Terms & Conditions of Sale
1. General
The terms and conditions contained herein, together with any additional or different terms contained in the final, written proposal issued by the Seller, constitute the entire agreement (the “Agreement”) between the parties with respect to the subject sale. Acceptance by Seller of Buyer's purchase order and Buyer's subsequent tender of delivery will be construed as an express waiver of any terms, conditions, or modifications of the Agreement unless, within 15 days after receipt of Buyer’s written notice specifying such modification, Seller fails to initiate and pursue correction of such specified default.

8. Disclaimer
THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF QUALITY, PERFORMANCE AND DESIGN, WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR THOSE ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY DISCLAIMED BY SELLER, WHICH ARE NOT APPLICABLE TO THE SELLER, AND ANY OTHER OBLIGATION WHATSOEVER.

9. Termination
No termination by Buyer for default shall be effective unless, within 15 days after receipt by Seller of Buyer's written notice specifying such default, Seller fails to initiate and pursue correction of such specified default.

10. Exculsable Delays
The schedule for Delivery of Equipment and performance of Services will be modified for delays resulting from causes beyond Seller’s reasonable control, including acts of God, war, terrorism, strikes, restrictions of the United States Government or any other government having jurisdiction, delays in obtaining permits in jurisdictions suffering from earthquakes, floods, named storms, hurricanes, tornadoes, cyclones, typhoons or other natural disasters, or inability to obtain necessary labor, materials, or manufacturing facilities.

11. Delivery and Risk of Damage
Unless otherwise agreed in writing by Seller, all shipments are FCA Seller’s plant as defined in INCOTERMS 2010 excluding packing and loading charges, which are for Buyer's account and will be added to Buyer’s invoice, and ‘Delivery’ as used herein occurs in accordance with INCOTERMS 2010. Notwithstanding the foregoing, Seller shall not be responsible for nor be liable for any loss, damage or delay in transit unless the foregoing is clearly noted on the receipt of Buyer. Buyer is entitled to claim against the carrier for such loss, damage or delay. Title to the Equipment and performance of Services will pass to Buyer at Seller’s rates in effect when such Services are provided. Buyer shall indemnify and hold Seller harmless from any claims by freight carriers for Buyer’s failure to pay freight charges. Claims for shortages in or damage to shipment shall be deemed waived unless made in writing and received by Seller within 10 days after receipt of Equipment by Buyer. Claims of shortage, misdescription, non-conformity, or defects in any respect must be made in writing within 10 days of Buyer’s receipt of said goods, and at Seller’s option: (1) to have the defective goods reassembled or repaired, or (2) refund the purchase price of the nonconforming Equipment or parts thereof; and (3) in the case of nonconforming Services, re-perform the Services or refund the price there for. Returns or replacements made pursuant to warranty shall be warranted for the time remaining in the original warranty period or 30 days, whichever is longer.

12. Laws and Standards
Prices and Delivery schedule are based on the applicable laws, codes, and standards stated in the Equipment specifications in effect as of the date of Seller’s acceptance of the purchase order. If such laws, codes, and standards change or, if Buyer changes the laws, codes, and standards stated in the Equipment specifications, and such change increases or decreases the cost of performing the work or impacts the Delivery schedule, then Seller will advise Buyer of the same, and Seller will use its best efforts to maintain a realistic time when shipment will be made, and are subject to change. Delivery dates will be confirmed on Seller’s acceptance of any resulting order, and Seller will use its best efforts to meet such Delivery date. Seller may make early shipment or partial shipments and invoice Buyer accordingly. Despite any agreement with respect to delivery terms or prepayment of transportation or transit insurance charges, the risk of loss or damage shall pass to Buyer upon completion of Delivery or upon moving the Equipment into storage, whichever occurs.

13. Title
Seller shall retain legal and beneficial title to the Equipment until all invoices for such Equipment have been paid in full. Until title passes to Buyer, Seller shall keep Equipment separate from goods belonging to the Buyer or third parties and mark them as Seller’s property, and shall allow Seller access to the premises to ensure that such requirements have been met. In the event of late payment, Seller reserves the right to enter onto Buyer’s or its customer’s premises to repossession the Equipment upon written notice by Seller. Upon Seller’s request, Buyer shall complete and execute all documents required to transfer Seller’s rights under this clause.

