



## Jersey Shore Steel Company Terms and Conditions of Sale

1. **Governing Terms.** All sales of PRODUCTS by JSS to Buyer shall be governed by these JSS Terms and Conditions of Sale (“JSS’s Terms”), and **Buyer’s acceptance of any PRODUCTS from JSS shall conclusively be deemed an assent to all of JSS’s Terms in connection with the sale of such PRODUCTS.** No oral promises or conditions not expressly set forth in JSS’s Terms shall be binding upon JSS, and any prior negotiations between the parties are merged herein.

2. **Ordering Procedure.** PRODUCTS may be ordered under this AGREEMENT by BUYER by submitting a purchase order in the form of which is attached hereto as Exhibit A (“PURCHASE ORDER”) and are for administrative purposes only. All sales of product shall be governed by this Agreement and any order, purchase order, or other document of BUYER shall be **disregarded and are expressly not binding on JSS.**

Each PURCHASE ORDER shall describe the products to be purchased, any applicable specifications, the requested time frame for delivery and the then-applicable purchase price of the PRODUCTS being so ordered. Orders may not be cancelled or rescheduled without JSS’s written consent. JSS may designate certain Buyer specific or custom Products as non-cancelable, nonreturnable (“NCNR”) and the sale of such Products may be subject to additional special terms and conditions that may only be contained in JSS’s order acknowledgement. Each PURCHASE ORDER is deemed accepted upon signature by both PARTIES, and shall be effective as of the date set forth therein.

3. **Limited Warranty; Exclusions; Disclaimer.** JSS represents that the PRODUCTS have been inspected prior to shipment and are free of manufacturing defects to the best of JSS’s knowledge. JSS warrants to Buyer that Products purchased hereunder will conform to the applicable specifications for such products for a period of twelve (12) months from the date the PRODUCTS leave JSS’s premises. No warranty will apply if the Product has been subject to misuse, neglect, accident or modification, or if the Product is not installed or used by Buyer in accordance with the Product specifications as provided to JSS by Buyer. EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH, ALL IMPLIED OR EXPRESS WARRANTIES, TERMS AND CONDITIONS (WHETHER STATUTORY OR OTHERWISE) ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. IN PARTICULAR, JSS MAKES NO WARRANTY AS TO THE MERCHANTABILITY OF THE PRODUCTS OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, FOR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, OR ANY WARRANTIES AGAINST LATENT DEFECTS.

4. **Procedure for Warranty Claim.** Any warranty claim must be presented to JSS in writing in a timely manner and within the applicable warranty period, and the notification must describe in reasonable detail the alleged nonconformity. Such Products must be returned to JSS, along with acceptable evidence of purchase, within the warranty period, transportation charges prepaid. JSS will repair or replace, at its sole option, any nonconforming PRODUCTS covered by the warranty and for which the warranty procedures have been followed. If JSS elects to replace nonconforming PRODUCTS, the nonconforming PRODUCTS shall remain the sole property of JSS. JSS retains the right to replace any original PRODUCTS with repaired PRODUCTS. JSS shall return to Buyer the repaired or replaced PRODUCTS at the charge and risk of JSS.

5. **Limitation of Liabilities:** Buyer's sole and exclusive remedy against JSS, and JSS's sole liability to Buyer, including for any breach of warranty under Section 3, is limited to repair or replacement, at JSS's sole discretion, of nonconforming PRODUCTS, or if JSS deems repair or replacement impractical or impossible, a refund of the purchase price of the Products at issue. BUYER SHALL NOT UNDER ANY CIRCUMSTANCES BE ENTITLED TO, AND JSS SHALL NOT BE LIABLE FOR, LOSS OF PROFITS OR REVENUE, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEADS, BUSINESS INTERRUPTION COST, LOSS OF DATA, REMOVAL OR REINSTALLATION COSTS, INJURY TO REPUTATION OR LOSS OF CUSTOMERS, PUNITIVE DAMAGES, IPR INFRINGEMENT, LOSS OF CONTRACTS OR ORDERS OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE. **BUYER'S RECOVERY FROM JSS FOR ANY CLAIM SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE AFFECTED PRODUCTS** IRRESPECTIVE OF THE NATURE OF THE CLAIM WHETHER IN CONTRACT, TORT, WARRANTY, OR OTHERWISE. Buyer acknowledges that the use, modification or incorporation into any other product, or sale of the PRODUCT is at Buyer's sole risk; Buyer agrees that JSS is not liable, in whole or in part, for any claim or damage arising from such use.

THE PARTIES AGREE THAT THE ENTIRETY OF THIS SECTION 5 HAS BEEN NEGOTIATED BY THE PARTIES, IS REASONABLE, AND REPRESENTS THE PARTIES' WILLING ALLOCATION OF RISK. THE PARTIES AGREE AND ACKNOWLEDGE THAT THE PRICES AND OTHER TERMS OF THE AGREEMENT OFFERED BY JSS FOR THE PRODUCTS WERE AND ARE CONDITIONED UPON THIS SECTION 5.

