Terms & Conditions of Purchase of Goods and Services

1. General. This Purchase Order ("Order") is placed by the entity issuing the Order ("Buyer") stated on the face of the Order and is subject to the terms, conditions and instructions appearing on the face and reverse side hereof, attached hereto or otherwise provided to Buyer by Seller (hereinafter collectively referred to as the "Agreement") between Buyer and Seller. Accepting this Order, whether by partial performance or otherwise, shall be deemed acceptance of the Agreement, and unless Buyer otherwise agrees in writing, acceptance shall be deemed irrevocable by Buyer upon Seller's receipt of this Order, then Seller shall be deemed to have unconditionally accepted this Order. Seller agrees that this Order is expressly limited to and conditioned upon Seller's acceptance of these Terms & Conditions of Purchase of Goods and Services, which may not be changed or waived except in writing signed by Buyer. Any additional, inconsistent or different terms and conditions contained in Seller's order acknowledgement or other documents are hereby expressly rejected. As used herein, the term "items" refers to goods and/or services furnished by Seller unless otherwise noted. Any terms of the Order that are inconsistent with or in addition to the general terms of this Order, time of is the essence. This Order is subject to termination by Buyer free of any claim or liability for Seller's failure to deliver items by the date specified by Buyer.

2. Payment/Shipping. The terms of payment are net cash within ninety days from the date of the Order or the date on which the invoiced conforming items are received. Seller certifies that at the time of acceptance of the purchase price for any items or parts found to have been in excess of the prices currently being charged by Seller to other customers for the same or smaller quantities of like items with similar delivery or performance schedules. Seller shall provide a separate invoice for each shipment to Buyer's designated account payable processor, either by mail, email, or electronic funds transfer. Information specified by Buyer in writing. Bill of lading shall be sent with goods or attached to invoice and signed by Buyer's order number, equipment description and Buyer's other numbers, if any. Shipping shall be by least expensive way, unless otherwise stated. Excess unauthorized shipments and shipments arriving in advance of scheduled delivery date may be returned at Seller's risk and expense. Buyer may at any time set-off any amounts owing by Seller to Buyer against any amount claimed by Seller against Buyer. Seller agrees that all such amounts are reasonable and are owed.
bankruptcy or insolvency laws by or against Buyer. In any termination permitted by this section, Seller shall be responsible for any and all damages suffered to Buyer, its successors, assigns or customers as a result. Seller agrees that in the event it becomes necessary for Buyer to take enforcement action of this Agreement against Seller, Seller agrees to pay any and all attorney and arbitrator fees, and other legal expenses associated therewith incurred by Buyer, regardless of Buyer’s or any other person’s negligence (whether, to the extent permitted by applicable law, sole, joint or otherwise), fault or cause and regardless of whether such Claims arise in contract, warranty, negligence, tort, strict liability, or otherwise. In addition to the preceding rights of termination of this Agreement, any breach of this clause by Seller, and any breach of this Agreement at its convenience without cost or liability to it to as any items not received or accepted by Buyer. Any items shipped, or service performed, after the effective date of such termination or suspension, may at the sole option of Buyer be accepted by Buyer under this Order or be returned to Seller at Seller's risk and expense. Buyer is excused from performing in the event of causes beyond Buyer’s reasonable control, including acts of God, war, terrorism, strikes, restrictions of the United States Government or other governments having jurisdiction.

12. Governing Law and Arbitration. This Agreement and any claim, controversy or dispute arising under or related to the Agreement, the relationship of the parties, and the interpretation and enforcement of the rights and duties of the parties is exclusively governed by the laws of England and Wales, excluding its conflicts of law principles and excluding the United Nations Convention on Contracts for the International Sale of Goods. Seller waives all causes of action arising under this Agreement after one year from the date of the occurrence of the event giving rise to any such claim, waives any sovereign immunity claims or defenses, and consents to and will not contest personal jurisdiction in the courts of London, England. Any disputes, controversies or claims arising out of or relating to this Agreement, or the breach thereof which cannot be resolved in writing within 60 days after notice of the dispute, shall be settled by binding arbitration. The parties agree to submit to binding arbitration shall be specifically enforceable under the prevailing arbitration law. The award of the arbitrator shall be final, and a judgment may be entered upon it by any court having jurisdiction. A party desiring to invoke this arbitration provision shall serve written notice upon the other of its intention to do so and the name of an impartial individual who is knowledgeable in matters pertaining to Buyer’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 Centre for Dispute Resolution. Unless the parties agree otherwise, all arbitrations shall be conducted and all related documents submitted shall be in the English language in London, England, 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 the award until paid in full. Judgment may be entered on any award or decision of 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. The prevailing party shall be entitled to recover, in addition to all other amounts and relief, its costs, fees and other expenses (including attorney fees and the arbitrator's fees) as permitted by law. The arbitrator shall be appointed by the arbitration tribunal. If Seller fails to promptly assume Buyer’s defense when requested to do so as required under this Agreement, then Buyer may defend with counsel of its own choice at the expense of Seller.

