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## 1.0 TERMS AND CONDITIONS OF PURCHASE


### 1.1. DEFINITIONS

- “Delivery Location” means the address specified in the Order where the Goods shall be delivered, or the Services shall be performed.
- “Goods” means the goods, equipment, materials, or other articles to be supplied by Seller under the Order.
- “Order” means a purchase order issued by a Buyer facility for the supply of Goods and/or Services.
- “Price” means the price of the Goods and/or Services.
- “Quote” means a written quotation for Goods and/or Services provided to a Buyer facility from Seller.
- “Services” mean any and all services to be performed by Seller under the Order.
- “Seller” means the person, firm, organization, governmental entity, or company identified on the Order supplying the Goods and/or Services.
- “Terms” means these Terms and Conditions of Purchases, the Supplier Quality Assurance Requirements, and any other terms which Buyer may choose to publish on the Websites or otherwise make available to Seller.
- “Buyer” means Aero Metals Alliance, Inc. and any affiliates, subsidiaries, successors or assigns thereof, as expressly designated in the Order, including but not limited to Sunshine Metals, Inc. and Progressive Alloy Steels Unlimited, Inc.
- “Buyer Indemnitees” means Buyer, its affiliates, subsidiaries, successors, assigns, and its respective directors, officers, shareholders, and employees, and Buyer’s customers.

1.1.1. Terms capitalized in these Terms include those that are (1) specifically defined herein or (2) the titles of numbered sections.

### 1.2. APPLICABILITY OF TERMS

1.2.1. These Terms are the only terms which govern the purchase of the Goods and/or Services by Buyer from Seller named on the Order. The accompanying Order and these Terms (collectively, this “Agreement”), comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Seller’s terms and conditions regardless of whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller’s acceptance to these Terms. Fulfillment or other performance under this Order constitutes acceptance of these Terms. No terms or conditions put forward by Seller and no representations, warranties, guarantees, or other statements not contained in the Agreement, nor otherwise

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expressly agreed in writing by Buyer, shall be binding on Buyer. Buyer expressly objects to and rejects any such additional or different provisions.

1.2.2. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sales of the Goods and/or Services covered hereby ("Written Contract"), the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

1.2.3. These Terms are available for download at <https://www.sunshinemetals.com> and <https://www.progressivealloy.com> (the "Websites"). Buyer may change these Terms at any time in its sole discretion. Such changes shall be effective upon posting of such updates on the Websites. Seller is responsible for periodically visiting the Websites to review changes to these Terms.

1.2.4. Seller warrants it has fully reviewed, understands, and can fulfill its obligations under these Terms and agrees to be bound by these Terms and any further changes to them.


### 1.3. PRICE

1.3.1. The Price shall be included in the Order. If no price is included in the Order, the Price shall be the price set out in Seller's published price list in force as of the date of the Order. If no Price is included in an Order and Seller has no published price list, there shall be no acceptance under an Order until a Price is added. Unless otherwise specified in the Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. If the Price includes any taxes from which Buyer is exempt, Seller agrees to reissue the Quote with such taxes removed. No increase in the Price is effective, whether due to increased material, labor, or transportation costs or otherwise, without the prior written consent of Buyer.

### 1.4. NON-EXCLUSIVITY

1.4.1. Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Seller. The Agreement shall not restrict Buyer from acquiring similar, equal, or like Goods and/or Services from other entities or sources, nor shall it restrict Seller from providing similar, equal, or like Goods and/or Services to other entities or sources.

1.4.2. Buyer is not obligated to any minimum purchase or future purchase obligations based on the Agreement.

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### 1.5. SALE OF GOODS AND SERVICES


- 1.5.1. Seller agrees to sell, transfer and deliver the Goods and/or Services to Buyer for the Price, subject to the Agreement.
- 1.5.2. Buyer agrees to purchase the Goods and/or Services, subject to the Agreement, and to pay Seller the Price.
- 1.5.3. Typographical and other clerical errors in the Order are subject to correction.
- 1.5.4. Buyer reserves the right at any time to modify the Order upon notice to Seller. Should any modification increase or decrease the Price, or the time required for performance, Seller must make a request for an equitable adjustment, in writing, within thirty (30) days of receiving notice of modification from Buyer.
- 1.5.5. Seller agrees to obtain from Buyer an Order number for all purchases of Goods and/or Services. Seller will clearly reference the Order number on any applicable invoice(s). Seller acknowledges that any invoice submitted to Buyer that does not clearly reference Buyer's Order number may be considered invalid by Buyer and may result in delayed payment.

