



Terms and Conditions of Sale

These Terms and Conditions of Sale, the Gas Compressor Sales Quotation, the Sales Order Acknowledgement, and any Customer Change Order relating to the Goods (as hereinafter defined) between J-W Power Company ("J-W") and Customer may be collectively referred to herein as the "Agreement". For purposes of this Agreement, "Customer Group" means Customer, its employees, agents, representatives, subcontractors, owners, and affiliates; an "J-W Group" means J-W, its employees, agents, representatives, subcontractors, owners, and affiliates.

CONSPICUOUS AND FAIR NOTICE: BOTH PARTIES AGREE THAT THIS STATEMENT COMPLIES WITH THE REQUIREMENT, KNOWN AS THE EXPRESS NEGLIGENCE RULE, TO EXPRESSLY STATE IN A CONSPICUOUS MANNER TO AFFORD FAIR AND ADEQUATE NOTICE THAT THIS AGREEMENT CONTAINS PROVISIONS REQUIRING ONE PARTY (THE INDEMNITOR) TO BE RESPONSIBLE FOR THE NEGLIGENCE, STRICT LIABILITY, OR OTHER FAULT OF ANOTHER PARTY (THE INDEMNITEE). BOTH PARTIES REPRESENT TO EACH OTHER (1) THAT THEY HAVE CONSULTED AN ATTORNEY REGARDING THIS AGREEMENT OR, IF THEY DID NOT CONSULT AN ATTORNEY, THAT THEY WERE PROVIDED THE OPPORTUNITY AND HAD THE ABILITY TO SO CONSULT BUT MADE AN INFORMED DECISION NOT TO DO SO, AND (2) THAT THEY FULLY UNDERSTAND THEIR RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT.

1. Acceptance. J-W's commencement of work on goods, equipment, materials, products or services described in the Gas Compressor Sale Quotation ("Goods") which are subject to a purchase order from Customer, or shipment of such Goods by J-W, whichever occurs first, shall be deemed an acceptance by J-W of the purchase order to the extent of the express terms contained herein. If additional or different terms are proposed by Customer as part of the purchase order, such response shall constitute a counter-offer which shall not be effective unless accepted by J-W in writing. If not accepted in writing, the terms of this Agreement shall control.

2. Modification. Notwithstanding the above, this Agreement may only be modified in writing signed by both parties. To acknowledge or document various events relating to the Goods, a party may from time to time sign the other party's various forms, such as delivery tickets, labor tickets, bills of lading, purchase orders, and rental tickets, but terms and conditions on such forms do not amend, modify, waive, or release any aspect of this Agreement unless expressly agreed to in a writing signed in accordance with this section. No oral agreement of whatsoever nature entered into between Customer's representative or representatives and J-W shall ever be deemed to alter or affect the provisions of this Agreement.

3. Termination. Customer may terminate this order or any part hereof for Cause. "Cause" for purposes of this Agreement means only (a) failure of J-W to comply with any of the terms and conditions of this Agreement, (b) late delivery of the Goods (for reasons other than supplier delay) which is caused by the negligence of J-W, (c) delivery of Goods which are defective or which do not conform to this Agreement, or (d) failure to provide Customer reasonable assurance of future performance upon Customer's reasonable request. Termination of this Agreement shall not relieve Customer of its obligation to pay J-W for (aa) work which has been performed with respect to the Goods prior to Termination, expressed as a percentage of the total order price to equate with the percentage of work performed; (bb) costs incurred by J-W in procuring supplies or other materials for production of the Goods; (cc) the reasonable costs committed to by J-W which are not cancelable or recoverable; and (dd) demobilization costs, if applicable, as of the date of Termination. Customer shall not owe J-W any amounts for work done after receipt of the notice of Termination or for any costs incurred by J-W's supplier or subcontractor which J-W could have reasonably avoided. Notwithstanding any of the above, Customer may not cancel for convenience or cancel an order for customized equipment.

4. Quantities. Shipments must equal the exact amounts noted. Goods shipped in excess of quantities ordered may be returned at J-W's expense.

5. Proprietary Information. All information furnished by Customer shall be deemed to be proprietary and confidential and J-W shall not disclose or use such information without the prior written consent of Customer. The restriction of this section shall also apply to drawings, specifications, or other documents and data prepared in connection with this Agreement whether stamped "Confidential" or not.