14. Inspection
Inspection of Equipment furnished hereunder shall be by Buyer, unless otherwise agreed to in writing signed by Seller’s duly authorized representative. Installation services provided by Seller or one of its affiliates shall be pursuant to a separate agreement.

15. Field Service
Field service will be provided on a per diem basis upon written authorization by Buyer and at Seller’s rates in effect when such Services are provided. Buyer will provide and unrestricted access to Seller personnel, contractors, subcontractors, equipment and any other personnel necessary for Seller to complete the contracted work.

16. Cancellation
Cancellation of any order must be by written notice to Seller and will be subject to Seller’s cancellation charges and fees, including all costs incurred through the date of cancellation, the cost for materials ordered that cannot be returned, return and cancellation fees, cost to process such cancellation, plus a reasonable overhead and profit.

written notice identifying the problem, but in no event shall such notice be more than 30 days after discovery of such failure. Provided that Buyer has fulfilled all of its obligations under the Agreement and complied with the procedures set forth in this Section 7, Seller shall inspect said Equipment within 10 business days after receipt of Buyer’s notice. Seller’s sole obligation, and Buyer’s sole remedy, is for Seller to correct such nonconformity by, at Seller’s option: (1) to have the defective goods reassembled or repaired, or (2) refund the purchase price of the nonconforming Equipment or parts thereof; and (3) in the case of nonconforming Services, re-perform the Services or refund the price there for. Returns or replacements made pursuant to warranty shall be warranted for the time remaining in the original warranty period or 30 days, whichever is longer.
17. Intellectual Property and Confidentiality. All right, title and interest in any inventions, developments, improvements or modifications of the Equipment and Services made by Seller or Buyer as a result of the Agreement shall exclusively remain with Seller. Any design, reports, plans, drawings, standards, specifications or other information submitted to Buyer by Seller (“Seller Documents”) shall remain Seller’s exclusive property. Seller shall not copy or disclose Seller Documents to any third party, and shall not use them for any purpose other than to install, own, operate, and maintain the subject Equipment or to use the Services, including use with any other project, or for the completion of the project contemplated by this Agreement by others. Seller Documents are not suitable for use on any other agreement or project and any reuse of Seller Documents without the express written consent of Seller will be at the sole risk of Buyer, and Buyer shall release Seller from all liability with respect to any reuse of Seller Documents arising from Buyer’s reuse of Seller Documents. Upon Seller’s request at any time, Buyer shall promptly return all Seller Documents. If Seller’s Equipment is held to infringe a United States patent, in effect as of the date of this Agreement (other than any infringement resulting from Seller’s compliance with Buyer’s designs, specifications or instructions or from the use of the Equipment in combination with other materials or the operation of any process), then Seller may at its option provide Buyer with a replacement, comparable Equipment free of any infringing Equipment; refund the purchase price allocable to the infringing Equipment, or settle or otherwise terminate said actions on behalf of Buyer. The foregoing is Seller’s entire liability and Buyer’s sole remedy for patent infringements of the Equipment. Buyer shall defend, indemnify and hold Seller harmless from all expenses, losses and other damages resulting from any actual or alleged infringement of intellectual property rights arising from Seller’s compliance with Buyer’s designs, specifications or instructions or from the use of the Equipment in combination with other materials, or from the operation of any process.

18. Assignment. This Agreement may not be transferred or assigned by Buyer by operation of law or otherwise without the prior express written consent of Seller. A change in the majority ownership or control of Buyer shall be deemed a transfer or assignment for purposes of this Section 18. Any transfer or assignment by Buyer of any of its rights, duties or obligations hereunder shall be subject to Seller’s prior written consent, which consent may be conditioned or withheld by Seller in its sole discretion.

