Terms & Conditions of Purchase of Goods and Services

1. General. This Purchase Order ("Order") is placed by the entity issuing the Order ("Buyer") upon the acceptance of the terms and conditions set forth on the face of the Order, in accordance with the instructions appearing on the face and reverse side hereof, attached hereto or otherwise provided by Buyer, including any specifications, drawings and other data, all of which are incorporated herein and made part of the agreement (the "Agreement") between Buyer and Seller. Failure of Buyer to deliver goods and services as required by the Order shall be deemed acceptance of the Agreement, and unless Buyer receives Seller's written notice of rejection within three business days after Seller's receipt of this Order, then Seller shall be deemed to have unconditionally accepted this Order. Seller agrees that this Order constitutes a binding contract and is not subject to any mistake, misrepresentation or lack of consideration.

2. Payment/Shipment. The terms of payment are net cash within ninety days from the later of the date on which an undisputed invoice is received by Buyer or the date on which the invoiced conforming items are received. Seller certifies that at the time of acceptance of this Order, the prices stated hereon and in any of Buyer's attachments, if any, are not in excess of the prices currently being charged by Seller to other customers for the same or similar quantities of like items with similar delivery or performance schedules. Seller shall provide a separate invoice for each shipment to Buyer's designated accounts payable processor, either by mail, email or e-invoicing, using the information specified by Buyer. No charges of any kind, including charges for boxing, carting, freight, insurance or storage will be allowed unless specifically agreed to by Buyer in writing. Bill of lading shall be sent with goods or attached to invoice and showing Buyer's Order number. Invoices shall not include any form of shipping or handling charges. Shipment 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 amount owing to Seller off any amount owed to Buyer. Buyer shall have the right to make changes to this Order including changes to the specifications and design, delivery dates and place of shipment. No such changes shall be effective unless noted on the Order. If the Order pertains to specifications orders, Buyer shall provide Seller with written notice of change. Buyer shall ship the goods to the address specified by Buyer. Seller shall maintain records that accurately reflect the performance of services furnished by Seller under this Order, and the term "Seller" means the seller of the items. With respect to this Order, time is of 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 or on or before the date specified on the Order. Buyer may require delivery by fastest method at Seller's cost.

3. Indemnification. Seller shall further defend, indemnify and hold harmless Buyer, its affiliates, and its and their successors, assigns and customers from and against any and all liability, losses and damages ("Claims"), including those arising out of property damage or personal injury or death, arising out of or relating to this Order or the items or services furnished hereunder, or any litigation based thereon and any related costs, expenses or liabilities, cost of investigation and any other liability, including those arising from or relating to the act or omission of any of Buyer's affiliates, its employees, agents and subcontractors related to or in any way connected with Buyer or this Order, 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, products liability or otherwise. For purposes of this section, the term "Buyer," its affiliates, its and their successors and assignees and customers from and against any and all liens upon the premises of Buyer or its customers, including liens for labor performed and material furnished by Seller or its subcontractors, and Seller shall also at its own expense immediately procure the discharge, release or satisfaction of any such liens, judgments, or other claims for which Seller may be held liable. Buyer shall not be further required to indemnify, defend, indemnify and hold harmless Buyer, its successors, assigns and customers from and against any and all losses upon the premises of Buyer or its customers, including liens for labor performed and materials furnished by Seller or its subcontractors, and Seller shall also at its own expense immediately procure the discharge, release or satisfaction of any such liens, judgments, or other claims for which Seller may be held liable. Buyer shall not be further required to indemnify, defend, indemnify and hold harmless Buyer, its successors, assigns and customers from and against any and all losses upon the premises of Buyer or its customers, including liens for labor performed and materials furnished by Seller or its subcontractors, and Seller shall also at its own expense immediately procure the discharge, release or satisfaction of any such liens, judgments, or other claims for which Seller may be held liable.

