



JEA offers its residential and commercial customers several programs to facilitate the installation of qualifying energy efficiency equipment at a customer's residence or facility ("Facility"); the ShopSmart Residential Program, the InvestSmart Business Energy Upgrades Prescriptive Program, and the InvestSmart Business Energy Upgrades Custom Program, (individually referred to as "Program"). These JEA General Terms and Conditions ("Terms and Conditions") set forth terms governing a JEA customer's participation in the Program selected by a customer and will be incorporated by reference into that Program's specific terms outlined in that Program's Application and Agreement form ("Program Agreement"). Each Program Agreement, together with these Terms and Conditions, will be one separate and complete agreement, independent of any other Program Agreement that the parties may execute. By signing the Program Agreement, the customer named on the Program Application and Agreement ("Customer") is agreeing to comply with and be bound by these Terms and Conditions. Capitalized terms not defined below are as defined in the Application and Agreement for the Program that the Customer is submitting an application.

**Program Administrator:** JEA has contracted and authorized ICF. ("Program Administrator") to administer this Program including such activities, but not limited to; review, processing, and approval of customer applications; pre and post inspections of customer facilities and project information requests from customers; completion of energy assessments at customer facilities; measurement and verification activities; and issuing rebate checks.

**Trade Allies:** As a convenience to customers, JEA provides a list of contractors, distributors, manufacturers, and other organizations ("Trade Allies") who may assist customers participating in a Program. Customer acknowledges that JEA, Program Administrator, and the Trade Allies are independent contractors with respect to the Program, and that Trade Allies are not authorized to make representations or incur obligations on behalf of JEA or Program Administrator. Participation as a Trade Ally does not constitute an endorsement by JEA or Program Administrator, nor does it certify or guarantee the quality of work performed.

**Program Funding:** Program funds are limited and rebates are subject to funding availability. Rebate applications are accepted on a first-come, first-served basis until the conclusion of the Program term, or until Program funds are no longer available, whichever occurs first. JEA will enforce a \$100,000 rebate cap per customer per program year across all Programs.

**Program Rebate:** JEA reserves the right to make final determination of customer eligibility, qualifying measures, system savings, project cost-effectiveness and final rebate amounts. Eligible equipment receiving rebates under the Program are not eligible for purchase and installation rebates or credits under any other JEA programs. Please allow up to six (6) weeks to receive your rebate payment after final approval of project documentation.

**Customer Application:** Customer understands that submission of an application, even if correct and complete, does not guarantee payment of rebates. Payment of the rebate amount is based on JEA's approval of installed measures and Customer meeting all eligibility and Program requirements.

**Inspections:** The Program may require pre and post installation inspections, telephone surveys, measurement of the project performance and/or verification of installations. Customer agrees to cooperate and provide JEA and its designated agents or contractors reasonable access to the facility that is subscribing to the Program during normal business hours for these purposes or for installation of monitoring equipment at any time up to two years after work is completed. Failure to provide or complete any of the requested information or Program requirements may result in the return of the Rebate Application and denial of rebates through the Program.

**Tax Liability:** Customer acknowledges that receipt of any rebate pursuant to the Program Agreement may result in taxable income to the Customer, even if Customer does not directly receive a payment, and that Customer is solely responsible for payment and reporting with respect to Customer's taxes. Customer should consult his or her own tax advisor with respect to the tax treatment of rebates provided pursuant to the Program Agreement. Nothing in these Terms and Conditions is intended to constitute tax advice and cannot be used for the purpose of avoiding penalties under the Internal Revenue Code.

**Use of Environmental Attributes:** Customer may not use or report on Environmental Attributes associated with installation of qualifying equipment or its operation that in any way would compromise the ability of JEA to utilize the project energy savings for regulatory reporting purposes. Customer may claim that it is facilitating the production of the Environmental Attributes attributable to the qualifying equipment as long as (and at the same time) Customer states the installation of the qualifying equipment was made possible with funding from JEA. Environmental Attributes means any and all credits, benefits, emissions reductions, offsets and allowances, howsoever entitled, resulting from the avoidance of the emission of any substance to the air, soil or water at or by Customer generating facilities through reduced generation of energy or other savings or offsets on account of the energy efficiency project(s).

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**Customer Information:** Customer authorizes and acknowledges that JEA may duplicate, disseminate, release and disclose Customer's information relating to a Program application (including the entirety of its contents), and any other information related to the Customer's participation in the Program, including but not limited to account information and billing data, energy usage, and tax identification numbers to Program Administrator and Trade Allies, as applicable, and any other third party utilized by JEA for the purposes of processing the Customer Application, to verify or audit Program records or system installation, operation and results, or as required to comply with state and/or federal law, fraud prevention, regulation, and other legal action; in those cases, JEA and its subcontractors shall comply with all legal requirements of the jurisdiction of the individual whose Customer data would be disclosed before making such disclosure.

**Project Installations:** Customer acknowledges that while the Program may provide energy assessments and identification of energy efficiency opportunities available at a customer's Facility, neither JEA nor Program Administrator will install any equipment or implement any efficiency measures. Customer shall independently evaluate any information provided by JEA or Program Administrator related to estimates of energy savings or costs and selection or implementation of projects. Customer is solely responsible for the selection of equipment or measures to be installed or implemented and for the selection of a third party service provider or Trade Ally ("Customer Contractor") to complete the installation of and implementation of any equipment or measures. Customer acknowledges that Customer Contractor is not an agent, contractor or subcontractor of JEA or Program Administrator. Responsibility for delivery and workmanship related to any equipment or services the Customer procures with a Customer Contractor exclusively rests with that contractor.