### 1.6. PAYMENT

- 1.6.1. Payment shall be made (a) in full but subject to set-off in the amount of any amount owed to Buyer; (b) in United States Dollars; and (c) if payment is not made in advance, within forty-five (45) days of receipt of acceptable invoice unless otherwise agreed to in writing by the parties. Services will be invoiced after they are completed, and Goods will be invoiced after they have been delivered to the Delivery Location.

### 1.7. DELIVERY DATE

- 1.7.1. Seller shall deliver the Goods and/or Services in the quantities and on the date(s) specified in the Order or as otherwise agreed to in writing by the Parties (the "Delivery Date"). If no delivery date is specified in an Order, Seller shall deliver any Goods within ninety (90) days of Seller's receipt of the Order. Timely delivery of the Goods and/or Services is of the essence. If Seller fails to deliver the Goods and/or Services in full on the Delivery Date, Buyer may terminate the Agreement immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods and/or Services on the Delivery Date. Buyer has the right to return any Goods delivered prior to the Delivery Date at Seller's expense and Seller shall redeliver such Goods on the Delivery Date.


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**1.8. ADDITIONAL TERMS APPLICABLE TO THE PURCHASE OF SERVICES**

- 1.8.1. Seller will furnish all equipment, personnel, and material sufficient to provide the Services expeditiously and efficiently, during as many hours per shift and shifts per week, and at such locations as Buyer may so require.
- 1.8.2. Seller will devote only its best-qualified personnel to work under the Agreement and will ensure that all personnel assigned to perform any Services are fully trained and qualified to do so. Should Buyer inform Seller that anyone providing the Services is not working to this standard, Seller will immediately remove such personnel from providing Services and he or she will not again, without Buyer’s written permission, be assigned to provide Services.
- 1.8.3. If the Order designates that Services must be performed by key personnel, Seller shall not substitute any key personnel without prior written approval by Buyer.

**1.9. ADDITIONAL TERMS APPLICABLE TO PURCHASE OF GOODS**

- 1.9.1. Seller shall give Buyer reasonable advance written notice of any production change related to the Goods, including but not limited to any change in the manufacturing process, formulation, raw materials, or production location. For any change that could affect the form, fit, or function of the Goods, Seller shall complete any reasonable qualification processes of Buyer and address Buyer’s concerns about the change.
- 1.9.2. All Goods shall be delivered to the Delivery Location during Buyer’s normal business hours or as otherwise instructed by Buyer.
- 1.9.3. Delivery shall be made as follows: (i) FOB Buyer (in accordance with Incoterms 2020) for domestic shipments, (ii) DDP/DAP BUYER (in accordance with Incoterms 2020) for international shipments, or (iii) in accordance with the terms on the face of the Order. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location.
- 1.9.4. Prices for all Goods should include cost of delivery in accordance with Section 1.3.1 or in accordance with the terms of the Order.
- 1.9.5. Seller shall give written notice of shipment to Buyer when the Goods are delivered to a carrier for transportation. Seller shall provide Buyer all shipping documents, including the commercial invoice, packing list, air waybill/bill of lading and any other documents necessary to release the Goods to Buyer within one (1) business day after Seller

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delivers the Goods to the transportation carrier. The Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence, and any other documents pertaining to the Order.

1.9.6. Title passes to Buyer upon delivery of Goods to the Delivery Location.

1.9.7. All Goods shall be packed for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Buyer prior written notice if it requires Buyer to return any packaging material. Any return of such packaging material shall be made at Seller's risk of loss and expense.

1.9.8. Seller shall: (a) package, label, transport and ship hazardous material, items containing hazardous materials, and any other regulated materials, in accordance with all applicable federal, state, and local laws, rules, ordinances and regulations; and (b) furnish any appropriate Material Safety Data Sheets. Seller, prior to each hazardous or regulated material shipment, shall notify Buyer of: (i) every article ordered or supplied under the Order or stored or to be used by Seller on Buyer property that contains hazardous materials or any other regulated materials for which the law requires a Material Safety Data Sheet; and (ii) the nature and shipment data for such material, which shall be communicated in a manner that will allow for Buyer's proper preparation for acceptance of delivery and shall be identified on all shipping documents.