4. Delivery, Risk of Loss and Title. Delivery terms applicable to this Order shall be as defined in INCOTERMS 2010. DDP shall apply if no delivery terms are specified by Buyer. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, risk of loss or damage shall pass to Buyer and delivery shall be deemed to be complete only upon actual receipt and acceptance of the goods by Buyer. Risk of loss or damage to goods rejected by Buyer or to items for which acceptance has been revoked remain with Seller. Title to goods shall pass at the earlier of receipt and acceptance of conforming goods or payment for such goods. Seller shall deliver all items and deliverables by the delivery date as set forth in this Order. As used herein, the term "deliverables" means all data, documentation, certificates, manuals, and materials that are necessary for the full operation, maintenance, and use of the goods or services. If Seller for any reason anticipates difficulty in complying with the required delivery date or in meeting any of the other requirements of this Order, Seller shall promptly notify Buyer of such difficulty and the anticipated delay. Unless otherwise agreed in writing on an agreement signed by Buyer, if Seller fails to deliver all the items and deliverables as scheduled, Seller shall pay to Buyer 1.5% of the total amount of this Order per week or part of the week of delay, up to 15% of the total amount of this Order. The parties agree that such liquidated damages are a reasonable pre-estimate of the damages Buyer will suffer as a result of delay based on circumstances existing at the time this Order was issued and are to be assessed as liquidated damages and not as a penalty. Payment of these liquidated damages shall not relieve Seller from any other obligation under this Order. Buyer may terminate this Order if Seller fails to deliver all the items and deliverables as required. Buyer shall have the sole expense for Buyer the right to use all delivered deliverables under applicable law, contract and/or equity, including any copyrighted deliverables that Buyer incurs as a result of Seller's delivery and Buyer's right to terminate this Order for default. Furthermore, if Seller does not comply with Buyer's delivery schedule, Buyer may deliver to a substitute supplier or otherwise acquire deliverables in Seller's sole discretion and at Buyer's sole cost and expense. Buyer will have the right to continue using the deliverables so purchased. Buyer may sue for damages and/or seek an injunction to prevent the performance of any nonconforming services. Any replacement parts and materials or performance of services are also warranted as stated herein. Seller further warrants that it is at all times fully competent with all applicable federal, state and local rules, laws, codes, and regulations. Seller will, if required, defend, indemnify and hold harmless Buyer against any liability, losses and damages ("Claims") arising from or relating to the manufacture of any article or material shall have been consistent with 21 C.F.R. §§ 800-809, as amended.

6. Nonconformity. All items ordered will be subject to final inspection and approval by Buyer. Buyer may reject or return, at Seller's applicable taxes Buyer's designated location or, if services, at the site at which such services are to be performed. If any of the items are found at any time not to be in conformity with the requirements of this Order, Buyer shall also have the right to reject and return, or to hold such items for Seller's instructions at Seller's sole risk and expense or, in the case of services, to have such services re-performed at Seller's sole cost and expense. However, such items which are not in conformity with the requirements of this Order may be re-ordered and will be subject to re-acceptance. Buyer may require repeated shipments of the items or services at Seller's sole expense. Buyer shall also have the right not to accept those items or services which are nonconforming and to return the same to Seller at Seller's sole expense and risk.

11. Termination. Buyer may, without cost or liability to Buyer, except for deliveries or services previously made and accepted, terminate this Order if one or more of the following events shall occur: (a) failure of Seller to perform any of its obligations under this Order or (b) any adverse change in the position, financial or otherwise, of Seller or (c) the insolvency of, or the filing of a petition under any federal or state bankruptcy or insolvency laws by or against Seller. In any termination permitted by this section, Seller shall be responsible for any and all damages suffered by 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. In addition to the preceding rights of termination, Buyer may, on reasonable notice to Seller, terminate or suspend this Order at its convenience without cost or liability to it as to any items not received or accepted by Buyer, or as to any defects, or non-conformities in the goods delivered by Seller hereunder; provided, however, that in the event 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 but not limited to, acts of God, war, terrorism, strikes, restrictions of the United States Government or other governments having jurisdiction.

12. Governing Law; Arbitration. This Agreement and any claim, controversy or dispute arising from or related to the subject matter hereof, or the interpretation and enforcement of the rights and duties of the parties is exclusively governed by the laws of the State of Georgia, 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 such claim, waive any foreign venue or other objection and consents to the exclusive jurisdiction in the local and federal courts of Atlanta, Georgia. 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. This agreement 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 American Arbitration Rules of the American Arbitration Association then prevailing if the Seller is located in the United States, and the International Arbitration Rules then prevailing of the International Centre for Dispute Resolution if the Seller is located outside the United States. All arbitrations shall be conducted and all related documents submitted shall be in the English language in Atlanta, Georgia, 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 costs awarded, interest and other expenses of the arbitration, including without limitation, fees and expenses of counsel and arbitrators. If Seller fails to promptly assume Buyer’s defense when requested to do so under this Agreement, then Buyer may defend with counsel of its own choice at Seller’s expense.