**Fraud:** Any person who knowingly files an application containing any materially false information or who purposely or misleadingly conceals information subjects such person to criminal and civil penalties. Any and all funds determined to have been acquired on the basis of inaccurate or fraudulent information must be returned to JEA. Any customer found to be engaged in fraudulent activity or misrepresentation of any kind will be removed from the Program. This section shall not limit other remedies that may be available for the filing of a false or fraudulent application, including, but not limited to, referral to law enforcement authorities.

**No Warranties:** JEA and Program Administrator do not make any, and both JEA and Program Administrator expressly disclaim all warranties or representations of any kind with respect to the design, manufacture, construction, safety, performance or effectiveness of any potential energy savings, equipment installed, measures implemented, and/or services rendered by any person or entity in connection with the Program. JEA AND PROGRAM ADMINISTRATOR DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, TO THE MAXIMUM EXTENT PERMITTED UNDER LAW, WHETHER STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**Indemnification:** Customer shall defend, protect, indemnify and hold harmless JEA, Program Administrator and their respective directors, employees, contractors, agents, and service providers (collectively, the "Indemnified Parties") against all claims, losses, expenses, damages, demands, judgments, causes of action, suits, costs (including attorney's fees and expenses) and liability of every kind and character whatsoever ("Claims") arising out of or related in any way to , directly or indirectly, Customer's participation in the Program; provided however, that Customer shall not be required to indemnify and hold harmless any Indemnified Party member against Claims adjudicated to have been caused by their gross negligence or willful misconduct.

**Limitation of Liability:** To the fullest extent allowed by law, JEA and Program Administrator's total liability, regardless of the number of claims, is limited to the amount of the rebate payment approved in accordance with the Program Agreement, and JEA, Program Administrator and its affiliates and their respective directors, employees, contractors, agents, and service providers shall not be liable to the Customer or any other party for any other obligations.

Notwithstanding anything in these Terms and Conditions to the contrary, JEA, Program Administrator, and their respective directors, officers, employees and/or agents shall not be liable under a Program Agreement for any type of damages, whether indirect, incidental, consequential, exemplary, reliance, punitive or special damages, including damages for loss of use regardless of the form of action, whether in contract, indemnity, warranty, strict liability or tort, including negligence of any kind.

**Compliance with Law:** Customer, at its own expense, is responsible for meeting all requirements and complying with all local and state laws and codes concerning the Program, including without limitation, the installation and maintenance of eligible equipment. Customer shall, at its own expense, obtain and maintain licenses and permits needed to install eligible equipment. Failure to obtain and maintain necessary licenses and permits constitutes a material breach of Customer's obligations under the Program Agreement.

**Toxic Materials:** JEA and Program Administrator, or their respective agents, consultants, and subcontractors shall not have any responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials of any kind in connection with Customer's facility, including without limitation, asbestos, asbestos products, PCBs, or other toxic substances.

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**Arbitration:** CUSTOMER EXPRESSLY AGREES THAT ALL CONTROVERSIES, DISPUTES, OR CLAIMS RELATING TO OR ARISING UNDER ANY PORTION OF THE PROGRAM AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTUAL OR POTENTIAL CLAIMS REGARDING THE ACCESS, DISCLOSURE, OR USE OF CUSTOMER'S PERSONAL INFORMATION (INCLUDING BUT NOT LIMITED TO NAMES, ADDRESSES, EMAIL ADDRESSES, TAXPAYER IDENTIFICATION NUMBERS, EMPLOYER IDENTIFICATION NUMBERS, SOCIAL SECURITY NUMBERS, ACCOUNT NUMBERS, OR ANY OTHER INFORMATION THAT IS ABOUT OR COULD BE USED TO IDENTIFY THE CUSTOMER) SHALL BE SETTLED BY BINDING ARBITRATION. CUSTOMER, JEA, AND PROGRAM ADMINISTRATOR EXPRESSLY WAIVE ANY RIGHT TO PURSUE OR DEFEND CLAIMS IN ARBITRATION AS PART OF A CLASS. ALL DISPUTES REGARDING THE ARBITRABILITY OF ANY CLAIM SHALL BE DECIDED BY A COURT OF COMPETENT JURISDICTION. CUSTOMER FURTHER AGREES THAT ANY CLAIMS SHALL BE LIMITED TO ACTUAL INJURY SUSTAINED BY THE INDIVIDUAL AS A DIRECT RESULT OF ANY UNAUTHORIZED ACCESS, USE, OR DISCLOSURE OF PERSONAL INFORMATION AND THAT CUSTOMER MAY NOT SEEK PUNITIVE, CONSEQUENTIAL, OR OTHER STATUTORY DAMAGES.

**Governing Law:** Customer's Program Agreement shall be governed by and construed in accordance with the laws of the State of Program. The parties agree that the proper venue and jurisdiction for any cause of action relating to Customer's application will be county where the Program is taking place.

**Program Changes:** JEA reserves the right to change or cancel the Program or its terms and conditions at any time by providing Customer with notice via mail, fax transmission, or email at the address provided in the Customer's application, provided that material changes will only be effective if Customer communicates their assent directly or indirectly by the acceptance of Program benefits or by failing to opt out of the Program or terminate its Agreement within ten (10) business days of its receipt of notice of the proposed change, update or modification. Preapproved applications, for which a customer has completed the required Program requirements, will be processed to completion under the terms and conditions in effect at the time of the pre-approval by JEA. The terms of this section, Program Changes, will no longer be applicable after a Customer receives a rebate payment, if any.