6. **Indemnity.** BUYER WILL INDEMNIFY, DEFEND AND HOLD JSS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, COSTS, EXPENSES OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH (a) JSS'S COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS; (b) MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN JSS; (c) USE IN COMBINATION WITH OTHER PRODUCTS, (d) ANY BREACH OF THIS AGREEMENT; (e) ANY DEFECT CAUSED BY THE IMPROPER HANDLING OR STORAGE OF THE PRODUCTS BY THE BUYER, ITS CUSTOMERS OR THIRD PARTIES; (f) ANY DEFECT WHICH CAN BE ATTRIBUTED TO INCORRECT OR INCOMPLETE ADVICE FROM BUYER WITH RESPECT TO THE PROPERTIES OR APPLICATIONS OF THE PRODUCTS; (g) CIRCUMSTANCES THAT ARE IMPUTABLE TO THE BUYER; or (h) THAT BUYER HAS NOT COMPLIED WITH APPLICABLE LAWS OR REGULATIONS RELATING TO THE PRODUCTS.

7. **Inspection.** Buyer shall inspect all shipments of PRODUCTS immediately upon arrival and shall notify JSS of any shortages, overages, or other nonconformities within five (5) days after arrival, which period of time the parties agree is a reasonable inspection period. Any nonconformities (including shortages or overages) not reported to JSS as and when required in this Section will be deemed waived and accepted by Buyer.

8. **Delivery and Title:** All deliveries will be made "EXWORKS" place of shipment or as otherwise mutually agreed upon in writing. Title and risk of loss pass to the Buyer upon delivery of the Product to the carrier. JSS's delivery dates are estimates only and JSS is not liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the JSS, nor shall the carrier be deemed an agent of the JSS. JSS shall be entitled to make partial delivery of PRODUCTS to Buyer. A delayed delivery of any part of an Order does not entitle Buyer to cancel other deliveries. In the event of loss or damage in transit, Buyer shall nevertheless pay the full invoice price.

If Buyer fails to take delivery as and when scheduled, the PRODUCTS may be held at Buyer's sole risk of loss in all respects. Buyer agrees that JSS may act as Buyer's agent and store, insure, or protect the PRODUCTS for Buyer's account at Buyer's expense. In addition to its other remedies, JSS may resell all or any part of the PRODUCTS undelivered under contract without notice at

public or private sale and Buyer shall be liable to JSS for the difference between the resale price and the price at which Buyer agreed to buy the PRODUCTS together with costs, expenses and incidental damages.

9. **Default.** If Buyer becomes insolvent, appoints a receiver for the benefit of creditors, voluntarily files or consents to the filing of a petition under any bankruptcy, reorganization or similar law or a petition under any bankruptcy, reorganization or similar law is filed against the Buyer and not dismissed within 90 days, or Buyer defaults under any agreement with, or terms of, JSS, JSS at its option may, with or without terminating any agreement with Buyer and without waiving any other remedies available to JSS: (a) declare all amounts due and to become due JSS from Buyer immediately due and payable, (b) stop all shipments in progress and future shipments under this agreement; (c) repossess and sell or otherwise dispose of any property of Buyer in which JSS has a security or ownership interest, or (d) treat any insolvency or default as a repudiation by Buyer of the entire order, recall the PRODUCTS (if shipped), and hold Buyer liable for any damages, including, but not limited to, special, consequential, and incidental damages.

10. **Payment.** Payment may be made by check, or wire transfer (all fees are borne by the Buyer) or bank transfer via irrevocable letter of credit. Where JSS has extended credit to Buyer, terms of payment shall be net thirty (30) days from date of invoice, without offset or deduction or as otherwise mutually agreed upon.

**Past Due Invoices.** JSS reserves the right at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any PRODUCTS when due or for any other reason deemed good and sufficient by JSS. Buyer agrees to pay a late charge on any past due invoice at the rate of the lesser of **1 ½% per month or the highest rate allowed by law**. Buyer grants to JSS a lien and security interest in the PRODUCTS to secure payment of the purchase price, and agrees to execute any additional documents (including financing statements) deemed necessary or convenient by JSS to perfect JSS's security interest in the PRODUCTS.

11. **Prices:** The prices of the Products are those prices specified on the front of the signed PURCHASE ORDER. Pricing for undelivered Products may be increased in the event of an increase in JSS's costs, change in market conditions or any other causes beyond the JSS's reasonable control. Price quotations shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the applicable quotation.

**Pricing Terms and Taxes:** Unless otherwise agreed to in writing by JSS, all prices quoted are exclusive of transportation and insurance costs, duties, and all taxes including federal, state and local sales, excise and value added, PRODUCTS and services taxes, and any other taxes. Buyer agrees to indemnify and hold JSS harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon.