19. Limitation of Liability. For orders placed by German Buyers only when Seller is a German entity, the following clause applies: Seller is liable to Buyer only for damages caused by intent or gross negligence. Other than in case of intent, Seller is not liable for indirect damage and consequential damage, in particular, for loss of profit, interruption in production and/or interruption of operations at Buyer or its customers. Mandatory statutory claims of Buyer are not affected hereby; this applies, above all, to the claim for compensation of direct damages caused by the use of the Equipment (including those damages caused by intent or gross negligence). Where the damage is due to the culpable breach of a material contractual duty (i.e. a duty which allows the proper performance of the Agreement in the first place and of which, in terms of fulfillment of such duty, Buyer can regularly rely on), Seller will be liable in accordance with the statutory provisions. In the event of simple negligence, however, liability shall be limited to foreseeable and typical damage. For all other orders, the following clause applies: NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, IN NO EVENT SHALL SELLER, ITS AFFILIATES, SUPPLIERS AND SUBCONTRACTORS BE LIABLE TO BUYER OR TO ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, DOWNTIME COSTS, DELAYS OR FOR ANY PENALTIES, WHETHER ANY SUCH CLAIM FOR THE SAME IS BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, INDENIFICATION OR OTHERWISE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR ANY CLAIMS WHETHER IN CONTRACT, WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY, INDENIFICATION OR OTHERWISE OR FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR FOR ANY DESIGN, SALE, INSTALLATION, OR USE OF THE EQUIPMENT OR PERFORMANCE OF ANY SERVICES COVERED BY THIS AGREEMENT, SHALL IN NO EVENT EXCEED IN THE AGGREGATE THE PURCHASE PRICE PAID TO SELLER BY BUYER FOR THE SPECIFIC EQUIPMENT OR PART THEREOF WHICH IS THE SUBJECT OF THE CLAIM. SELLER’S ENTIRE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PRICE PAID TO SELLER BY BUYER FOR THE SPECIFIC EQUIPMENT OR PART THEREOF WHICH IS THE SUBJECT OF THE CLAIM.

20. Export Sales: Compliance with Trade Laws. In no event shall Seller be required to export or deliver any technical information, data or Equipment, including where such Equipment is for incorporation into customer’s end-item (“End Item”), if such export or Delivery is then prohibited or restricted by any law or regulation of the European Union (“EU”) or U.S. Government, including departments, agencies and sub-divisions thereof, or of any other applicable government or regulatory body, or for the use of any such Equipment in a country or within a country that is in violation of any law or regulation of the European Union (collectively, “Trade Regulations”), and Buyer shall provide Seller with such written assurances of compliance as requested by Seller from time to time. Specifically, Buyer agrees not to export, re-export, sell or lease any Equipment, End Item, or components thereof or technical data thereof to a party identified to a restricted parties list maintained by the US or EU Government related to US or EU export controls and sanctions, including those designated on the Specially Designated Nationals and Blocked Persons List and entities subject to the U.S. Foreign Assets Control Regulations and any other applicable trade laws or sanctions or a U.S. or EU embargo, or for a prohibited use under either the Trade Regulations or any other applicable trade laws. Buyer agrees to indemnify and hold Seller harmless from and against any and all damages and expenses (including attorneys’ fees) resulting from Buyer’s violation of applicable export and import regulations, including the Trade Regulations.

21. Compliance with Anti-bribery Laws. Buyer warrants and represents that it is familiar with the requirements of the U.S. Foreign Corrupt Practices Act and other similar anti-bribery laws, including the OECD Antibribery Convention and the UK Bribery Act, that it has not and will not violate those laws, and that it neither has nor will it offer, make, or agree to make, directly or indirectly, any gift or payment of any kind or any political contribution in violation of such laws. Buyer shall provide Seller with such written assurances of compliance with such laws as requested by Seller from time to time. Any payment, offer of payment, or agreement to make a payment that is contrary to the laws of Germany or any country in which Seller is performing this Agreement and this contract, is a breach thereof, and any violation of this clause, will constitute a material breach of this Agreement, and any obligation of Seller hereunder shall automatically terminate upon such breach without further liability to Buyer. Buyer agrees to indemnify and hold Seller harmless from and against any and all damages and expenses (including attorneys’ fees) resulting from Buyer’s violation of the requirements referenced in this Section.

22. Governing Law; Arbitration. This Agreement and any claim, controversy or dispute arising out of or relating to the relationship of the parties, and the interpretation and enforcement of the rights and duties of the parties will be governed by the laws of Germany for orders placed by a German Buyer when Seller is a German entity, and the laws of England and Wales for all other orders, in each case without regard to any conflicts of law principles. The parties agree that the UN Convention on Contracts for the International Sale of Goods shall not apply in any case. Buyer agrees all disputes concerning or arising out of this Agreement shall be submitted to the arbitration panel by either party in a court of competent jurisdiction. The arbitrator may grant emergency interim relief according to the applicable arbitration rules and, the prevailing party in the arbitration shall be entitled to recover, in addition to all other amounts and relief, its costs, fees and other expenses of the arbitration, including reasonable attorney’s fees, as may be awarded by the arbitrator. If Buyer fails to promptly assume all costs of the arbitration when required under this Agreement, then Seller may defend with counsel of its own choice at the expense of Buyer. If Buyer fails to promptly assume all costs of the arbitration when required under this Agreement, then Seller may defend with counsel of its own choice at the expense of Buyer.