1.9.9. Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind the Order in its entirety; accept the Goods at a reasonably reduced price; or reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate the Agreement. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under the Order, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

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## 1.10. TERMINATION

1.10.1. In addition to any remedies that may be provided under these Terms, Buyer may terminate the Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or Seller's performance of the Services. In no circumstances shall Seller deliver any Goods and/or perform any Services after receiving notice of termination. Upon receipt of a termination notice, Seller shall immediately refund any pre-paid fees. If Buyer terminates this Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.


## 1.11. SELLER'S WARRANTIES

1.11.1. Seller warrants to Buyer that it shall perform the Services using its best efforts, skill, judgment, using personnel or required skill, experience and qualifications and in a professional and workmanlike manner in accordance with best industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement, and abilities to deliver the Goods and/or perform the Services, and to further the interests of Buyer in accordance with Buyer's requirements and procedures, and in accordance with the highest standards of Seller's profession or business.

1.11.2. Seller warrants to Buyer that for a period of twenty-four (24) months from the Delivery Date, all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications, drawings, designs, samples and other requirements specified by Buyer; (c) be fit for their particular purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights.

1.11.3. These warranties survive any delivery, inspection, acceptance, or payment of or for the Goods or Services by Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods and/or Services with the foregoing warranties.


1.11.4. If Buyer gives Seller notice of noncompliance with this Section, Seller shall, at its own cost and expense, promptly replace or repair the defective or nonconforming Goods and/or re-perform all Services, and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Buyer.

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## 1.12. SELLER'S REPRESENTATIONS

1.12.1. Seller hereby further represents, warrants, covenants, and agrees to Buyer as follows:

- 1.12.1.1. Seller is duly organized, validly existing and in good standing and has the power and authority to execute and deliver, and to perform its obligations under, the Agreement.
- 1.12.1.2. The Agreement is Seller's legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).
- 1.12.1.3. Seller shall obtain and maintain all permits necessary for the exercise of its rights and performance of Seller's obligations under the Agreement, including any permits required for the import of Goods or any raw materials and other manufacturing parts used in the production and manufacture of the Goods, and the shipment of hazardous materials, as applicable.
- 1.12.1.4. To the best of its knowledge, neither Seller nor any of its principals are presently debarred, suspended, proposed for debarment, the subject of an indictment involving the criminal statutes enumerated in 22 Code of Federal Regulations §120.27, or otherwise declared ineligible for the award of contracts by any Federal agency. Seller shall provide immediate written notice to Buyer if at any time Seller learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 1.12.1.5. Seller shall act in a manner consistent with Buyer's Code of Conduct, which is available for review at <https://www.aerometalsalliance.com> or upon request. Buyer may change such policy at any time in its sole discretion.
- 1.12.1.6. Seller will deliver the Goods and/or perform the Services in compliance with all applicable national, federal, state, local, and municipal, laws, regulations, codes, ordinances and orders, including all rules and regulations of the appropriate authority having governing authority in any jurisdiction over Seller and/or any of the Services or Goods being supplied (collectively, the "Applicable Laws"). Seller will cause its employees, representatives, agents, and subcontractors to comply with the Applicable Laws.
- 1.12.1.7. As required by Section 889(a)(1)(B) of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), Seller has conducted a reasonable inquiry to determine whether any Goods or Services provided by

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Seller to Buyer use “covered telecommunications equipment or services” as defined in Federal Acquisition Regulation (FAR) clause 52.204-25(a) as a substantial or essential component of any system, or as critical technology as part of any system. To date, Seller has not identified that any Goods or Services provided by Seller to Buyer use “covered telecommunications equipment or services.” Seller shall notify Buyer within one (1) business day of any change to Seller’s certification hereunder.

1.12.1.8. If Seller is required to be on Buyer’s premises as part of the Agreement, Seller and its representatives will adhere to Buyer’s reasonable compliance, safety, and security policies and procedures, including any required citizenship verification, and will use commercially reasonable efforts not to interfere with Buyer’s regular operations.


1.12.1.9. Seller shall maintain complete and accurate records pertaining to the provisions of Goods or Services under this Agreement, including records of time spent and materials used by Seller in providing the Services or Goods for a period of ten (10) years from the date of final provision of Goods or Services under the relevant Order. During the term of this Agreement and for a period of ten (10) years after the provision of the Goods or Services based on the relevant Order, Seller shall allow Buyer to inspect and make copies of such records and interview Seller personnel in connection with the provision of Goods and Services.

1.12.1.10. The Parties agree that this Section and all of its subparts are a material inducement for the execution of the Agreement. Any violation of this Section or its subparts will be regarded as a breach of the Agreement and shall entitle the other Party to seek damages and/or injunctive relief.