13. Miscellaneous. The Agreement as defined in Section 1 constitutes the complete and exclusive agreement between Seller and Buyer there are no agreements, understandings, restrictions, warranties, or representations between the parties other than those set forth herein. Assignment or subcontracting any portion of this Order or of any interest herein, or of any payment due hereunder, without the prior written consent of Buyer, shall be void. A change in majority ownership or control of Seller shall be deemed an assignment for purposes of this Section 13. If any provision, or any part thereof, of this Agreement is found by any court or governmental agency of competent jurisdiction to be illegal, invalid or unenforceable, 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 here which shall remain in full force and effect. The obligations of Seller under this Order shall survive any inspection, delivery, acceptance or payment of and for the items. If Seller is a subcontractor to Buyer, then Seller further agrees, with respect to the items it is supplying, that Seller shall also be governed by the same terms and conditions by and between Buyer and Buyer’s customer same as are applicable to Buyer’s responsibilities hereunder and shall be given no legal effect. Buyer’s remedies expressly provided for in these conditions shall be in addition to any other remedies which Buyer may be entitled to in equity or at law. Buyer’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 references to that provision, enactment, order, regulation or other similar 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. 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; and (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement and not to any particular paragraph or section.

14. Software. Seller grants to Buyer a non-exclusive royalty free perpetual license to use any standard software provided by Seller hereunder and to sublicense the same. Buyer shall not be bound by any terms and conditions that may accompany any software. Seller grants to Buyer an unlimited, exclusive and perpetual license to use, modify and sublicense any custom software provided by Seller to Buyer.

15. Limit of Liability. Notwithstanding anything to the contrary in this Agreement, in no event shall Buyer or its affiliates be liable for any special, indirect, incidental, punitive or consequential damages, for any loss of profits, loss of use, cost of capital, cost of substitute equipment, downtime costs, cost of delays, or for any penalties, expenses, loss of goodwill or other economic damage of any kind, whether, to the extent permitted by applicable law, sole, joint or otherwise, tort, negligence, strict liability or otherwise. Notwithstanding anything to the contrary in this Agreement, Buyer's cumulative liability arising out of this Agreement for any claims whether in contract, warranty, negligence, tort, strict liability, or otherwise, or for any loss or damage arising out of, connected with this Agreement or the performance or breach thereof, shall in no event exceed in the aggregate the purchase price payable by Buyer for the specific items or services subject to this Order giving rise to the claim.

16. Hazardous Materials. Seller shall notify Buyer of all "hazardous materials" (as that term is defined in applicable Federal, state and local statutes) which are contained in the items being supplied to Buyer or to Buyer's customers and Seller shall furnish with any hazardous materials any applicable "material safety data sheets" for said items no later than the shipment date under this Order. In addition, Seller shall be responsible for all chemical substances or mixtures which Seller brings onto Buyer's or Buyer's premises. When ordered by Buyer, Seller shall promptly and properly give Buyer written notice of and assent to any and all hazardous materials which Seller believes constitute a hazardous materials resides in accordance with all applicable federal, state, local statutes, regulations, rules, orders, and ordinances. Seller agrees to defend, release, indemnify and hold Buyer and its affiliates harmless from and against any and all claims, losses, damages, and expenses (including attorney’s fees) resulting from Buyer’s violation of the requirements referenced in this Section.

17. Governing Law and Arbitration. This Agreement is issued under a governing contract (prime or subcontract), then this Order is also subject to the applicable governing contract clause(s), as are required by applicable law and the applicable government contract, which are hereby incorporated into this Order by reference.

