

## **Terms And Conditions Of Sale**

### **1. Scope and Applicability.**

These Terms and Conditions of Sale ("Terms"), including the Seller's (as defined herein) order acknowledgment or similar documents, which by reference are incorporated herein and made a part hereof, (collectively, the "Agreement"), apply to the sale of goods (the "Goods") by Geissele Automatics of North Wales, Inc., and its affiliates, including Geissele Automatics, LLC, Gwynedd Manufacturing, Inc., and ALG Defense (collectively "Geissele" or "Seller"). These Terms shall apply to, and are an integral part of, all Geissele quotations, offers, order acknowledgments, invoices (and similar documents), and the sales of Goods to any Buyer ("Buyer"). The sale of Goods by Geissele is expressly conditioned upon Buyer's acceptance of these Terms, which acceptance may be express or implied. By placing an order with, sending a purchase order to, or requesting a quotation from Seller, Buyer hereby acknowledges that Buyer has carefully reviewed, understands, and accepts these Terms as the only terms and conditions that apply to Seller's sale of Goods. Any terms and conditions of the Buyer that are inconsistent with these Terms, that attempt to supplement these Terms, or that deviate from these Terms, shall not be considered to have been added and agreed upon, even if they are known, and they are hereby explicitly rejected. For avoidance of doubt, Geissele expressly objects to and rejects any Buyer terms and conditions that have been or may in the future be included as part of any purchase order, procurement document, or other communication from Buyer. Geissele's failure to object to provisions contained in any document or communication from Buyer shall not be deemed to waive any provision herein, or to accept any different terms and conditions communicated by Buyer. No course of prior dealings between Buyer and Geissele and no usage of the trade will be relevant to supplement, interpret, or explain these Terms.

### **2. Prices, Costs, Fees and Taxes.**

All pricing is subject to change without notice prior to an agreement and after an agreement as set forth herein. Except where specifically indicated in Seller's written proposals, quotations, offers, or other sales documents, all listed prices are exclusive of applicable taxes, including, but not limited to, sales or excise taxes, value added taxes, import duties (including brokerage fees) or other taxes or fees applicable to the manufacture or sale of any Good, however designated or imposed. All applicable taxes shall be the responsibility of and paid by Buyer unless Buyer provides a proper tax exemption certificate acceptable to Seller and the applicable taxing authorities. Any amounts paid at any time by Seller that are the responsibility of Buyer, such as export license fees, shall be invoiced to Buyer and shall be reimbursed by Buyer to Seller. Buyer shall also be responsible for all shipping and transportation costs and any costs of insurance selected by Buyer.

### **3. Delivery.**

Seller shall use reasonable efforts to meet Buyer's requested shipment date; however, Buyer acknowledges that any shipment date specified by Geissele is an estimated and projected shipment date and that time of shipment by Geissele is not of the essence. The estimated shipment date provided by Geissele is based upon prompt receipt of all necessary information from Buyer. Geissele will not be liable for any delays, loss, or damage in transit, and failure to deliver within the time estimated will not be a material breach of the Agreement on Geissele's part. Geissele reserves

the right to ship the Goods or any portion thereof in advance of any anticipated shipment date and partial deliveries shall be permitted.

#### **4. Payment Terms.**

Except for international orders and sales directly to consumers, which must be paid in full prior to shipment, payment terms shall be net thirty (30) days from the date of invoice, unless Geissele, in its sole discretion, requires from Buyer full or partial payments in advance before proceeding with the order. If amounts are not paid when due, interest will accrue on any unpaid balance at a rate of one and one-half percent (1.5%) per month, or the maximum rate permitted by law, whichever is more. All payments are to be in United States dollars. Buyer shall be responsible for and will bear the responsibility of Geissele's reasonable costs and expenses to collect delinquent accounts, including but not limited to, attorneys' fees and costs of legal action and/or collection.

#### **5. Inspection, Rejection and Acceptance.**

Buyer shall notify Geissele in writing of any visible defects, quantity shortages, or incorrect shipments, within seven (7) days of delivery of the Goods. Failure to notify Geissele within seven (7) days shall constitute acceptance of the Goods and be deemed an unqualified waiver by Buyer of any rights to reject or return the Goods on the basis of visible defects, shortages, or incorrect shipments.

