufactured by JCE infringes or allegedly infringes a patent or other intellectual property right, the Customer shall notify JCE immediately in writing to give information, assistance and exclusive authority to evaluate, defend and settle such claim or potential infringement. JCE shall then at its own expense and option (a) settle such claim; (b) procure for the Customer the right to use such Equipment; or (c) replace or modify it to avoid infringement or (d) remove it and refund the purchase price (including transportation and installation costs) less a reasonable amount for depreciation; or (e) defend against such claim.
- 6.2 The Customer shall save, indemnify, defend and hold harmless the JCE from all claims, losses, damages, costs (including legal costs), expenses and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the Customer under the Contract.
- 6.3 All rights in any intellectual property created, designed, or conceived by JCE in connection with or arising out of the performance of the Contract shall vest exclusively in JCE, unless otherwise agreed in writing.

7. INDEMNITIES

- 7.1 All exclusions and indemnities given under this Clause 7 (save for those under Clause 7.2(c) and 7.3(c)) shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.
- 7.2 JCE shall be responsible for and shall save, indemnify, defend and hold harmless the Customer Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:-
- (a) loss of or damage to property of JCE whether owned, hired, leased or otherwise provided by JCE arising from or relating to the performance of the Contract;
 - (b) personal injury including death or disease to any person employed by JCE arising from or relating to the performance of the Contract;
 - (c) and personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of JCE. For the purposes of this Clause 7.2(c) "third party" shall mean any party which is not a member of JCE or the Customer Group.
- 7.3 The Customer shall be responsible for and shall save, indemnify, defend and hold harmless JCE from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of;
- (a) loss of or damage to property of the Customer Group whether owned, hired, leased or otherwise provided by the Customer Group arising from or relating to the performance of the Contract;
 - (b) personal injury including death or disease to any person employed by the Customer Group arising from, relating to or in connection with the performance or non-performance of the Contract; and
 - (c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer Group. For the purpose of this Clause 7.3(c) "Third Party" shall mean any party, which is not a member of JCE or the Customer Group.
 - (d) at JCE's option, either the repair or replacement or reimbursement of the full cost of JCE's equipment, tools and/or instruments which are lost or damaged while in the Customer's sole care custody and control or are lost-in-hole during the provision of the Services or are lost or damaged due to abrasion or corrosion occasioned by well effluents unless such loss or damage is due to the sole negligence of JCE.
- 7.4 Notwithstanding anything to the contrary in the Contract, the Customer shall be responsible for and shall save, indemnify, defend and hold JCE harmless from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of any acts or omissions of the employees or agents of JCE in connection with the performance of the Services (or any part of the Services), where, in accordance with the Contract, the employees of JCE are under the supervision, direction or control of the Customer in respect of those Services or part of the Services.

8. INSURANCE

The Customer shall maintain levels of insurance sufficient to cover their respective liabilities and obligations under the Contract and at law. The Customer shall provide proof of the relevant insurance coverage, when requested.

9. PRICES AND PAYMENT

- 9.1 All prices are subject to change without notice. Prices do not include packing and preparation of export shipment, inland or ocean freight, loading, unloading, insurance or forwarding fees, taxes, or duties of any kind or other similar charges applicable to the Equipment, Services and/or the Contract. The Customer agrees to pay such charges incurred by JCE on the Customer's behalf together with additional handling charges upon receipt of JCE's invoice for the same.
- 9.2 Unless JCE and the Customer otherwise agree in writing to payment terms other than those specified herein, payment shall be made in accordance with remittance instructions provided by JCE. New accounts will be on a pro forma basis. Upon approved credit, the following terms will apply:
- i. Due to the cost of handling small orders, the minimum invoice value will be £50.00 plus VAT.
 - ii. All payments shall be made within 30 days after the date of JCE's invoice.
 - iii. Time for payment shall be of the essence.
 - iv. JCE may suspend credit to the Customer and may withhold shipment of Equipment ordered, suspend or cancel performance under the Contract if in its sole judgement the financial condition of the Customer warrants such action. Suspension of performance may result in rescheduling days.
 - v. Prices do not include applicable taxes or duties. The Customer is solely responsible for paying all applicable taxes and duties. JCE will add taxes to the price where required by applicable law, and the Customer will pay all such taxes unless the Customer provides a duly executed tax exemption certificate in a form satisfactory to JCE.
 - vi. Where applicable JCE's quotation is based on the rate of exchange as at the date of the quotation. Any increase or decrease at the time of invoice will be adjusted accordingly, providing payment is made within 30 days of intimation by JCE. Should any delay in payment occur, then the rate of exchange at the time of payment will also be adjusted, due and payable by the customer.
 - vii. The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
 - viii. All payments payable to JCE under the Contract shall become due immediately on termination regardless of any other provision.
 - ix. Claims for errors on JCE invoices must be made in writing within 7 days from the date of the invoice, otherwise such claim will not be accepted.
 - x. If credit terms are not met, in addition to its other legal rights JCE has the right to (i) defer or cancel, at its option, the Services and/or further shipments of Equipment; and (ii) charge the Customer interest at the maximum rate permitted by applicable law on the unpaid balance due. The Customer will indemnify JCE for all costs including legal fees and expenses JCE incurs in connection with sums due by the Customer.