18. Export Sales and Compliance with Trade Laws. In no event shall Buyer be required to export or deliver any items (including technical information, data or materials, including where such items are for incorporation into an end-item) if such export or delivery is then prohibited or restricted by any law or regulation of the U.S., UK, EU Government, EU Government, including departments, agencies and sub-divisions thereof, or of any other applicable governmental agency of any country having jurisdiction, including the country in which the items originated. Should Buyer’s performance of its obligations hereunder be prohibited by any applicable governmental agency of any country having jurisdiction, including the country in which the items originated, Buyer shall not be bound by any terms and conditions that may accompany any software. Buyer agrees that Buyer shall be entitled to import license within a reasonable time, as appropriate, then Buyer’s obligations hereunder shall be terminated at Buyer’s option without further liability to Seller. Buyer accepts all responsibility for exporting and importing any items sold hereunder, will obtain any licenses required for export, and will satisfy all duties and taxes necessary for exportation and importation. Seller agrees to export any items of Buyer in full compliance with U.S., UK, EU and other laws of countries having jurisdiction. Seller warrants and represents that it is in full compliance with all such applicable export and import laws, including U.S. Sanctions Regulations, the EU trade laws and regulations, the International Traffic In Arms Regulations, the Export Administration Regulations, and all U.S. anti-bribery laws. Seller and Seller agrees not to export, reexport, or deliver any items to or from a prohibited person, prohibited country, or for a prohibited use under the U.S. and EU laws, regulations or implementing regulations. Seller shall provide Buyer with such written assurances of compliance as requested by Buyer from time to time. Specifically, Seller agrees not to import, export or procure any items to or from a person, prohibited country, or for a prohibited use under the Export Trade Law or the EU Trade Law, and Seller agrees not to list or maintain on a restricted party list identified on 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 or any other party list maintained by a competent authority, to a country subject to comprehensive US or EU sanctions or a US or EU embargo, or for a prohibited use under either the Trade Regulations or any other applicable trade laws. Seller agrees to indemnify and hold Buyer and its affiliates harmless from and against any and all damages and expenses (including attorneys' fees) resulting from Seller's violation of applicable export and import regulations, including the Trade Regulations.

19. Compliance with Anti-bribery Laws. Seller represents to and assures Buyer that it is familiar with the requirements of the U.S. Foreign Corrupt Practices Act (“FCPA”) and other similar anti-bribery laws, including the OECD Anti-bribery Convention and the UK Bribery Act, that it has not and will not violate those laws as a result of this Agreement. Seller further agrees that it will not, directly or indirectly, gift any gift or payment of any kind or any political contribution in violation of such laws. Seller shall provide Buyer with such written assurances of compliance with such laws as requested by Buyer from time to time. Any payment, offer of payment, or agreement to make a payment that is contrary to the laws of the United States or the laws of the country in which it is made, or any other payment in conflict with this clause, will constitute a material breach of this
Agreement, and any obligation of Buyer hereunder shall automatically terminate upon such breach without further liability to Seller. Seller agrees to indemnify and hold Buyer harmless from and against any and all damages and expenses (including attorneys’ fees) resulting from Seller’s violation of the requirements referenced in this Section.

20. Code of Conduct; Supplier Requirements Manual. Seller shall comply with Buyer’s Supplier Code of Conduct (as amended from time to time) (“Supplier Code”), which forms part of the Agreement and can be found under Buyer’s Corporate Responsibility webpage at http://www.chartindustries.com/About-Chart/Corporate-Responsibility. Seller shall adopt a code of ethical business conduct suitable to its business, and conform to such code. The code should establish that Seller shall comply with all applicable laws and regulations, and should address Seller’s policies regarding workplace health and safety, labor standards, protection of the environment and resources, product safety and quality, anti-bribery and anti-corruption. Seller shall comply with and meet all the requirements of Buyer’s Supplier Requirements Manual (as amended from time to time) (“Manual”), which is an essential element and forms part of the Agreement and can be obtained via the Buyer’s Supplier Portal at https://mastercontrol.chartindustries.com/mc/ or by contacting a representative of Buyer. Seller hereby expressly confirms it has carefully reviewed the Supplier Code and the Manual.

21. Right to Access and Audit. Buyer shall have reasonable access to Seller’s and its subcontractor’s facilities to view and expedite any items which are the subject matter of this Order. For a period of not less than 10 years after completion of this Order, or as otherwise required by law if longer, Seller shall keep full and accurate books of accounts and records relating to the performance of this Order, and shall allow the authorized representatives of Buyer to have access to such books and records and make copies thereof during such period upon prior notice.

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