#### **6. Risk of Loss.**

All sales are FOB origin. Risk of loss shall pass to Buyer as soon as the Goods have been placed with a transport agent. Geissele shall retain title to the Goods until Geissele receives payment in full from the Buyer.

#### **7. Order Cancellation.**

- a. Geissele shall have the right to cancel any order in whole or in part, in its sole discretion, for any reason, with or without notice to Buyer. Nothing in this Agreement shall be construed to limit any right or remedy of Geissele at law or in equity. All rights and remedies of Geissele under this Agreement and at law and in equity are cumulative and not mutually exclusive, and the exercise of one shall not be deemed waiver of the right to exercise any other.
- b. Buyer's Cancellation for Convenience: Buyer may cancel delivery without penalty if the cancellation is received by Seller more than sixty (60) days from the anticipated or quoted shipping date, provided that: (1) Buyer shall accept delivery and pay Geissele the contract price for all Goods completed at the time of such cancellation; (2) for Goods which are works in progress and not completed at the time of cancellation, the Buyer shall pay Geissele an amount equal to the percentage complete multiplied by the contract price; and (3) Buyer shall pay promptly Geissele the costs of settling and paying claims relating to termination of the work of Geissele's subcontractors and vendors, relating to the cancellation.
- c. Buyer's Cancellation for Default: If Geissele does not ship Goods by an order's shipping date, and Buyer provides written notice with at least ninety (90) days for Geissele to cure, and after such cure period Geissele is unable to complete delivery, then Buyer may cancel

the order in whole or in part. Under no circumstances shall any delay in receiving a necessary approval from any government entity for shipment or receipt of Goods give rise to a default on the part of Geissele, or to Buyer's right to cancel an order in whole or in part. Notwithstanding any termination for default, Buyer shall accept and pay Geissele the contract price for all conforming Goods shipped prior to such termination.

- d. Nonstandard Goods, Custom Goods, Goods Made to Buyer's Specifications: For nonstandard or custom goods, or goods made to Buyer's specifications, Buyer shall not be permitted to cancel their order without Geissele's written consent. If the Goods are custom orders which cannot be salvaged or reworked and Buyer agrees to pay the full price for such items and supplies stocked for that order plus any tooling costs, storage or other applicable costs, Geissele may, in its sole and absolute discretion, elect to accept the cancellation.

#### **8. Buyer's Specifications and Indemnification.**

- a. Where the Goods are supplied according to Buyer's specifications, Buyer shall indemnify, defend, and hold harmless Geissele and its affiliates, officers, directors, shareholders, managers, agents, employees, servants, successors and assigns ("Geissele Indemnitees") as to any liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, and expenses (including, without limitation, attorneys' fees and litigation costs) suffered by Geissele ("Losses") with respect to: (a) any claim that the Goods infringe any patent, copyright, trademark, trade secret, design, or other intellectual property right or proprietary or similar rights; and (b) any claim that the Goods were incorrectly or improperly installed. The Buyer shall further indemnify, defend, and hold harmless the Geissele Indemnitees against Losses arising from or related to any claim resulting from: (x) any negligent act or omission, or willful misconduct by the Buyer; or (y) the Buyer's default or breach of any of its obligations under the Agreement. To the extent Buyer is incorporating the Goods sold by Geissele into a product Buyer shall sell to an end user, Buyer shall indemnify, defend, and hold harmless Geissele and the Geissele Indemnitees from and against all Losses arising out of or related in any way to that finish product into which the Goods were incorporated.
- b. Where work is performed according to Buyer's specifications or using material supplied by Buyer, Geissele is neither: (a) liable for any error, omission, or inaccuracy in the drawings or specifications provided or approved by Buyer and is under no obligation to check or confirm the conformity, accuracy, or adequacy of patents, regulatory requirements, standards, drawings, or specifications provided to Geissele by Buyer, nor (b) obliged to install the Goods correctly or properly.