6. Warranties.

a. Customer Specifications. J-W warrants that all equipment delivered or provided pursuant to this Agreement will fully conform in all respects with the specifications furnished by Customer and approved by J-W. In the event that the equipment is defective in that it fails to comply with the agreed upon specifications,

then as Customer's sole remedy for such non-conformance, J-W shall repair or replace such defective equipment as Notice is provided by Customer.

b. New Equipment Manufactured by J-W. J-W warrants that the new equipment manufactured by J-W shall be free from material defects in workmanship, materials or fabrication. With respect to new equipment manufactured by J-W, such warranty is limited to replacement or repair, at J-W's option, of defective equipment for a period of the lesser of twelve (12) months from the date of installation or eighteen (18) months from the build date when the equipment is completed.

c. Third Party Warranty. J-W does not warrant, either express or implied, any equipment which is comprised of used or second-hand equipment or machinery sold on an "as is" basis or any equipment manufactured by others or purchased for resale. All goods and products manufactured by a third party and distributed to Customer by J-W and/or obtained by J-W from third parties and used for the fabrication of the Goods carries only such warranty as given by the manufacturer. If possible, any such manufacturer warranty will be assigned to Customer by J-W upon Customer written request, and J-W will endeavor to provide reasonable assistance to Customer, at Customer's sole cost and expense, with claims asserted by Customer pursuant to such warranties.

c. Services. J-W warrants that any services provided under this Agreement will be provided in a good and workmanlike manner and in accordance with industry standards and practices. Such warranty is limited to repair or re-performance, at J-W's option, of defective services for a period of thirty (30) days after the date of such service. This service warranty applies to labor for repairs or replacement of defective parts, whether pursuant to warranty or otherwise, relating to the Goods after the date of initial installation.

d. Warranty Exclusions. J-W's warranty obligations under paragraph 5 and its subsections shall not apply to any defect caused by (i) Customer's failure to properly store the equipment; (ii) abnormal well conditions or incorrect specifications provided by Customer; (iii) unauthorized alteration or repair of the equipment by Customer; (iv) use or handling of the equipment by Customer in a manner inconsistent with J-W's recommendations; (v) normal wear and tear; (vi) maintenance or wear items such as lubricants, coolants, spark plugs, piston rings, packing rings, wiper rings, valve plates, valve springs, gaskets, and O-rings; (vii) damage resulting from misuse, neglect, extreme environmental conditions, or misapplication; (viii) service and maintenance inconsistent with the operator's manual; or (ix) overloading of the equipment. Except as is otherwise expressly provided pursuant to the provisions of this Agreement, J-W makes no warranty or guarantee of any kind, express or implied, including no implied warranty of merchantability or fitness for a particular purpose, regarding the Goods. For international sales, warranty items must be returned for inspection and repairs to J-W's manufacturing facility in Longview, TX.

7. INDEMNIFICATION BY J-W: J-W AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS CUSTOMER GROUP FROM AND AGAINST ALL LOSSES, CLAIMS, DEMANDS, LIABILITIES AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, IN FAVOR OF ANY PERSON OR PARTY, FOR ANY INJURY TO, ILLNESS, OR DEATH OF ANY MEMBER OF J-W GROUP, WHICH INJURY, ILLNESS OR DEATH RELATES TO, ARISES OUT OF, OR IS INCIDENT TO THE GOODS OR THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO INSTALLATION, SUPERVISION OF INSTALLATION, FABRICATION, ASSEMBLY, STARTUP SERVICES, REPAIRS AND TECHNICAL SUPPORT AT THE SITE OF CUSTOMER'S CONSTRUCTION, OFFICE OR PROPERTY), AND REGARDLESS OF THE CAUSE OF SUCH INJURY, ILLNESS OR DEATH, EVEN THOUGH CAUSED IN WHOLE OR IN PART BY CUSTOMER'S NEGLIGENCE OR STRICT LIABILITY, OR OTHER LEGAL FAULT OF CUSTOMER, WHETHER ACTIVE, PASSIVE, SOLE, JOINT, OR CONCURRENT. J-W SHALL DEFEND ANY SUCH CLAIM, DEMAND OR SUIT AT ITS SOLE EXPENSE, EVEN IF THE SAME IS GROUNDLESS. J-W'S INDEMNIFICATION OF CUSTOMER GROUP HEREUNDER INCLUDES ANY CONTRACTUAL LIABILITY UNDER INDEMNITY AGREEMENTS THAT J-W MAY HAVE WITH THIRD PARTIES CONCERNING INJURY OR DEATH TO ANY EMPLOYEE OF J-W GROUP. J-W'S INDEMNITY UNDER THIS AGREEMENT SHALL BE WITHOUT REGARD TO AND WITHOUT ANY RIGHT TO CONTRIBUTION FROM ANY INSURANCE MAINTAINED BY CUSTOMER.