10. CONFIDENTIALITY

The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by JCE or its agents and any other confidential information concerning JCE's business or its Equipment which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to its employees, agents or sub-contractors on a need to know basis for the purpose of the Contract and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Customer in terms of the contract.

11. FORCE MAJEURE

JCE reserves the right to defer the date of delivery of Equipment and/or the date of performance of Services, to cancel the Contract, or reduce the volume of the Equipment and/or amend the scope of the Services ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying out the Contract due to circumstances beyond its reasonable control, including but not limited to, natural disasters, forces of nature, earthquake, tidal wave, landslide, flood, lightning, hurricane, typhoon, storm or other weather conditions not included in normal planning, epidemic and plague; changes in law or regulations, governmental actions; acts of civil or military authority; fire; explosion; lock-outs, strikes and/or labour disputes (whether or not relating to either party's workforce); civil commotion; protests; war; national emergency; riot; civil insurrection; acts of terrorism; restraints or delays in transportation; restraints or delays in manufacturing and inability of JCE to obtain adequate or suitable supplies from usual sources, or acts of the Customer resulting in commercial impracticality. In the event of any such delay, the date of delivery and or/ performance shall be deferred for period equal to the time lost by reason of the delay. Neither JCE nor the Customer shall be entitled to any damages, costs or expenses arising from or incurred as a result of a Force Majeure event.

12. LIMITATION OF LIABILITY

- 12.1 For the purpose of this Clause 12.1 and Clause 12.2 the expression "Consequential Loss" shall mean (in each case whether or not foreseeable at the date of the purchase order; (a) any and all consequential, indirect, special, incidental, punitive and/or special loss and/or damage; and (b) loss and/or deferral or production, loss of product, loss of goodwill, loss of use, loss of revenue, profit or anticipated profit, cost of capital, loss of business opportunity, loss of contracts, in each case whether direct or indirect to the extent that such loss, deferral and/or cost are not included in Clause 12.1; and (c) claims for service interruption or failure to supply, costs and expenses incurred in connection with labour overhead, transportation or substitute facilities or supply sources, labour performed in connection with the removal and replacement of Equipment or any other loss or damage incurred as a result of or otherwise in connection with interruption of services in each case to the extent that such claim is not included in Clause 12.1 or Clause 12.2.
- 12.2 Notwithstanding any provision to the contrary elsewhere, JCE will not be liable for Consequential Loss and the Customer shall be liable for and shall save, indemnify, defend and hold harmless JCE from and against any and all Consequential Loss even if caused by JCE's sole, joint, comparative contributory or concurrent negligence, fault, strict liability or product liability, and regardless of the form or action, whether in contract, tort (including negligence), breach of warranty, indemnity, statute, strict liability or otherwise.
- 12.3 The total liability of JCE on any claim whether in contract, tort (including negligence whether sole or concurrent) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any Equipment or the furnishing of any Services under the Contract, or the performance or non-performance of the Contract shall not exceed the price actually received by JCE from the Customer for the specific Services or for the specific Equipment under the Contract.
- 12.4 The Customer understands and agrees that the forgoing liability limitations are essential elements of the Contract and that in the absence of such limitations the material and economic terms of the Contract would be substantially different.