**1.13. FORCE MAJEURE**

1.13.1. Neither Party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that Party, without such Party's fault or negligence, and which by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable (each a “Force Majeure Event”) provided that the Party that is prevented from carrying out its obligations hereunder (the “Affected Party”) (a) notifies the other Party (the “Non-Affected Party”) immediately of any Force Majeure Event, and (b) uses its reasonable best efforts to mitigate and remedy the adverse effects of such a Force Majeure Event. Force Majeure Events include, but are not limited to, acts of God or the public enemy, a failure to furnish necessary information, sabotage, failures or substitutions of equipment, labor disputes, accidents, shortages of labor, shortages of fuel or raw materials or equipment, technical failures, government restrictions, floods, fire, earthquakes, explosion, epidemic, pandemic, war, invasion, hostilities,



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terrorist acts, riots, strike, embargoes or industrial disturbances. Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. If a Force Majeure Event prevents Seller from carrying out its obligations under the Order for a continuous period of more than five (5) business days, Buyer may terminate the Agreement immediately by giving written notice to Seller. In the event of termination due to a Force Majeure Event, Buyer shall be entitled to a refund of any pre-paid fees.

**1.14. INDEPENDENT CONTRACTOR**


1.14.1. Buyer and Seller are not (and nothing in the Agreement may be construed to constitute them as) partners, agents, representatives, or employees of the other, nor is there any status or relationship between them other than that of independent contractors. Buyer shall not control or have the right to control what Seller does or how Seller performs the work. Neither Party has any responsibility nor liability for the actions of the other Party except as specifically provided in the Agreement. Neither Party has any right or authority to bind or obligate the other Party in any manner or make any representation of warranty on behalf of the other Party. Seller shall receive no compensation except that set forth in the Agreement and Seller shall not be entitled to any of the benefits, perquisites, or emoluments of employment normally provided to Buyer employees.

**1.15. CHANGE ORDERS**

1.15.1. Buyer may at any time, by written instructions and/or drawings issued to Seller (each a “**Change Order**”), order changes to the Services or the Goods. Seller shall within ten (10) days of receipt of a Change Order submit to Buyer a firm cost proposal for the Change Order. If Buyer accepts such cost proposal, Seller shall proceed with the changes subject to the cost proposal and the terms and conditions of this Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in Seller's compensation or the performance deadlines under the Agreement.

**1.16. NOTICES**

1.16.1. Any notice of dispute, claim, lawsuit, or any other official communication given under the Order to either Party shall be in writing and shall be deemed delivered when received by certified first class mail, registered mail, overnight courier, or by electronic mail. All such notices shall be addressed to the Parties at the addresses set forth on the face of the Order or to such other address that may be designated by the receiving Party in writing. In addition, a copy shall be sent to:

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Attn: Josh James  
22 Fielder Street  
Denison, TX 75020  
[jjames@aurums.com](mailto:jjames@aurums.com)

**1.17. DISPUTES**

1.17.1. The parties shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under the Agreement notwithstanding any such dispute, except at the written direction of Buyer. Nothing in this Section shall prevent and/or prohibit either Party from exercising any right available to it, either at law or in equity.


**1.18. INDEMNIFICATION**

1.18.1. Seller shall defend, indemnify, and hold harmless Buyer and Buyer Indemnitees against any and all loss, injury, death, damage, liability, claim, arbitration, deficiency, action, judgment, interest, award, penalty, fine, royalty, interest, cost, or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, “Losses”; each a “Loss”) that arise out of or occur in connection with: (a) the Goods or Services purchased from Seller; (b) Seller’s negligence, willful misconduct, or breach of these Terms; (c) the performance or non-performance of any subcontractor of Seller; or (d) any claim that Buyer's or Buyer Indemnitees’ use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade secret, or other intellectual property right of any third party.

1.18.2. Seller shall not enter any settlement without Buyer’s or Buyer Indemnitees’ prior written consent.

1.18.3. No provision of the Agreement will be given effect that attempts to: (a) waive any applicable sovereign immunity, or (b) require Buyer to defend, hold harmless, or indemnify any entity, individual, or third party for any acts or omissions.

1.18.4. Any Party entitled to indemnification (the “Indemnified Party”) under the Agreement shall give notice to the indemnifying party (the “Indemnifying Party”) of any claims that may be subject to indemnification, promptly after learning of such claim and, at the sole option of the Indemnified Party, the Indemnifying Party shall assume the defense of such claims with counsel reasonably satisfactory to the Indemnified Party.

