Appendix A

SAMPLE TERMS AND CONDITIONS OF PURCHASE

1. This Purchase Order shall be subject to any specific written agreements entered into between the ABA and Seller.

2. OFFER AND ACCEPTANCE. This Purchase Order ("Order") constitutes an offer to Seller expressly limited to the terms herein. The ABA reserves the right to revoke this offer at any time prior to its acceptance. Acceptance shall be effective upon the earlier of (1) commencement of performance by Seller in accordance with the Order, or (2) the twentieth day following the date upon which the ABA issued the Order, unless the Order is expressly rejected by Seller in writing within said twenty-day period. Any terms and conditions set forth in any written acknowledgement or correspondence sent by Seller that modify, add, or delete terms and conditions of the Order are hereby expressly rejected by the ABA and shall have no force or effect. Acceptance of this order includes acceptance off all the terms and conditions specified herein.

3. PACKAGING AND TRANSPORTATION. (a) All shipments shall be packed in accordance with the ABA’s specifications as set forth on the Order, or if none are specified, in accordance with standard commercial practice. Each shipping container shall be clearly labeled to indicate the applicable Order number(s). There shall be no charge to the ABA for boxing, crating or storage of shipments.

(b) Transportation instructions may be provided by the ABA to Seller. In the event that ABA provides such instructions, Seller shall not deviate from them without the prior written consent of the ABA. If no transportation instructions are provided, Seller shall transport goods to assure lowest transportation cost while meeting carrier’s tariff requirements.

4. DELIVERY. Seller shall deliver goods and services in accordance with the delivery schedule set forth in the Order. The delivery schedule sets forth the date on which goods and services are to be received by the ABA. If no delivery schedule is stated, delivery shall occur within a reasonable time. Time is of the essence. Seller shall notify the ABA immediately when Seller has knowledge of any potential delay in delivery.

5. PRICE. (a) Except as set forth in this Section and in the Section entitled “Changes”, the prices specified on the Order shall remain fixed for all scheduled deliveries unless otherwise agreed in writing by both parties. Seller represents that the prices for the goods or services sold to the ABA under the Order are at least as favorable as the prices currently paid by any other customer of Seller, buying the same or similar goods or services in equal or smaller quantities under similar terms and conditions.

(b) Prices include all applicable federal, state or local sales taxes, which shall be the responsibility of the ABA.

6. TERMS OF PAYMENT. (a) Seller shall submit invoices to the ABA only upon delivery of goods or completion of services. The ABA shall issue payment within forty-five (45) calendar days after receipt of a correct invoice, provided Seller has delivered conforming goods or satisfactorily completed service unless other billing terms are agreed to between the parties.

7. TITLE AND RISK OF LOSS. (a) Unless otherwise specified in the Order, all shipments shall be F.O.B. Destination. Seller shall retain title to the goods, pay shipment costs, and bear risk of loss or damage until delivery is made to the ABA at the place designated on the Order. Where Seller is performing integration work or storing or warehousing products. Seller shall be responsible for property damage to equipment while in its care or control. The ABA will not pay for any insurance secured on its behalf by Seller.

8. INSURANCE. Seller shall provide, at a minimum, the insurance coverages specified below:
a. **Commercial General Liability**, including products/completed operations, broad form property coverage, contractor’s protective liability, broad form blanket contractual and property injury liability. *Minimum limits.* $1,000,000 each occurrence and $2,000,000 general aggregate combined single limit for bodily injury and property damage. $1,000,000 products/completed operations aggregate.

b. **Business Auto Liability**, including coverage for owned/non-owned/hired autos. No fault coverage shall be included while applicable. *Minimum limits.* $500,000 combined single limit per accident for bodily injury and property damage.

c. **Workers Compensation Insurance and Employer’s Liability Insurance** (applies only to Seller providing professional services, such as design or consulting architects, surveyors, financial consultants, software design specialists, etc). Minimum limits: $1,000,000 each claim, $1,000,000 annual aggregate. The policy retroactive date must no later than the date that work commenced, and Seller shall continue coverage for a period of not less than two (2) years after the work/services contracted for herein are completed.

d. **Certificate of Liability**. Seller shall provide, if requested by the ABA or its landlords, a Certificate of Liability Insurance evidencing the above coverage. Such Certificate shall indicate that the ABA, its officers, directors, members, agents and employees have been endorsed as additional insured on the Seller’s policy for items (a), (b), and (c) above resulting from the Seller’s operations in the performance of the Order. A separate endorsement indicating the additional insured wording must be issued in addition to the Certificate of Insurance. The Certificate shall also include a provision stating, “The insurance shall be primary insurance as respects to the ABA, its officers, directors, members, agents and employees. Any insurance or self-insurance maintained by the ABA shall be excess and noncontributory with this insurance.” Additionally, Seller shall provide the ABA a thirty (30) day advance written notice of cancellation of any of the above-required insurance policies.