INDEMNIFICATION BY CUSTOMER: CUSTOMER AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS J-W GROUP FROM AND AGAINST ALL LOSSES, CLAIMS, DEMANDS, LIABILITIES, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, IN FAVOR OF ANY PERSON OR PARTY, FOR ANY INJURY TO, ILLNESS, OR DEATH OF ANY MEMBER OF CUSTOMER GROUP, WHICH INJURY, ILLNESS OR DEATH RELATES TO, ARISES OUT OF OR IS INCIDENT TO THE GOODS OR THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO INSTALLATION, SUPERVISION OF INSTALLATION, FABRICATION, ASSEMBLY, STARTUP SERVICES, REPAIRS AND TECHNICAL

SUPPORT AT THE SITE OF CUSTOMER'S CONSTRUCTION, OFFICE OR PROPERTY), AND REGARDLESS OF THE CAUSE OF SUCH INJURY, ILLNESS OR DEATH, EVEN THOUGH CAUSED IN WHOLE OR IN PART BY J-W'S NEGLIGENCE OR STRICT LIABILITY, OR OTHER LEGAL FAULT OF J-W, WHETHER ACTIVE, PASSIVE, SOLE, JOINT, OR CONCURRENT. CUSTOMER SHALL DEFEND ANY SUCH CLAIM, DEMAND, OR SUIT AT ITS SOLE EXPENSE, EVEN IF THE SAME IS GROUNDLESS CUSTOMER'S INDEMNIFICATION OF J-W GROUP HEREUNDER INCLUDES ANY CONTRACTUAL LIABILITY UNDER INDEMNITY AGREEMENTS THAT CUSTOMER MAY HAVE WITH THIRD PARTIES CONCERNING INJURY, ILLNESS OR DEATH TO ANY EMPLOYEE OF CUSTOMER GROUP. CUSTOMER'S INDEMNITY UNDER THIS AGREEMENT SHALL BE WITHOUT REGARD TO AND WITHOUT ANY RIGHT TO CONTRIBUTION FROM ANY INSURANCE MAINTAINED BY J-W.

INSURANCE: THE MUTUAL INDEMNITY OBLIGATIONS IN THIS SECTION SHALL BE SUPPORTED BY LIABILITY INSURANCE PROVIDED BY EACH OF THE PARTIES IN THE AMOUNTS OF AT LEAST \$1,000,000 PER OCCURRENCE.

PROPERTY DAMAGE: NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED IN THIS AGREEMENT, CUSTOMER SHALL BE RESPONSIBLE FOR ANY LOSS OR DAMAGE TO EQUIPMENT, MATERIAL OR SUPPLIES OF J-W OCCURRING DURING TRANSPORTATION BY CUSTOMER OR BY CONVEYANCE ARRANGED FOR BY CUSTOMER.

ENVIRONMENTAL: UNLESS CAUSED BY J-W'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, J-W SHALL NOT BE RESPONSIBLE OR LIABLE FOR PRE-EXISTING SITE CONTAMINATION OF SOIL OR WATER OR OF POST-J-W OPERATIONS. CUSTOMER BEARS SOLE RESPONSIBILITY FOR DISPOSAL OF LIQUIDS, SOLID AND HAZARDOUS WASTE DISCHARGED BY THE EQUIPMENT AT THE LOCATION IN ACCORDANCE WITH ALL APPLICABLE RULES, REGULATIONS AND LAWS OF ALL GOVERNING BODIES.

8. Price. The price of the Goods (excluding any applicable sales, use or excise taxes) shall not exceed that amount specified on the Gas Compressor Sale Quotation unless a change to the scope of work specified in the Gas Compressor Sale Quotation (the "Scope of Work") is requested. No additional charges of any type shall be added without Customer's express written consent including but not limited to charges for shipping, packaging, labeling, boxing or crating.

