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. Payment of the full amount due hereunder by Buyer shall constitute Buyer’s acceptance of Seller’s proposal is expressly limited to and conditioned upon Buyer’s acceptance of these Terms & Conditions of Sale, which may not be changed or waived except in writing signed by Seller. Any additional, inconsistent or different terms and conditions contained in Buyer's purchase order or other documents supplied by Buyer are hereby expressly rejected. Unless the context otherwise requires, the term “Equipment” as used herein shall mean all goods, equipment, parts, accessories, and software sold to Buyer by Seller. Unless the context otherwise indicates, the term “Services” as used herein shall mean labor, supervision, repair, refurbishment, reconditioning, and project engineering services provided by Seller. As used herein, the term “Buyer” shall mean only the party issuing the purchase order to Seller for Equipment or Services, regardless of whether or not the Buyer is the end user of the Equipment or Services, and the term “Seller” shall mean the entity selling or supplying the Equipment or Services as set forth on the order acknowledgement or invoice for Equipment or Services.

2. Payment Terms and Invoices
Payment terms are net 30 days, except that all payments made by credit card are due at the time of order placement.

3. Taxes
Federal, state, local, value added, sales and use, and other applicable taxes measured on the price of Equipment or Services in any legal system by any taxing authority are not included in the price unless otherwise agreed in writing by Seller. Notwithstanding anything to the contrary herein, the price and Delivery schedule of Equipment or Services may be equitably adjusted by Seller for the imposition of new or increases in existing tariffs or limitations on imports of aluminum, steel and other commodities and variations in labor and other costs and delays associated with those causes.

4. Time
Any deadlines specified by Buyer shall be subject to change. Buyer shall not be liable for any delay, default or failure in performance of any obligation under this Agreement, and the schedule for Delivery of Equipment and performance of Services will be modified, when the delay, default or failure arises from causes beyond Seller’s reasonable control, including: acts of God; civil disturbances; war; terrorism; insurrections; thefts; accidents; strikes, lockouts, disputes, or other industrial disturbances; acts, requests, restrictions, delays, or interruptions of or by any government, court, or governmental authority having jurisdiction, including the United States Government; embargoes and quarantines; changes in laws or the interpretation thereof; disease outbreak, epidemics, or pandemics; delays in or interruption of transportation; earthquakes, floods, tidal waves, lightning, fires, named storms, hurricanes, tornados, cyclones, typhoons, or other natural disasters; inability to obtain necessary labor, materials, or manufacturing facilities; or any other cause or event, regardless of whether of the kind herein enumerated, beyond Seller’s reasonable control.

10. Force Majeure
Seller shall not be liable for any delay, default or failure in performance of any obligation under this Agreement, and the schedule for Delivery of Equipment and performance of Services will be modified, when the delay, default or failure arises from causes beyond Seller’s reasonable control, including: acts of God; civil disturbances; war; terrorism; insurrections; thefts; accidents; strikes, lockouts, disputes, or other industrial disturbances; acts, requests, restrictions, delays, or interruptions of or by any government, court, or governmental authority having jurisdiction, including the United States Government; embargoes and quarantines; changes in laws or the interpretation thereof; disease outbreak, epidemics, or pandemics; delays in or interruption of transportation; earthquakes, floods, tidal waves, lightning, fires, named storms, hurricanes, tornados, cyclones, typhoons, or other natural disasters; inability to obtain necessary labor, materials, or manufacturing facilities; or any other cause or event, regardless of whether of the kind herein enumerated, beyond Seller’s reasonable control.

11. Delivery and Risk of Loss or Damage
Unless otherwise agreed in writing by Seller, all domestic shipments are FCA Seller’s plant and all international shipments are CPT port of destination, with responsibilities as defined in INCOTERMS 2010, and “Delivery” as used herein occurs in accordance with INCOTERMS 2010. All international shipments delivered to Buyer’s pier, port or other place of delivery shall be at Buyer’s sole risk. Buyer agrees to pay, for all such inspection and other expenses. No Seller liability exists for Equipment or Services shown to be defective until such time as the Equipment and Services have been paid for.

12. Waivers and Standards
Price and Delivery schedule are based on the applicable laws, rules, codes, and standards stated in the Equipment specifications in effect as of the date of the Seller’s acceptance of the purchase order. If such laws, codes, and standards change, or if Purchaser 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 the parties shall promptly negotiate in good faith and mutually agree upon any modification to the order resulting from any such change. Any local laws, statutes, codes or standards, or interpretations thereof that do not match national building codes are hereby exempt from the Agreement unless written copies are presented to Buyer, together with all additional specifications and accepted in writing by Seller as part of this Agreement.

13. Title Seller shall retain legal and equitable title to any Equipment until Buyer has paid for such Equipment in full, and Buyer shall complete and execute all documents required to this effect upon Seller’s request and allow Seller to repossess the Equipment in the event of Buyer’s failure to pay after receipt of written notice by Seller.

14. Installation Installation 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 free and un restricted access to Seller personnel, contractors, subcontractors, and any other personnel necessary in order 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.