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**1.19. INSURANCE**

1.19.1. For the duration of the Agreement, Seller shall, at its own expense, maintain and carry insurance in full force and effect, which comports with Buyer’s insurance requirements set forth on the Websites or in the Order. Upon Buyer’s request, Seller shall provide Buyer with a certificate of insurance from Seller’s insurer evidencing the insurance coverage specified in these Terms.


**1.20. CONFIDENTIAL INFORMATION AND SENSITIVE DATA**

1.20.1. All non-public, confidential or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form of media, and whether or not marked, designated or otherwise identified as “confidential” in connection with this Agreement shall be “Confidential Information.” Seller acknowledges that all Confidential Information is and shall remain the sole property of Buyer.

1.20.2. Seller agrees that it: (a) will not use, disclose, or grant use of such Confidential Information except as required to perform under the Agreement; (b) shall only disclose Confidential Information to those within its organization who need to use it in performance of the Order; and (c) shall not disclose Confidential Information to third parties unless it obtains Buyer’s prior written consent. Seller agrees to promptly notify Buyer upon discovery of any unauthorized use or disclosure of the Confidential Information.

1.20.3. Seller further agrees to maintain the confidentiality of Confidential Information for a period of five (5) years following expiration or termination of the Agreement. Notwithstanding the foregoing, in the case of any information constituting a trade secret under applicable law, Seller’s confidentiality obligations under this Agreement shall survive until such information, if ever, loses its trade secret status other than due to an act or omission of Seller or its representatives.

1.20.4. If Seller determines that it must disclose to Buyer any sensitive or classified information or data (“Sensitive Data”) (which shall include but not be limited to personally identifiable information, controlled unclassified information, classified information, or protected health information), Seller agrees to identify to Buyer such data and the classification thereof prior to disclosure. If Buyer determines that it cannot handle the Sensitive Data in accordance with any applicable requirements, Buyer will notify Seller not to disclose the Sensitive Data and Seller shall not do so.

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1.20.5. If Seller receives any Sensitive Data from Buyer, Seller agrees to comply with all applicable laws and regulations governing such Sensitive Data.

**1.21. ADVERTISING, PUBLICITY, NAMES, AND MARKS**

1.21.1. Each Party agrees to obtain the other Party’s written consent, in each instance, prior to doing any of the following: (i) using any names, service marks, trademarks, trade names, logos, insignias, other identifying names, domain names, or identifying marks of the Party ("Marks"), including in any publicity, advertising, promotional materials, news releases, or websites; (ii) issuing a press release or public statement regarding the Agreement or naming the other Party; or (iii) representing or implying any endorsement or support of any Good or Service in any public or private communication on the part of the other Party.


1.21.2. Either Party may use the name of the other Party in a document required to be filed with, or provided to, any governmental authority or regulatory agency to comply with applicable legal or regulatory requirements.

**1.22. EXPORT COMPLIANCE**

1.22.1. To the extent applicable, Seller shall comply with the most current export control and sanctions laws, regulations, and orders applicable at the time of the export, re-export, transfer, disclosure or provision of Goods or Services including, without limitation, the (i) Export Administration Regulations ("EAR"); (ii) International Traffic in Arms Regulations ("ITAR"); (iii) the Office of Foreign Assets Control Regulations ("OFAC"); and (iv) any other applicable laws and regulations (collectively, "Export Control Laws").

1.22.2. Seller shall not export, re-export, transfer, disclose or otherwise provide Buyer’s technical data controlled by Export Control Laws ("Technical Data") to any foreign persons or foreign commercial entities unless Seller receives advance, written authorization from Buyer. Any subcontracts between foreign persons in the approved country for manufacture of Goods or provision of Services shall contain all the limitations of this Section, shall comply with all applicable Export Control Laws, and shall be subject to all applicable export licenses or authorizations. Upon completion of its performance under the Agreement, Seller and its subcontractors shall destroy or return all Technical Data to Buyer.

1.22.3. Seller shall notify Buyer in writing prior to disclosure of any Technical Data or other items subject to Export Control Laws. Seller will reasonably cooperate with and support Buyer in obtaining the correct Export Control Classification Number, the harmonized Tariff Schedule number, the United States Munitions List Category Numbers, or other classification of a defense article.

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1.22.4. The Parties agree that each may retain one archival copy of all documents for the purposes of (a) proving what information it did or did not receive hereunder in the event of a future dispute, or (b) complying with governmental regulatory requirements.