9. Customer Change Orders. All requests for a change to the Scope of Work shall be made in writing and may result in an increase to the price and a change in the delivery date. J-W must be provided an executed Customer Change Order from Customer before proceeding with any additional work or any variation to the Scope of Work. Unless otherwise agreed to in writing, all Customer Change Orders are invoiced at the time of acceptance by J-W.

10. Payment. J-W shall generate a separate invoice for each shipment arising from this Agreement. All invoices on which no terms of payment are specified will be payable by Customer within 30 days after receipt of the invoice. The cost of commissioning or installation of the Goods is typically invoiced and due upon successful commissioning or installation; however, notwithstanding the above, if a delay in commissioning or installation of the Goods is due to action or inaction by the Customer, in J-W's sole discretion, an invoice for such work shall be generated and due by Customer to J-W within thirty (30) days after receipt of the invoice. Invoices not paid within 30 days may be charged a monthly finance charge equal to one and one-half percent (1-1/2%) of the unpaid balance (but in no event to exceed the highest lawful rate). For unpaid amounts collected through legal proceedings or by a collection agency, Customer shall pay attorney and agency fees and reasonable costs incurred by J-W in addition to the amount of the invoice and any accrued interest.

11. Site. In the event that J-W's objectives hereunder require or contemplate performance of services by J-W's employees or subcontractors to be done on Customer's property, J-W agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of Customer.

12. Assignment. No part of this Agreement (including J-W's right to receive payment hereunder) shall be assigned in whole or in part without prior written consent of the non-assigning party.

13. Force Majeure. Customer may delay delivery or acceptance of Goods for reason of a Force Majeure Event (as hereinafter defined). J-W shall hold the Goods at the direction of Customer and shall deliver them when Force Majeure Event has been removed or resolved, and Customer shall be responsible only for J-W's reasonable direct additional costs in holding the Goods or delaying performance of this Agreement. A "Force Majeure Event" shall include government action or failure of the government to act, strike or other labor trouble, fire, act of God, severe weather, or other causes beyond Customer's control. However,

notwithstanding the above, nothing in this section will excuse the duty of Customer to make payments under this Agreement when due.

14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior proposals, negotiations and counterproposals. This instrument is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in a course or performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.

15. Compliance with Law. J-W certifies that unless specifically exempted, all products, commodities or services furnished pursuant to this Agreement have been manufactured, processed, delivered, sold and/or performed in full compliance with all applicable laws, rules, orders and regulations including, but not limited to the Civil Right Act of 1964, as amended, the Equal Pay Act, as amended, the Age Discrimination in Employment Act, as amended, Executive Order 11246 and 11141 (Title 41, chapter 60, Code of Federal Regulations), The Vietnam Era Readjustment Act of 1974, the Federal Rehabilitation Act of 1973, Executive order 11758 (Title 20, Chapter VI, Part 741, Code of Regulations), and all Regulations, Rules and Orders thereunder. J-W hereby agrees that all of the applicable provisions of the above Orders, Acts, Rules and Regulations as such may be amended or superseded, are hereby made a part hereof by reference and are binding upon J-W.

16. Governing Law and Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas. All suits or actions with respect to any dispute arising out of this Agreement or relating to enforcement of its provisions shall be brought exclusively in State Court in Gregg County, Texas or in the Federal Court in Gregg County, Texas if jurisdictional prerequisites for filing in Federal Court can otherwise be met. Customer and J-W waive any objection to any action brought in Gregg County, Texas on the grounds of jurisdiction.

17. Limitation of Liability. In no event shall J-W be liable for lost profits or for incidental or consequential damages. J-W's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this Agreement or from the performance or breach thereof shall in no case exceed the price allocable to the Goods which give rise to the claim. J-W shall not be liable for penalties of any description. ANY ACTION RESULTING FROM ANY BREACH ON THE PART OF J-W AS TO THE GOODS MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF THE ACTION HAS ACCRUED.

18. Waiver. J-W's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege shall not waive any other terms, conditions, or privileges, whether of the same or similar type. No waiver, either directly or by operation of law or in equity, of strict compliance with and performance of any term or condition of this Agreement, or of any breach of it on the part of J-W shall be held or deemed to be a waiver of any subsequent breach by Customer or failure of Customer to comply with the terms, provisions and obligations hereof.

