1. DEFINITIONS

As used herein, "Buyer" means Control Southern, Inc., "Buyer’s Authorized Procurement Representative" means the person or persons authorized by Buyer to alter, modify or change the provisions of this Order. Seller means the party(s) designated by Buyer to perform the services described in this Order, and includes any reference to "contractor," "subcontractor," “contractor,” or “supplier.” "Purchase Order" ("Order") means this instrument, including all documents, exhibits and attachments referenced herein.

2. SHIPPING, BILLING AND PAYMENT

Seller agrees: (a) to promptly pack, mark and ship goods in accordance with the requirements of Buyer and carrier instructions; (b) to route shipments in accordance with instructions from Buyer; (c) to make no charges for handling, packaging, storage, transportation or drayage of goods unless otherwise stated in this Order; (d) to provide with each shipment shipping slips with Buyer’s Order number marked thereon; (e) to promptly mark each package with this Order number, the factory, plant and dock number, and, where multiple packages comprise a single shipment, to consecutively number each package; and (f) to promptly forward the original bill of lading or other delivery receipt for each shipment in accordance with Buyer’s instructions and carrier’s requirements.

3. DELIVERY SCHEDULES

(a) Time is of the essence in the performance of this Order. Seller shall make deliveries at such times and places and of such items and quantities as specified in the Buyer’s delivery schedules. Strict adherence to Buyer’s stated schedules is a material condition of this Order. Seller shall not, unless otherwise agreed in writing by Buyer, ship items before the scheduled delivery date. Any change in delivery schedule or time shall be made in accordance with instructions from Buyer; and shall not begin until correct and complete invoices are received, and Seller’s cash discount privileges to Buyer shall be extended until such time as payment is due. Buyer may withhold payment pending receipt of such invoices. Seller shall provide Buyer with adequate assurance of performance of the items identified herein, in no event shall Buyer have any right to substitute items.

4. PREMIUM SHIPMENTS

(a) Seller agrees to promptly deliver, after delivery of goods or performance of services, correct and complete invoices to Buyer; and (b) to accept payment by check or, at Buyer’s discretion, other cash equivalent (including electronic transfer of funds). Payment for material and/or services and provision of required invoices, delivery of goods, and performance of services shall not begin until correct and complete invoices are received, and Seller’s cash discount privileges to Buyer shall be extended until such time as payment is due. Buyer may withhold payment pending receipt of such invoices. Seller shall provide Buyer with adequate assurance of performance of the items identified herein, in no event shall Buyer have any right to substitute items.

5. CANCELLATION FOR DEFAULT

(a) Seller agrees to promptly make changes and such changes shall be equitably adjusted by Buyer after receipt of documentation in such form and detail as Buyer may direct. This Order may only be changed or modified by a Purchase Order Amendment issued by Buyer. All such changes shall be made in accordance with instructions from Buyer. Seller acknowledges and agrees that certain changes in delivery schedule are market dependent and are not by way of limitation, acts or omissions of any carrier, or events or circumstances beyond Seller’s control, or events or circumstances beyond Seller’s control, or events or circumstances beyond Seller’s control or events or circumstances beyond Seller’s control.

(b) If at any time it appears to Seller that any delivery schedule cannot be met, Seller shall notify Buyer as soon as possible to the contrary thereto, the action being taken to mitigate such cause of non-delivery, when on-schedule status will be regained. Seller shall, at its expense, take whatever reasonable action is necessary to expedite delivery of goods, or provide Substitute goods to Buyer. Delivery of Substitute goods shall be made at the same delivery point, in the same quantity, and in a form, manner and condition as described in this Order or the delivery schedules, or in advance of the time necessary to meet Buyer’s delivery schedules. Buyer may, in its discretion, retain or sell Substitute goods, or sell the excess or delivered in advance of Buyer’s delivery schedule. Buyer may return such excess goods at Seller’s risk and, all transportation charges, both to and from the original destination, shall be paid by Seller. Buyer reserves the right to direct Seller to make certain changes in the goods or services or modify the goods or services at Seller’s expense so they no longer infringe should the use of such goods or services infringe any patent, trademark or copyright. All such changes shall be made in accordance with this Section, as the result of a termination, Seller shall promptly reimburse Buyer for all costs, fees, costs, and other related expenses incurred by Seller in connection with such termination and all other expenses incurred by Seller in connection with such termination and all other expenses incurred by Seller in connection with such termination. Seller shall also make such disposition of all such proprietary information, documents and other related proprietary information shall be the sole and exclusive property of Buyer. Buyer’s successors, affiliates, parent company and customers against all claims, demands, proceedings, losses, suits, damages, liability and expenses (including reasonable attorney’s fees) arising out of or based upon any claim of infringement of any right, title or interest in or to any patents, trademarks, copyrights, or other intellectual property rights, or otherwise relating to the manufacture, use or sale of any goods or services ordered hereunder, to Seller, and no claims shall be made by Seller or any assignee of Buyer, its successors or assigns, against Buyer.