17. Intellectual Property and Confidentiality All right, title and interest in any intellectual property and rights or modifications of the Equipment and Services made by Seller or Buyer as a result of the Agreement shall exclusively remain with Seller. Buyer expressly agrees that it will not, directly or indirectly, reverse engineer, disassemble, or decompile the Equipment or parts thereof or assist any third party with such actions. Any design, reports, plans, drawings, standards, specifications or other information submitted to Buyer by Seller (“Seller Documents”) shall remain Seller’s exclusive property. Seller may use such information and make copies or reproductions for internal use, and 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, without limitation, 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. Buyer agrees not to explicitly or implicitly infringe any intellectual property rights of Seller, and all claims 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 procure for Buyer the right to use the Equipment, modify or replace it with non-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 release, defend, indemnify and hold Seller harmless from all expenses, losses and other damages resulting from any actual or alleged infringement of intellectual property rights of Seller, and Seller Documents shall be used only in accordance with Buyer’s specifications or instructions, 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 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 rights, duties or obligations without Seller’s consent shall be void.

19. Limitation of Liability NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL SELLER ITS AFFILIATES, SUPPLIERS AND SUBCONTRACTORS BE LIABLE TO BUYER OR TO ANY THIRD PARTY FOR ANY DIRECT, 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, WHETHER ANY SUCH CLAIM FOR THE SAME IS BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, INDEMNIFICATION OR OTHERWISE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES TO PERSONS OR PROPERTY OR FOR LOSS OF PROFIT, OR FOR ANY LOSS OR DAMAGE ARISING OUT OF OR CONSEQUENT UPON THE PERFORMANCE OR BREACH THEREOF, OR FROM ANY DESIGN, SALE, INSTALLATION, OPERATION OR USE OF THE EQUIPMENT OR PERFORMANCE OF ANY SERVICES UNDER THIS AGREEMENT, SHALL IN NO EVENT EXCEED THE AMOUNT PAID TO SELLER BY BUYER FOR SPECIFIC EQUIPMENT OR PART THEREOF OR FOR THE SERVICES GIVING RISE TO 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 U.S. 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 Equipment, End Item, or Services to be sold will be installed, used, or performed. Should Seller’s performance of its obligations hereunder be prohibited by any applicable governmental agency, in whole or in part, or if the exportation or importation of the Equipment which is the subject of this Agreement is prohibited or restricted by any applicable governmental agency, then the obligations hereunder shall be terminated at Seller’s option, and Seller shall be entitled to reasonable cancellation charges. Unless otherwise agreed in writing by Seller, Buyer accepts all responsibility for exporting and importing any Equipment sold hereunder and any End Item outside of the U.S., will be the exporter of record and importer of record, and will be responsible for filing any documents, obtaining any licenses required by the U.S. or other country having jurisdiction, and any other applicable trade and export laws, rules, regulations and importation and exportation. Buyer agrees to export, re-export or import any Equipment, End Item or components thereof, technical information or data of Seller in full compliance with U.S. and other laws of countries having jurisdiction and shall cause the end user of any Equipment, End Item or components thereof, to Services to comply with any such applicable laws. Buyer warrants and represents that it is in full compliance with all such applicable export and import laws, including U.S. Sanctions Regulations, the International Traffic in Arms Regulations, the Export Administration Regulations, the Export Control Reform Act of 2018, and embargo regulations (collectively, “U.S. 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 or technical data thereof to a party identified on the restricted parties list maintained by the U.S. Government related to US export controls and sanctions, including those designated on the Specially Designated Nationals and Blocked Persons List and entities owned 50% or more by such parties, to a country embargoed by the U.S. or subject to comprehensive US sanctions or a US embargo, or any country under either the U.S. 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 U.S. 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 anti-bribery laws, including the OECD Anti-Bribery 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 the United States or the laws of the country in which it is made, or any agreement to make a payment that is contrary to the laws or regulations of any jurisdiction in which the Agreement, and any obligation of Seller hereunder shall automatically terminate upon such breach without further liability to Seller. 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 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 the State of Georgia, excluding its conflicts of law principles and excluding the United Nations Convention on Contracts for the International Sale of Goods. Buyer waives all causes of action arising under this Agreement for more than 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 any local, state, or federal court located in the State of Georgia. Should a claim arise, or if either party believes that an arbitration is necessary, the arbitration shall be conducted in accordance with the International Arbitration Rules 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 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 thereon from the date of any breach or default and from the date of the award until paid in full. The forum of any claim shall be in Atlanta, Georgia. Any 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 of the arbitration, including reasonable attorneys’ fees, as may be awarded by the arbitrator. If Buyer fails to promptly assume Seller’s defense when requested to do so as required under this Agreement, then Seller may defend with counsel of its own choice at the expense of Buyer.
23. **Miscellaneous** 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 here 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 Seller and Buyer do not intend any term or condition to be enforceable by a third party, 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 provision, enactment, order, regulation or 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) use of the word “including” and similar words shall be deemed to mean “including but not limited to,” and are used in an illustrative sense and not a limiting sense; (b) the word “or” is not exclusive; (c) the words “herein,” “hereof,” “hereby,” “hereto,” 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 Industries, Inc. Privacy Notice, which is available at http://www.chartindustries.com/Terms-Conditions under “Customer Privacy Information”. 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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