9. **INSPECTION AND ACCEPTANCE OF GOODS OR SERVICES**. All materials furnished must be as specified and will be subject to inspection and approval of the Association after delivery. The right is reserved to reject and return at the risk and expense of the Seller such portion of any shipment which may be defective or fails to comply with specifications without invalidating the remainder of the order. If rejected it will be held for disposition at the expense and risk of the Seller. The ABA may return any nonconforming goods to Seller at Seller’s risk of loss and expense and may suspend payment for nonconforming services until such time as such services are trade conforming. In the event the ABA is acquiring goods or services for the purpose of resale, Seller agrees that (1) the ABA’s customer shall have the right to inspect such goods or services within a reasonable time after delivery, and (2) a rejection of nonconforming goods or services by the ABA’s customer shall equally constitute a rejection of such goods or services by the ABA. In the event the ABA returns nonconforming goods or services to Seller, Seller shall proceed promptly with the replacement or correction thereof. Seller shall not resubmit previously nonconforming goods without prior written approval of the ABA. Goods and services shall be deemed accepted if Seller has not received notice of nonconformance from the ABA within reasonable time after delivery to the ABA. Payment shall not constitute an acceptance of goods or services nor shall payment impair the ABA’s rights to inspect or return nonconforming goods or services or impair any of the ABA’s other remedies.

10. **QUANTITY**. The specific quantity ordered must not be changed without the Association’s permission in writing. Printing orders not quoted as lot or unit pricing may be invoiced at plus or minus a negotiated percentage, or if not specified, the industry accepted percentage of 10% plus or minus based on the actual verified print run.

11. **NON-PERFORMANCE**. The Association reserves the right to cancel this order or any portion of the same if delivery is not made when and as specified, time being of the essence of this order. In such event, the ABA will charge seller for any loss incurred by it.

12. **CHANGES**. The ABA may make changes to the Order including but not limited to, changes regarding (1) drawing, designs, or specifications of the goods or services acquired thereon, (2) the goods or services
acquired therein, (2) the method of shipment or packing or mode of transportation, (3) the place or time of delivery, or (4) the quantity of goods or services to be delivered. If any change affects the time for or cost of performance under the Order, or otherwise materially affects any provision of the Order, an equitable adjustment shall be negotiated in the price or delivery schedule, or such other provisions of the Order as may be affected. All changes and any resulting adjustments shall be accomplished by a written amendment to the Order signed by the ABA.

13. COMPLIANCE WITH LAWS AND REGULATIONS. Seller shall at all times comply with all applicable federal, state, and local laws and regulations.

14. WARRANTY. (a) Seller warrants that services performed hereunder are performed in a workmanlike manner and that goods sold hereunder (1) are free of all liens, claims, and encumbrances, (2) are free from defects in material and workmanship, (3) if designed by Seller, are free from defects in design, and (4) conform to applicable specifications, drawings, samples, or other descriptions referenced on the Order. In addition to the foregoing, Seller shall assign or otherwise make available to the ABA any other standard manufacturer’s warranties that may be applicable.

(b) Seller’s obligation under this warranty is limited, at the ABA’s option, to (1) performing services to the ABA’s satisfaction, (2) repairing or replacing nonconforming goods within thirty (30) days after written notice of nonconformance, or (3) crediting or refunding to the ABA the purchase price of such goods or services. All expenses associated with the return to Seller of nonconforming goods and the delivery to the ABA of repaired or replaced goods shall be borne by Seller.

(c) Except as set forth in this Section, Seller makes no other warranty, either express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The warranty set forth herein shall survive any delivery, acceptance, payment, termination, cancellation, or expiration of the Order and shall run to the ABA, its successors, assigns, customers and users of its products.

15. THE ABA’S REMEDIES. The ABA may, by written notice, cancel the Order, in whole or in part, if Seller (1) fails to deliver goods or perform services in accordance with the delivery schedule, or if no schedule is specified, within a reasonable time, (2) fails to comply with any other provision of the Order and such failure is not cured within ten (10) days after receipt of notice thereof from the ABA, (3) becomes insolvent or makes an assignment for the benefit of creditors or a receiver or similar officer is appointed to take charge of all or part of Seller’s assets, (4) merges with or is acquired by a third party, or (5) attempts to assign any of its rights or delegate any of its obligations under the Order unless such assignment or delegations is consented to in writing by the ABA. In addition to the remedy set forth above, the ABA shall be entitled to all other remedies available at law or in equity as a result of Seller’s breach of the Order. No provision of the Order shall be interpreted as a waiver by the ABA of any existing or future right or remedy available at law or in equity.

16. PUBLICITY. Seller shall not, without the prior written consent of the ABA, advertise or otherwise disclose the fact that Seller has furnished or agreed to furnish goods or services to the ABA under the Order.