13. TERMINATION

13.1 JCE may terminate the Contract:

- (a) immediately upon notice to the Customer, should any sum not be paid to JCE within 30 days from the date of the invoice rendered;
- (b) immediately upon notice to the Customer if it is in breach of any obligation under the Contract and the Customer has failed to remedy such breach within thirty days of written notice to the Customer requiring the breach to be remedied;
- (c) immediately upon notice to the Customer if there is any change in the ownership, management or control of the Customer;
- (d) immediately upon notice to the Customer if the Customer ceases or threatens to cease to carry on business or substantially the whole of its business or JCE has reasonable cause to believe that the Customer is unable to pay its debts when due;
- (e) without notice to the Customer if the Customer becomes insolvent or bankrupt, enters into liquidation, or a receiver, administrator, administrative receiver, manager, trustee or similar officer is appointed in relation to it or over any of its assets or any action is taken or threatened by or against it analogous to the foregoing in any jurisdiction; or
- (f) immediately upon notice to the Customer if a case of Force Majeure continues for 60 days or more.

13.2 Where JCE terminates any Contract under this Clause 13, the Customer shall within seven (7) days pay to JCE: (a) all amounts invoiced by JCE under the Contract which remain unpaid at the date of termination; (b) a fair and reasonable price in respect of work completed or in progress but not invoiced at the date of termination; (c) all costs (including without limitation a sum in respect of overheads) incurred by JCE connected with termination; (d) all suppliers' and sub-contractors' termination charges.

13.3 Termination of any Contract by JCE shall be without liability or obligation of any kind on the part of JCE. Such termination shall not affect the rights of JCE accrued prior to the date of termination.

13.4 The Customer may not cancel or reschedule the delivery date of any Equipment and/or Services to be provided under the Contract without the prior written consent of JCE. In the event that JCE provides such consent, any such cancellation or rescheduling of Equipment and/or Services by the Customer will result in a charge to the Customer to be determined by JCE. Purchase orders once placed and accepted by JCE may be cancelled only with JCE's consent. Any cancellation at the Customer's request may result in a cancellation charge equal to (a) 20% of standard Equipment/Services; and (b) 100% of the full Contract price for non-standard or special Equipment/Services. Cancellation charges for accessories and components sourced from third parties will be charged at full price. JCE shall, at its sole discretion, adjust the price and delivery dates or make such other amendments as may be required as a result of any change order agreed to be issued by the Customer and JCE. No amendment to the Contract shall be valid unless agreed in writing by JCE (at its sole discretion).

14. DISPUTE RESOLUTION

Any dispute between the parties in connection with or arising out of the Contract shall be resolved by means of the following procedure:

- (a) the dispute shall initially be referred, by means of a formal notice, to the representative of each party who shall discuss the matter under dispute and make all reasonable efforts to reach an agreement;
- (b) if no agreement is reached under the aforementioned Clause 14(a) within thirty (30) days of the date of the formal notice, the dispute shall be referred to an appropriate senior executive of each of the parties who shall meet to discuss the matter in dispute and make all reasonable efforts to reach an agreement;
- (c) if no agreement is reached under the aforementioned Clause 14(b) within ninety (90) days of the date the dispute was referred to the senior executives of each party, the dispute shall be settled by binding arbitration conducted in accordance with the Arbitration rules.

Notwithstanding the existence of a dispute at any stage contemplated by this clause, the Customer and JCE must continue to perform and comply with the Contract.

15. MISCELLANEOUS

15.1 All samples, drawings, descriptive matter, specifications and advertising issued by JCE and any descriptions or illustrations contained in JCE's catalogues or brochures are issued or published for the sole purpose of giving an indication of the type of goods available and no prices or other particulars contained therein shall not form part of the Contract. They are subject to change without notice as it may be necessary to occasionally modify the materials, finishes or other components of the product. These changes will not reduce the performance or function for which the product is intended.

15.2 The Customer shall at its own expense secure any permits or any other authorizations (including but not limited to work permit and visas for employees of JCE) which may be required to permit JCE to perform the Services. The Customer agrees to indemnify JCE against any costs, claims, actions, demands or expenses incurred or suffered in connection with the Customer's failure to obtain any permits or authorizations required to perform the Services.

16. APPLICABLE LAWS

The interpretation of any Contract to which these terms refer shall be subject to the jurisdiction and the Law of Scotland.