



**2021 TERMS & CONDITIONS**

**PURPOSE AND OBLIGATIONS:** This document specifies the Agreement for performing: Engineering Consulting, Work or Repair on or pertaining to:

1. Brazed aluminum heat exchangers
2. Air cooler heat exchangers
3. Vacuum insulated storage & distribution equipment
4. Structural members as may be directed by Chart Lifecycle, Inc. engineering

The customer whose signature appears below ("Customer") seeks to have Chart Lifecycle, Inc. ("CLI"), and CLI agrees pursuant to this Agreement, to repair or alter a pressure vessel which was originally constructed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section VIII (ASME Code), and the parties agree to comply with the procedures stated in the ASME Code in connection with those repairs or alterations. CLI may also perform other services, if mutually agreed on by the parties in writing. The procedures for repair or alteration to ASME Code vessels are described in the National Board Inspection Code as implemented by local jurisdiction rules, access to a copy of which will be provided by CLI to the Customer on request. Such work (and the provision of any other related services, materials or equipment) shall be termed the "Work".

**FIELD SERVICE REQUIREMENTS:** Pressure Vessels - ASME Code Construction

1. CLI will perform engineering consulting and repair regarding or concerning pressure vessels in accordance with the National Board Inspection Code as implemented by the local jurisdiction. In cases where the local jurisdiction does not require National Board rules to be followed, CLI will provide engineering consulting regarding the design and perform repair or alteration to the National Board standards. These standards may include the involvement of an Authorized Inspection Agency. In the event of conflict, local jurisdiction rules shall apply. Repairs and alteration to ASME Code pressure vessels will be limited to vessels bearing a valid "U" stamp. Customer shall supply to CLI a copy of the data report furnished by the original manufacturer before CLI shall be obligated to begin consulting on the repair or alteration.

2. Pressure Vessels - Other Construction Codes

i. CLI shall not be obligated to consult on repairs or alterations to pressure vessels manufactured under codes other than the ASME Code with the prior written authorization of appropriate CLI management.

3. Piping Repair or Alteration

i. CLI will consult on and perform piping repair or alteration in accordance with local jurisdiction requirements. Customer shall identify local code requirements. If no local requirements are specified by Customer, CLI shall provide consulting on piping repair or alteration in accordance with ANSI B31.3 design criteria.

4. Structural Member Repair or Replacement

i. Generally, CLI will provide consulting on the repair or replacement of supporting structure for heat exchangers where required.

**CUSTOMER RESPONSIBILITIES TO QUALITY:** If the vessel is not of original Chart manufacture, then the Customer shall provide the following before CLI shall be obligated to begin the Work:

- i. The vessel drawing showing appropriate construction details;
- ii. The U-1 form; and
- iii. Any R-1 forms detailing prior work.

The Agreement includes the engineering consulting and repair or alteration described in the scope.

All repairs/alterations to "U" stamped pressure vessels are governed by the NBIC (National Board Inspection Code). As such, Chart Lifecycle Inc. will be required to contract the services through our insurance provider (included in the estimated pricing) of a local Authorized Inspector in order to maintain the certification and integrity of the pressure vessel ensuring that they may continue to be safely used.

**INVOICES AND PAYMENT:** CLI shall invoice periodically by email, and Customer shall pay by electronic funds transfer within THIRTY (30) days from date of invoice. Customer shall notify CLI within FIVE (5) days after receipt of an invoice if it disputes any part of the invoice. Customer and CLI shall promptly attempt to resolve the dispute. Notwithstanding, customer shall timely pay the undisputed portion of all invoices. Payment terms and conditions to be determined based on credit approval.

**WARRANTY:** CLI warrants that the engineering consulting and repairs is in strict conformance with the ASME Code and procedures, for a period of TWELVE (12) months from date of equipment repair. This warranty shall not apply to, and CLI assumes no responsibilities for, the effectiveness of any repair or alteration of vessels or piping which has been previously repaired or altered by others or on vessels or piping which have hidden defects caused by corrosion or erosion, by contaminants and/or deterioration or other factors beyond CLI's control.

CLI does not warrant the Work against corrosion, erosion or deterioration, or: (1) if the equipment is subsequently operated at process conditions including, but not limited to, flow rates, temperatures, pressures, fluid compositions, mean temperature differences, and turndown conditions which are more severe than those specified on the brazed aluminum heat exchanger specification and drawings; (2) if the equipment is not operated within the conditions specified on the equipment nameplate (for pressure testing, when not specified on the equipment nameplate, the governing pressure vessel code shown on the nameplate shall apply to pressure testing limits); (3) for damage due to improper installation, operation, or maintenance by others; or (4) for damage resulting from external forces applied to the equipment from the connecting piping or support system.

CLI's warranty obligations are limited to the engineering consulting and repairs provided, if CLI's consulting or repairs are found not to be in compliance with the stated warranty in this Agreement. In no event shall CLI's liability under any of the above remedies exceed the purchase price of the materials, repairs and consulting services provided. In no event shall CLI be obliged to perform or pay for the cost of gaining access to equipment; installing repaired, modified, or replaced equipment; or any other costs not directly related to the consulting, repair, modification or replacement. Any liability for any costs and expenses which CLI may assume in connection with consulting, repair or modification of the equipment shall be approved in writing by an Officer of CLI. No CLI liability for any Service Work shown exists unless all CLI invoices have been timely paid.