13. Miscellaneous. The Agreement as defined in Section I constitutes the complete and exclusive agreement between Seller and Buyer and there are no agreements, understandings, restrictions, warranties, or representations between the parties other than those set forth in this Agreement. Any offer, acceptance, or failure to perform any part of this Agreement shall be in writing and signed by authorized officers of the parties and shall be enforced only by the party to whom notice of such non-performance is given. This Agreement may not be changed or amended except by written instrument signed by authorized officers of both parties. This Agreement is not assignable by Seller without prior written consent of Buyer, and is not to be transferred, assigned, or encumbered by Buyer unless prior written consent of Seller is given. Any assignee or transferee of Seller hereunder shall not be liable for any obligations hereunder of Seller. No waivers of any provision, term, condition, or event hereunder shall constitute a waiver of the provision, term, condition, or event so construed otherwise. This Agreement shall not be construed to create any rights or duties between Buyer and Seller other than those set forth herein. If any provision of this Agreement is held to be invalid, the same shall be enforced to the extent possible and the remaining provisions, terms, conditions, and events of this Agreement shall remain in full force and effect.

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 provided by Seller hereunder. Seller agrees to license, 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 OF ANY KIND, WHETHER DIRECT OR INDIRECT, ARISING FROM OR RELATING TO THE DIRECT OR INDIRECT PENALTIES, WHETHER ANY SUCH CLAIM FOR THE SAME IS BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

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 goods hereunder. Buyer agrees that if the goods are hazardous materials, Seller will furnish Buyer with copies of all 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 customer’s premises, or into which Buyer’s or Buyer’s customer’s premises, or into which Buyer’s premises are located, including without limitation, such substances, mixtures, containers, and/or other hazardous materials residues in accordance with all applicable federal, state, local, statutes, laws, regulations, rules, orders, and ordinances. Seller agrees to defend, release, indemnify and hold Buyer and Buyer’s assigns and their employees harmless from any and all damages and expenses (including attorneys’ fees) resulting from Buyer’s violation of the requirements referenced in this Section.

17. United States Government Contracts. If this Order is placed under a U.S. Government Contract (prime or subcontract), then this Order is also subject to the applicable U.S. Government contract clause(s), including but not limited to FAR 52.219-8 Utilization of Small Business Concerns and other FAR, DFAR or NFS clauses, as are required by law and the applicable U.S. Government contract, which are hereby incorporated into this Order by reference and carry the same force and effect as if they were given in full text herein. All such clauses listed herein, the terms “Government”, “Contracting Officer” and “Contractor” shall be revised to suitably identify the contracting parties, but shall affect the remainder of the provision except as otherwise agreed in writing by the parties. Seller shall include in each lower-tier subcontract the appropriate flow-down clauses from FAR, DFAR, NFS as required by law and the applicable U.S. Government contract, including but not limited to FAR 52.219-8 Utilization of Small Business Concerns.

18. Export Sales; Compliance with Trade Laws. Seller agrees that any items to be exported hereunder (whether to Buyer or to Buyer’s customers and Seller shall furnish Buyer with copies of all 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 customer’s premises, or into which Buyer’s or Buyer’s customer’s premises, or into which Buyer’s premises are located, including without limitation, such substances, mixtures, containers, and/or other hazardous materials residues in accordance with all applicable federal, state, local, statutes, laws, regulations, rules, orders, and ordinances. Seller agrees to defend, release, indemnify and hold Buyer and Buyer’s assigns and their employees harmless from any and all damages and expenses (including attorneys’ fees) resulting from Buyer’s violation of the requirements referenced in this Section.

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 AntiBribery Convention and the British Anti-Bribery Act, and that it has no business practice or conduct that is in violation of those requirements. 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 Buyer’s violation of the requirements referenced in this Section.

20. Code of Conduct; Supplier Requirements. Seller shall comply with Buyer’s Supplier Code of Conduct (as amended from time to time) ("Supplier Code"), which forms part of this Agreement and can be found under Buyer’s Corporate
Responsibility page 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 Supplier 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. Unless exempt, Buyer and Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment qualified individuals without regard to race, color, religion, sex, sexual orientation, gender identification, national origin, protected veteran status or disability. If applicable, Buyer and Seller shall also abide by the requirements 41 CFR § 61-300.10 regarding veterans’ employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights.

23. 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.