Buyer shall pay and be liable for all expenses incurred by JSS for shipping, insurance, storage, warehousing, import or export tariffs and duties, and all other charges in connection with delivering the PRODUCTS to Buyer.

12. **Cancellation.** Except as otherwise provided herein, no order shall be cancelled except with the written consent of JSS. JSS may unilaterally cancel any order if it becomes aware of adverse credit information regarding Buyer.

13. **Insurance.** Buyer shall specifically insure the PRODUCTS against "all risks," subject to normal exclusions, from the time that the risk of loss passes to Buyer, during transit, during unloading, and continuously thereafter until all amounts payable by Buyer are paid in full to JSS for no less

than the total amount owing to JSS, with loss first payable to JSS, as its interests may appear. Evidence of such insurance satisfactory to JSS shall be submitted by Buyer prior to shipment or JSS may procure such insurance at Buyer's expense.

14. **Force Majeure:** JSS is not liable for failure to fulfill its obligations for any accepted Order or for delays in delivery due to causes beyond JSS's reasonable control including, but not limited to, acts of God, natural or artificial disaster, riot, war, strike, delay by carrier, shortage of Product, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire, strikes, floods, epidemics, quarantine restrictions, acts of terrorism, delays in transportation or inability to obtain labor, materials or Products through its regular sources, which shall be considered as an event of force majeure excusing JSS from performance and barring remedies for non-performance. In an event of force majeure condition, the JSS's time for performance shall be extended for a period equal to the time lost as a consequence of the force majeure condition without subjecting JSS to any liability or penalty. JSS may, at its option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to the Buyer.

15. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Pennsylvania without reference to principles of conflicts of law. The application of the UN Convention on Contracts for the International Sale of PRODUCTS is expressly excluded. Nothing shall preclude JSS from utilizing the equitable jurisdiction of any court to enforce or protect its rights under this Agreement, or to join BUYER as a party in any litigation that is commenced by any third party. Each Party hereby irrevocably consents and submits to the jurisdiction of the courts in the Commonwealth of Pennsylvania, U.S.A., and agrees that any legal action or proceeding with respect to this Agreement shall be brought exclusively in the courts of the Commonwealth of Pennsylvania, U.S.A.; provided, however, that any such action or proceeding by JSS against Buyer may also be brought in any court of competent jurisdiction where Buyer or any of its assets may be located.

16. **Binding Effect; Waiver.** If any clause of these JSS Terms is determined by any tribunal to be unenforceable, the clause shall be deleted, and the balance hereof shall be binding upon the parties. No waiver by either party of any term hereof shall affect such party's rights to enforce such term in a subsequent instance. No waiver shall be binding upon a party unless confirmed in writing by that party.

17. **Foreign Corrupt Practices Act.** In conformity with the United States Foreign Corrupt Practices Act and with JSS's established corporate policies regarding foreign business practices, BUYER and its employees and agents shall not directly or indirectly make an offer, payment, promise to pay, or authorize payment, or offer a gift, promise to give, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official of any municipal, state or federal government of the United States (including a decision not to act) or inducing such a person to use his or her influence to affect any such governmental act or decision in order to assist BUYER in obtaining, retaining or directing any business.

18. **Compliance with Export and Other Laws.** BUYER shall not export, ship, transmit or re-export the PRODUCTS in violation of any applicable law or regulation including, without limitations, the Export Administration Regulations issued by the United States Department of Commerce.

19. **Technical Assistance or Advice:** If technical assistance or advice are offered or given to Buyer, such assistance or advice is given free of charge and only as an accommodation to Buyer. JSS shall not be held liable for the content or Buyer's use of such assistance or advice nor shall any

statement made by any of JSS’s representatives in connection with the Products constitute a representation or warranty, express or implied.

20. **Entire Agreement.** Except as may be expressly provided otherwise herein, this AGREEMENT together with Exhibits hereto constitutes the entire agreement between the PARTIES concerning the subject matter thereof. No prior or contemporaneous representations, inducements, promises, or agreements, oral or otherwise, between the PARTIES with reference thereto will be of any force or effect. This AGREEMENT may only be modified by written agreement of the PARTIES.

**EXHIBIT A**  
**FORM OF PURCHASE ORDER**

**PURCHASE ORDER No.** \_\_\_\_\_

This document constitutes a “PURCHASE ORDER” as described in the JSS Terms & Conditions of Sale. This PURCHASE ORDER is hereby incorporated into the AGREEMENT and is expressly made subject to all of the terms and conditions set forth therein. Capitalized terms used herein shall have the same meanings set forth in the AGREEMENT, unless the context herein requires otherwise.

- 1. PRODUCTS to be Delivered:
- 2. Estimated Date of Delivery:
- 3. Price terms for PRODUCTS identified above:
- 4. Other Terms:
- 5. Effective Date of PURCHASE ORDER: This PURCHASE ORDER shall become effective on and as of \_\_\_\_\_.

**JSS**

**BUYER** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Print Name

Print Name