The express warranty set forth in the prior paragraphs is in lieu of all other warranties, express or implied, in law or in fact, including any implied warranty of merchantability and any implied warranty of fitness for a particular use. This express warranty precludes any other claims of relief arising from or relating in any way to the quality of the Work. The limitations on liability set forth in the prior paragraphs are in lieu of any and all other liability claims arising from or relating in any way to that quality.

**INDEMNITY:** CLI shall be liable for and shall indemnify, defend and hold Customer harmless against any claim, loss or damage asserted by third parties, to the extent that the negligent act or omission of CLI or its employees, agents or representatives causes such claim, loss or damage. Customer shall be liable for and shall indemnify, defend and hold CLI and its personnel harmless against, any claim, loss or damage asserted by third parties, to the extent caused by the negligent act, or omission of Customer or its employees, agents or representatives or any person or entity other than CLI.

**LIABILITY:** CLI and its directors, officers and employees ("CLI Group") shall not be liable for consequential, special, indirect, incidental or punitive loss, cost or damage or any loss of use, profits, revenue, reputation, opportunity, expected savings, capital or financing, bonding capacity, product or production, or for business interruption, whether suffered in this or in any collateral transaction. The cumulative aggregate liability of CLI Group for all other claims, losses, and damages shall be limited in the aggregate to an amount equal to TEN PERCENT (10%) of the total compensation received by CLI hereunder. Customer shall ensure that any future recipient of any interest in the Work will be bound by the waivers, releases, limitations, exclusions, disclaimers and apportionments of liability and indemnities stated in this Agreement, such that the total aggregate liability of CLI Group to Customer and such recipients shall not exceed the liability of the CLI Group hereunder. The remedies stated herein for the benefit of the Customer are the sole and exclusive remedies of the Customer for the obligations and liabilities of CLI Group based on, related to or arising out of the goods, the Project and this Agreement, notwithstanding any remedy otherwise available at law or in equity. The provisions of this section shall apply notwithstanding anything to the contrary in this Agreement or otherwise and REGARDLESS OF WHETHER THE LIABILITY OR REMEDIES ARISE IN CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WHETHER ACTIVE, PASSIVE, SOLE, JOINT OR CONCURRENT) STRICT LIABILITY, PRODUCTS LIABILITY, PROFESSIONAL LIABILITY, INDEMNITY, CONTRIBUTION, STATUTE OR ANY OTHER THEORY OR CAUSE OF ACTION.

**CANCELLATION:** Customer may cancel this Agreement, at any time, after providing 10 days written notice to CLI. Upon such time, CLI has an obligation to stop all work and Customer has an obligation to pay for all costs incurred by CLI up to the date of cancellation, including costs for demobilization plus a cancellation fee, which equates to 30% of the cost estimate less any amounts paid by Customer up to such date of cancellation.

**SELECTION OF AND COMPLIANCE WITH THE LAW:** The Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its rules governing the conflict of laws. Notwithstanding the foregoing sentence, the provisions of the UN Convention on Contracts for the International Sale of Goods are expressly excluded, and shall not apply to any dispute, controversy or claim between the parties which relates in any way to the Agreement.

Customer and CLI shall comply with the laws of United States of America and any other applicable laws (including but not limited to anti-bribery laws), and without limiting the generality of the foregoing, CLI shall not be required to export or deliver any Work, technical information or data if then prohibited or restricted by those laws, and if so prohibited or restricted, or if exportation or importation of Work is precluded for lack of an appropriate license, then CLI may terminate its obligations under this Agreement, and Customer shall pay CLI reasonable cancellation charges. Customer shall not export, re-export, import, sell or lease any Work, technical information or data (whether to a prohibited person, to a prohibited country, or for a prohibited use or otherwise) except in compliance with those laws, and shall cause the end user of Work to so comply.

Chart BAHX (Brazed Aluminum Heat Exchangers) are designed and fabricated to the ASME code in addition to other codes as applicable and/or requested by our customers. The margins of mechanical safety employed in the design and manufacture of these aluminum plate fin exchangers are well above levels that are verified by the required ASME pressure testing protocols. Any deviation from the recommended operational guidelines offered in the Chart IOM Manual (including but not limited to; dry/clean fluids and vapors, managing thermal stresses, etc.) has the potential to degrade the design margins of mechanical integrity as originally manufactured. Chart Lifecycle service offerings including DCS Analysis, Inspection, Testing, Repairs, Cleaning and Engineering Consulting are intended to offer our customers the necessary support and information to assess the current condition of your BAHX and evaluate the overall risk potential for operational integrity and the remaining lifespan. As Chart Lifecycle is not fully aware of all of the details of your plant operations and maintenance history, the current overall condition of the equipment cannot be fully determined. As such, a fit for service declaration, based on the above cannot be offered.

**ACCEPTANCE**

This Agreement constitutes the entire agreement between the parties hereto and represents the sole and complete Agreement between them with respect to the subject matter of this Agreement. This Agreement can only be amended in writing so designated and signed.

The above estimate for services is hereby accepted and authorized by:

**Customer:**

Name(s): \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**PROPRIETARY AND CONFIDENTIAL**

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