17. INDEMNIFICATION. Seller shall, at its sole expense, settle or defend and hold the ABA harmless from and against any and all claims and liability, including, without limitation, damages, awards, expenses, legal liability, legal fees and court costs by reason of loss, property damage or destruction or personal injury of any nature or kind whatsoever arising out of as a result of, or in connection with, the Order which may be or is alleged to be caused in whole, or in part, by the acts or omissions of Seller, its employees, agents or subcontractors.

18. PATENT, COPYRIGHT AND INTELLECTUAL PROPERTY MATTERS. Seller shall settle or defend, at its sole expense (including the payment of all costs and damages awarded) any claim against the ABA, its subsidiaries, affiliates, and their respective customers alleging that goods or services (or any part
or item thereof) furnished under the Order for any use thereof, infringes any patents, copyright, trademark, trade secret, or other intellectual property interest now or hereafter existing in the United States. The ABA shall promptly notify Seller of any such claim. The ABA may actively participate in any such proceedings at its own expense. If a final injunction against the ABA’s use of goods or services results from such a claim (or if the ABA reasonably believes such a claim is likely), Seller shall, at its expense and as the ABA requests, obtain for the ABA the right to continue using the goods or replace or modify the goods or services so they become non-infringing but remain functionally equivalent. Seller shall have no liability for infringements that would not have occurred but for required compliance by Seller with detailed manufacturing specifications, drawings, or instruction originating with and furnished solely by the ABA. This Section states the entire rights and obligations of Seller and the ABA regarding infringement, and shall survive the expiration or termination of the Order.

19. ASSIGNMENT AND SUBCONTRACTS. Neither the Order nor any right or obligation thereunder may be assigned or delegated by Seller without the prior written consent of the ABA. Any attempt to assign or delegate contrary to this Section is void and will have no effect. Furthermore, Seller agrees that it will not subcontract for any portion of the Order without the prior written consent of the ABA.

20. GENERAL. (a) No term or condition in the Order shall be deemed waived by the ABA and no breach excused by the ABA, unless such waiver or consent shall be in writing signed by the ABA. No consent by the ABA to or waiver of a breach by Seller, whether express or implied, shall constitute a consent to waiver of or excuse for any other different or subsequent breach by Seller.

(b) Notwithstanding anything else in the Order, no defaults, delay, or failure to perform on the part or either party shall be chargeable hereunder if such default, delay or failure to perform is due to causes beyond the reasonable control of the party so affected. However, a party may, at its option, cancel the Order if the other party’s excusable default, delay or failure to perform exceeds thirty (30) days in duration.

(c) Seller shall not make or offer a gratuity or gift of any kind to employees of the ABA or their families. Seller shall take all necessary actions to prevent situations which are or may give the appearance of being, a conflict of interest in connection with or in any way related to its relationship with the ABA.

(d) If any terms or conditions of the Order shall be found to be illegal or unenforceable, such term or provision shall be deemed stricken and all other terms and conditions of the Order shall remain in full force and effect.

(e) In no event shall either party be liable to the other for any indirect, special, or consequential damages, including, but not limited to, lost business or profits, whether foreseeable or not, even if such party has been advised of the possibility of such damages. However, notwithstanding the foregoing, for purposes of this Section, any direct damages incurred the ABA’s customers or end users shall be considered the direct damages of the ABA and shall not be subject to the foregoing limitation.

(f) Headings used in the Order are for convenience only and are not be used to interpret the agreement between the parties.

(g) Any notices required or permitted to be given pursuant to the Order shall be in writing, sent via certified mail, return receipt requested, or delivered by hand addressed as set forth on the face of the Order or to such other address may be specified by either party, and shall be deemed to have been given when received.

(h) The Order and any reference attachments hereto constitutes the entire understanding between the ABA and Seller with respect to the purchase of the specified goods and services and supersedes all prior oral and written communications. The Order may be amended or modified only in writing signed by authorized representatives of both parties.

(i) This Order shall be governed by and construed in accordance with the laws of the State of Illinois without regard to the conflict of laws provisions thereof.
21. RECEIVING REQUIREMENTS at 321 North Clark Street, Chicago, Illinois

- Dock hours are 8:30 am to 4:30 pm
- Dock receiving by appointment, call 312/988-6343 with at least 24 hours prior notice.
- Dock able to receive straight trucks and semis
- Maximum pallet size of 42”x 42”
- Maximum height for pallet and load of 48”
- Maximum gross weight for pallet and load of 2,600 lbs.
- All packing slips, shipping papers and invoices must identify purchase order number and part numbers as shown on PO

RECEIVING REQUIREMENTS at 1050 Connecticut Avenue, NW, Washington, DC

- Dock hours are 6 a.m. to 6 p.m.
- The freight elevator must be reserved in advance. All large items must be transported by the freight elevator.
- 24-30 foot straight trucks only. Trucks larger than this will have to park and unload on Connecticut Avenue.
- Loading birth dimensions are 14’ high x 12’ wide x 28’ deep.
- The freight elevator is 139” high x 64” wide x 96” deep. It has a weight limit of 5,000 lbs. Maximum pallet size is 52”. 