**1.23. INTELLECTUAL PROPERTY**

1.23.1. The title to any tangible property – including, but not limited to materials, goods, equipment, apparatuses, documents, and literary property (e.g., plans, drawings, manuscripts, artwork, motion pictures, video programs, and computer software) – provided to Seller by Buyer or produced by Seller in submitting a Quote or in carrying out an Order for Buyer shall be vested in Buyer, and Seller agrees to return or deliver such tangible property to Buyer upon request. Seller hereby expressly assigns to Buyer all rights, including without limitation, all intellectual property rights, copyrights in and to any documents or property produced by Seller for Buyer.


1.23.2. In the event the Agreement relates to Services, every work or idea created or acquired by or on behalf of Seller for Buyer (past and future) shall be considered a “work made for hire” on behalf of Buyer. It is the intent of the Parties that Buyer shall have unrestricted ownership in and to all such works and to any derivative works, without further compensation of any kind to Seller. To the extent that the law would fail to automatically vest in Buyer, the full unrestricted ownership of all such works under “work made for hire” treatment or similar concepts, Seller hereby assigns to Buyer the rights, including without limitation, all intellectual property rights, in and to every such work, including any derivatives, and Seller waives any claim of moral right that it may have in or in connection with such work.

**1.24. LIMITATION OF LIABILITY**

1.24.1. IN NO EVENT SHALL BUYER OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES ARISING OUT OF OR RELATING TO ANY BREACH OF THE AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED; OR (D) THE FAILURE OF ANY WARRANTIES.

**1.25. ASSIGNMENT AND SUBCONTRACTING**

1.25.1. Buyer shall be entitled to assign its rights or obligations hereunder without the prior written consent of Seller.

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1.25.2. Seller shall not be entitled to assign, transfer, delegate, or subcontract its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve Seller of any of its obligations hereunder.

**1.26. COMPLETE AGREEMENT AND WAIVER**

1.26.1. The Agreement and any Written Contract shall constitute the complete understanding and contract between Seller and Buyer with respect to the subject matter hereof and supersedes any prior written or oral understandings with regard thereto. No purported amendment, modification, or waiver of any provision of the Agreement shall be binding on Buyer unless set forth in a written document signed by an authorized representative of Buyer. Any waiver shall be limited to the circumstance or event specifically referenced in the written waiver document and shall not be deemed a waiver of any other term of the Agreement between Seller and Buyer or of the same circumstance or event upon any recurrence thereof. Any waiver shall be in writing and provided to all parties. Failure to insist upon strict performance of any of these Terms, or failure or delay to exercise any rights provided herein or by law, shall not be deemed a waiver of any rights of any party hereto.

**1.27. SEVERABILITY**

1.27.1. If any provision hereof is determined to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.


**1.28. NO THIRD PARTY BENEFICIARIES**

1.28.1. The Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**1.29. AMENDMENT AND MODIFICATION**

1.29.1. No change to these terms is binding unless it is in writing, specifically states that it amends these Terms, and is signed by an authorized representative of Buyer.

1.29.2. No change to an Order is binding unless it is in writing, specifically states that it amends the Order, and is signed by an authorized representative of Buyer.

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**1.30. SURVIVAL**

1.30.1. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Terms, including but not limited to, the following provisions: Insurance, Confidential Information and Sensitive Data, Submission to Jurisdiction, Compliance with Law, and Survival.

**1.31. GOVERNING LAW**


1.31.1. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Delaware.

**1.32. SUBMISSION TO JURISDICTION**

1.32.1. Any party may commence any action, litigation, or proceeding of any kind whatsoever against any other party in any way arising from or relating to this Agreement and all contemplated transactions, including but not limited to, contract, equity, tort, fraud, and statutory claims, in the Northern District of Illinois or, if such court does not have subject matter jurisdiction, the courts of the State of Illinois sitting in Cook County, and any appellate court from any thereof. Each party submits to the nonexclusive jurisdiction of such courts and agrees that any such action, litigation or proceeding may be brought in such courts. Each party agrees that a final judgment in any such action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

**1.33. ORDER OF PRECEDENCE**

1.33.1. In the event of an inconsistency or conflict between or among the provisions of the Agreement, the inconsistency or conflict will be resolved by giving precedence in the following order: (a) the Order; (b) these Terms; and (c) any other agreement or document signed by authorized signatories of both Parties.

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Revision history maintained within ETQ.

Approvers		
Revision	Revision Effective Date	Revision Approvers
00	Jan 1, 2025	Jacob Mullins