19. Shipment & Labeling. Each package shall be numbered and labeled with Customer's order number, stock number, contents and weight, shall contain an itemized packing slip and shall be properly prepaid for shipment so as to secure lowest transportation and insurance rates and to meet carrier's requirements unless otherwise specified. Extra expense incurred through failure to comply with this condition will be charged back to J-W's account. If in order to comply with Customer's required delivery date it becomes necessary to J-W to ship by a more expensive method than specified in this Agreement, any increased transportation costs resulting therefrom shall be paid for by Customer unless the necessity for such rerouting or expedited handling has been caused by J-W. If immediate shipment cannot be made upon receipt of this Agreement by J-W, J-W shall so acknowledge and provide a shipping date. Where definite shipping instructions and routing are given, J-W shall adhere to same.

20. Inspection & Testing. Customer shall have the right to inspect the Goods and to reject any or all of the Goods that are not furnished in accordance with Customer's specifications, instructions and drawings. In the event defects or nonconformity of the Goods is not apparent on examination, Customer may notify J-W for handling in accordance with the above Warranty section. Nothing contained in this Agreement shall relieve J-W from the obligation of testing, inspection and quality control.

21. Title. Risk of loss and title to the Goods shall pass from J-W to Customer at the point of origin unless otherwise agreed to in writing by both parties.

22. Storage & Preservation. J-W will preserve the Goods in accordance with its standard Unit Preservation Procedure currently in place. After completion of the Goods, Customer accepts sole risk of loss of the Goods due to any cause, including but not limited to, fire, lightning, hail, rain, flooding, wind, storms, snow, freezing, explosions, theft, vandalism, insects, or rodents. Notwithstanding any other provisions herein, Customer accepts liability for any damage to or loss of the Goods after during any storage of the Goods and understands and agrees that J-W has made no representations regarding the method, manner, or location of the storage other than set forth herein. Customer agrees to pay a reasonable charge for storage and preservation of the Goods. J-W reserves the right, in its sole discretion, to require a formal Storage Agreement.

23. Patents. J-W shall assume liability and responsibility for defense of any suit, cause of action, claim or proceeding which may be brought against Customer Group for alleged patent infringement or for any alleged unfair competition resulting from similarity in design, trademark or appearance of Goods furnished hereunder, and J-W shall indemnify the Customer Group against any and all expenses, losses, royalties, profits and damages, including court costs and attorney's fees, resulting from any such suit, cause of action, claim or proceeding, including settlement. However, if Customer provides its own designs for the Goods, then Customer shall assume liability and responsibility for defense of any suit, cause of action, claim or proceeding which may be brought against J-W Group for alleged patent infringement or for any alleged unfair competition resulting from similarity in design, trademark or appearance of Goods furnished hereunder, and Customer shall indemnify J-W Group against any and all expenses, losses, royalties, profits and damages, including court costs and attorney's fees, resulting from any such suit, cause of action, claim or proceeding, including settlement.

24. Intellectual Property. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by J-W to Customer shall be deemed secret or confidential and J-W shall have no rights against Customer with respect thereto except such rights as may exist under patent laws. Customer agrees that it will not directly or indirectly reverse engineer the Goods or associated equipment, specifications, designs, information, drawings, products, work, or any part thereof, or use the Goods as a model for or source of ideas, manufacturing, specifications, or other information relating thereto, and that it will not allow any other member of Customer Group or person in privity therewith to do so. Any Intellectual Property that is owned by J-W prior to the date of this Agreement or created by J-W outside of the creation of the Goods, or which results from J-W's investment or resources (collectively, "Intellectual Property"), remains the sole property of J-W. Customer agrees that it will not directly or indirectly reverse engineer confidential information, or work, or use confidential information, or Work in a way that infringes on J-W's Intellectual Property rights.

25. Drug/Alcohol Abuse. J-W shall advise its employees and the employees of J-W's vendors, subcontractors and agents that it is the policy of J-W that the use, possession, and/or distribution of illegal or unauthorized drugs, drug related paraphernalia, alcoholic beverages, or weapons on Customer's premises is prohibited.

26. Notice. Any notices required to be given or otherwise delivered in connection with this Agreement (each a "Notice") shall be given in writing to the party being notified at the addresses on the Gas Compression Sales Quotation or such other address as shall be properly noticed pursuant to these provisions, and shall be effective upon receipt.