23. Miscellaneous. With the exception of fraudulent misrepresentations, the Agreement as defined in Section 1 constitutes the complete and exclusive agreement between Seller and Buyer and there are no agreements, understandings, restrictions, warranties, or representations between Seller and Buyer with respect to the subject matter hereof other than those set forth herein. If any provision, or any part thereof, of this Agreement is found by any court or governmental agency of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, then such provision shall be deemed revised and applied to the maximum extent allowed by applicable law, and such invalidity or unenforceability shall not affect the remainder of such provision or any other provision hereof which shall remain in full force and effect. All obligations herein shall survive termination, expiration or completion of this Agreement. No term or condition is intended for the benefit of any third party, and the parties do not intend any term or condition to be enforceable by any third party. This Agreement is governed by the Seller’s General Terms and Conditions (Third Parties) Act 1999 or otherwise), including any end user of Equipment or Services. Seller’s failure on any occasion to insist on strict performance of any term or condition hereof shall not constitute a waiver of compliance with such term or condition on any other occasion or a waiver of any default. References to any statutory provision, enactment, order, regulation or other similar instrument shall be construed as a reference to the statutory law applicable in Seller’s industry to serve as an arbitrator. If the other party objects within 15 days to the arbitrator proposed, and the parties fail to agree on an arbitrator within 30 days thereafter, then the arbitrator shall be appointed by the arbitration tribunal. The arbitration shall be conducted in accordance with the International Arbitration Rules then prevailing of the International Dispute Resolution Board (“IDRB”). Unless otherwise, all arbitrations shall be conducted and all related documents submitted shall be in the English language in Solingen, Germany when German law applicable and London, England when English law applies, and the arbitrator shall apply the substantive governing laws as specified above. All awards granted by the arbitrator shall be final and binding on the parties, and shall include interest from the date of any breach or default and from the date of any claim, from time to time, including interest for late payment, and without prejudice to any other rights or remedies hereunder for any default. If any provision, or any part thereof, of this Agreement is found by any court or governmental agency of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, then such provision shall be deemed revised and applied to the maximum extent allowed by applicable law, and such invalidity or unenforceability shall not affect the remainder of such provision or any other provision hereof which shall remain in full force and effect. All obligations herein shall survive termination, expiration or completion of this Agreement. No term or condition is intended for the benefit of any third party, and the parties do not intend any term or condition to be enforceable by any third party. If any provision, or any part thereof, of this Agreement is found by any court or governmental agency of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, then such provision shall be deemed revised and applied to the maximum extent allowed by applicable law, and such invalidity or unenforceability shall not affect the remainder of such provision or any other provision hereof which shall remain in full force and effect. All obligations herein shall survive termination, expiration or completion of this Agreement. No term or condition is intended for the benefit of any third party, and the parties do not intend any term or condition to be enforceable by any third party. If any provision, or any part thereof, of this Agreement is found by any court or governmental agency of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, then such provision shall be deemed revised and applied to the maximum extent allowed by applicable law, and such invalidity or unenforceability shall not affect the remainder of such provision or any other provision hereof which shall remain in full force and effect. All obligations herein shall survive termination, expiration or completion of this Agreement. No term or condition is intended for the benefit of any third party, and the parties do not intend any term or condition to be enforceable by any third party.
provision, enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted from time to time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it. The headings used throughout are for convenience only and shall be given no legal effect. Fax, portable document format (.pdf), email or other electronic transmissions or copies shall be given the full force and effect as an original. For purposes of this Agreement: (a) the words "include," "includes," and "including" are deemed to be followed by the words "but not limited to"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "herein," and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

24. Data Privacy Notice For information regarding Seller’s processing of personal data, see the Chart Privacy Information, which is available at http://www.chartindustries.com/Terms-Conditions. Buyer represents and warrants that it will provide such privacy statement to all of Buyer’s employees, contractors, agents, or other persons authorized to act on Buyer’s behalf at or before the time that any such persons interact with or provide any personal information to Seller.

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