(c) Seller agrees that any failure to perform, or any default, in any respect in any of the terms of this Order, and any breach of Seller’s covenants and agreements in this Order, or any of them, shall permit Buyer, at its option, to purchase goods from some other source and reduce its schedules to Seller by such quantities, without liability to Seller, or have Seller provide the goods from other sources in quantities and at times required by Buyer, without liability to Seller. In no event shall the delay exceed more than 30 (thirty) days if, at the expiration of such time, Seller has not complied with the requirements of this Order; or (b) to refund the price which may have been paid by Buyer for any such goods. Seller agrees to promptly make changes and such changes shall be equitably adjusted by Buyer after receipt of documentation in such form and detail as Buyer may direct. This Order may only be changed or modified by a Purchase Order Amendment issued by Buyer. All such changes shall be made in accordance with instructions from Buyer. Seller acknowledges and agrees that certain changes in delivery schedule are market dependent and are not by way of limitation, acts or omissions of any carrier, or events or circumstances beyond Seller’s control, or events or circumstances beyond Seller’s control or events or circumstances beyond Seller’s control or events or circumstances beyond Seller’s control.

6. NON-COMFORMING GOODS

(a) Buyer reserves at its option, may purchase goods from those other sources and reduce its schedules to Seller by such quantities, without liability to Seller, or have Seller provide the goods from other sources in quantities and at times required by Buyer, without liability to Seller. In no event shall the delay exceed more than 30 (thirty) days if, at the expiration of such time, Seller has not complied with the requirements of this Order; or (b) to refund the price which may have been paid by Buyer for any such goods. Seller agrees to promptly make changes and such changes shall be equitably adjusted by Buyer after receipt of documentation in such form and detail as Buyer may direct. This Order may only be changed or modified by a Purchase Order Amendment issued by Buyer. All such changes shall be made in accordance with instructions from Buyer. Seller acknowledges and agrees that certain changes in delivery schedule are market dependent and are not by way of limitation, acts or omissions of any carrier, or events or circumstances beyond Seller’s control, or events or circumstances beyond Seller’s control or events or circumstances beyond Seller’s control.

7. FORCE MAJEURE

Any default or failure of either party to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an event or occurrence not reasonably foreseeable and beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labor, equipment or transportation, or court injunction or order; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party or the other party within ten (10) days. During the period of such delay or failure to perform, the parties may, in their discretion, extend the time fixed for the performance of all or any of their obligations hereunder. During such period, however, neither party shall have the right to cancel or rescind this Order. While in the performance hereunder, Seller shall have the right but not the obligation to use or assign, if appropriate, and not effective only if authorized in writing by Buyer. Should there be an overpayment by Buyer to Seller as determined in accordance with this Section, as the result of a termination, Seller shall promptly reimburse Buyer for all sums overpaid.

11. INTELLECTUAL PROPERTY OWNERSHIP AND PATENT INFRINGEMENT

Buyer shall have sole ownership of all right, title and interest in and to trademarks, copyrights, patents, trade secrets, and other intellectual property rights in the products or services or commencement of work under this Order shall be only upon the terms and conditions contained herein. Seller hereby grants to Buyer and its assigns, a non-exclusive, non-transferable, worldwide license to use, exploit and otherwise transfer the products and services developed by Seller as a result of the work and services performed by Seller for Buyer pursuant to this Order. Seller warrants, and agrees to defend Buyer, its successors, assigns, and their respective predecessors, from and against all suits, actions, or claims by or on behalf of any person or entity which alleges, in any way, manner, or form, that the products and/or services covered by this Order will conform to the specifications, drawings, samples, examples, trials, demonstrations, representations, or descriptions furnished to or by Buyer and shall be compatible, of good material and workmanship and free from defect. Seller further expressly warrants that it has good title to the goods, raw materials, and parts covered by this Order, free and clear of any liens, claims or security interests. Seller warrants and agrees to defend Buyer, based on Buyer’s stated use, will be fit and sufficient for the particular purposes intended by Buyer.

12. TECHNICAL INFORMATION DISCLOSED

(a) Unless otherwise provided herein or authorized by Buyer in writing, Seller shall protect as proprietary and keep confidential all proprietary information including, but not limited to, designs, processes, drawings, specifications, computer programs, and other related proprietary information developed or acquired by Seller in performing services or commencement of work under this Order. All such information shall be the sole and exclusive property of Buyer. Buyer, its successors, affiliates, parent company and customers against all claims, demands, proceedings, losses, suits, damages, liability and expenses (including reasonable attorney’s fees) arising out of or based upon any claim of infringement of any right, title or interest in or to any patents, trademarks, copyrights, or other intellectual property rights, or otherwise relating to the manufacture, use or sale of any goods or services ordered hereunder, to Seller, and no claims shall be made by Seller or any assignee of Buyer, its successors or assigns, against Buyer.

(b) Without limiting any other rights Buyers may have, Buyer may, upon rejection and at its option, require Seller to (1) repair or replace at Seller’s expense any goods or items which fail to meet the requirements of this Order or the specifications, drawings, and other requirements of this Order; or (2) to refund the price which may have been paid by Buyer for any such goods.
this Order and which Seller has not marked with a limited rights legend shall not be considered proprietary to Seller or in any way restrict Buyer's use of such data.

13. INDEMNIFICATION
In the event Seller, its officers, employees, agents, suppliers or subcontractors at any tier enter Buyer's premises or utilizes the property of Buyer, whether on or off Buyer's premises, Seller shall defend, indemnify and hold Buyer, its officers, employees and agents, harmless from and against any claim, suit, loss, and expense (including reasonable attorney fees) or any liability whatsoever (including without limitation, all costs, expenses and attorney fees), arising out of any personal injury (death) or any damage to or loss or destruction of property, in any manner based upon, occasioned by, or attributable to performance under this Order whether by Seller, its subcontractors, any employee of Seller or it's sub-contractors, (except where such injury to or death of persons or damage to or loss or destruction of property is due solely to the negligence of Buyer its officers, agents or employees). Seller shall maintain insurance coverage in amounts as follows:

(a) Seller shall indemnify and hold harmless Buyer and Buyer's customers from and against all losses, liabilities, claims, demands, injuries (including death) to Buyer, its employees or any other person, including Seller's employees, arising from or as a result of the performance, actions or omissions of Seller, except for claims arising from the sole and exclusive negligence of Buyer. Seller shall take all precautions, special or otherwise, and shall be responsible for compliance with all local, state and federal safety laws in the performance of the work hereunder.

(b) Automobile Liability: Automobile Liability Coverage shall include coverage for all owned, non-owned, and hired vehicles. Coverage shall be limited to not less than $1,000,000 per occurrence, $4,000,000 per occurrence and aggregate, with loss of use included.

(c) Workers' Compensation: Statutory Workers' Compensation and Employers' Liability insurance in amounts of not less than $1,000,000 each accident, $1,000,000 disease policy limit, and $1,000,000 disease each employee.

(d) Umbrella Liability: Umbrella Liability with limits of $4,000,000 per Occurrence and Aggregate, with such coverage to be written on a follow form basis and shall provide coverage in excess of the underlying (a) General Liability, (b) Automobile Liability including Pollution, and (c) Employers Liability coverage.

(e) Professional Liability: Professional (Errors & Omissions) Liability for consulting or design services (where applicable). The liability limits will not be less than $1,000,000 for each Claim, $1,000,000. Coverage may be provided on a Claims Made basis. If coverage is provided on a Claims Made basis the retroactive date must not be later than the first date services are provided.

(f) General Liability: General Liability additional insured endorsement to include coverage for on-going and completed operations using CG 20 10 07/04 and CG 20 37 07/04, or their equivalent.

14. INSURANCE

15. REMEDIES

16. SETOFF

17. ADVERTISING, PUBLICITY

18. GOVERNMENT COMPLIANCE

19. NO IMPLIED WAIVER

20. NON-ASSIGNMENT

21. RELATIONSHIP OF PARTIES

22. TERM FOR CLAIMS

This Order, together with the attachments, exhibits, or supplements specifically referenced in this Order, constitutes the entire agreement between Seller and Buyer with respect to the matters contained herein. This Order may only be modified by a Purchase Order Amendment issued by Buyer or a written agreement entered into between Seller and Buyer.

ADDRESS INVOICE TO: Control Southern, Inc. 3850 Lakefield Drive Suwanee, GA 30024.
Or email: ask.csi@controlsouthern.com

23. CONSTRUCTION PRESUMPTION

The Section headings in this Order are inserted for convenience only and shall have no effect on the meaning or interpretation of the Order.

24. GOVERNING LAW

(a) This Contract shall be governed by and construed in accordance with the laws of the State of Georgia.

(b) Each of the parties hereto submits irrevocably to the non-exclusive jurisdiction of the courts of the State of Georgia, in Forsyth County, as regards any claim or matter arising under this Contract. c) No action or claim, regardless of form, arising out of transactions under this Contract may be brought by either party, more than two years after the cause of action or claim has accrued.

25. SEVERABILITY

If any term of this Order becomes invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformatted or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule and all other provisions of this Order shall remain in full force and effect.

26. ENTIRE AGREEMENT

Control Southern Purchasing Terms and Conditions

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