#### **9. Limited Warranty.**

Geissele warrants that the Goods are free from defects in material and workmanship for a period of four (4) years from the date of purchase by a consumer either directly from Geissele or through an authorized Geissele dealer ("Original Owner"). This warranty only applies to the Original Owner and any transfer of the Goods by the Original Owner voids this warranty. Firearms purchased for use in, or which are used in, a commercial setting (e.g., range rentals) are specifically excluded from this warranty.

Geissele's Limited Warranty does not warrant the Goods against normal wear and tear and certain "Wear Items" which are items consumed or expended by its normal use including springs, pins, barrels, and similar items are only covered for one (1) year from date of purchase. Certain user actions such as improper maintenance, product misuse (including criminal misuse, negligence, or use under the influence of drugs or alcohol), accidental damage, or damage caused by improper handling, unapproved modifications to the product, defective or improper ammunition, or corrosion, or any other damage due to exposure to the elements may void the warranties above. Accessories from other manufacturers (e.g., scopes, suppressors, flash hiders, sights, slings, parts with glass or electronic components, etc.) may be warranted by their original manufacturers but are not covered by this limited warranty.

Defective, reloaded, and/or improper ammunition and any damage resulting therefrom is also not covered by this limited warranty. Geissele Automatics shall, in its sole and absolute discretion, make the final determination as to causation of any damage and whether its Goods are defective.

All warranty claims must be submitted to Geissele in accordance with its Return Material Authorization ("RMA") process, which can be found at <https://geissele.com/support/#warranty>

In the event of a warranty claim pursuant to this Section, Geissele will, at its sole discretion, either, without charge other than charges for shipping and insurance, (i) repair the Goods, including replacing defective parts with new or refurbished parts, or (ii) replace the Goods with Goods of equal or greater value. If Goods are replaced pursuant to this Section, Geissele will keep such returned Goods.

Warranty claims to replace components lost or damaged due to user error may incur, at Geissele's sole discretion, a fee for the replacement parts.

Neither issuance of a RMA nor performance of any warranty service or repair, nor provision of any replacement part, shall, under any circumstances, extend the warranty period hereunder. The Buyer's sole and exclusive remedy shall be as set forth herein.

**UNLESS OTHERWISE REQUIRED BY LAW, IN NO EVENT SHALL GEISSELE BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE, OR ANY INCIDENTAL, PUNITIVE, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO BUYER'S USE OR INABILITY TO USE GEISSELE'S GOODS, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF GEISSELE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**THIS LIMITED WARRANTY IS IN LIEU OF, AND GEISSELE DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT ANY IMPLIED WARRANTIES MAY NONETHELESS EXIST BY OPERATION OF LAW, SUCH WARRANTIES ARE LIMITED TO THE DURATION PROVIDED BY LAW.**

#### **10. Limitation of Liability.**

**IN NO EVENT WILL GEISSELE HAVE ANY OBLIGATION OR LIABILITY (WHETHER IN CONTRACT, WARRANTY (EXPRESS OR IMPLIED), TORT (INCLUDING NEGLIGENCE) OR OTHERWISE; AND NOTWITHSTANDING ANY FAULT, NEGLIGENCE (WHETHER ACTIVE, PASSIVE OR IMPUTED), REPRESENTATIONS, STRICT LIABILITY, OR PRODUCT LIABILITY OF GEISSELE FOR COVER OR FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, DIRECT OR INDIRECT DAMAGES, OR PUNITIVE DAMAGES, OR DELAY, LOSS OF REVENUE, PROFIT, SAVINGS OR BUSINESS, OR LOSS OF GOODWILL ARISING FROM OR OTHERWISE RELATED TO THE GOODS OR A SALE BY GEISSELE TO BUYER (OR FROM BUYER TO END USER), EVEN IF GEISSELE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. GEISSELE'S MAXIMUM AGGREGATE LIABILITY (WHETHER ARISING IN CONTRACT, WARRANTY, TORT, OR OTHERWISE) WITH REGARD TO THE GOODS OR THE SALE OF GOODS BY GEISSELE TO BUYER (OR FROM BUYER TO END USER) WILL IN NO EVENT EXCEED THE PURCHASE PRICE PAID BY BUYER FOR THE PARTICULAR GOODS WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED.**

#### **11. Confidential Information.**

Except as required by law, neither Party shall use, except for purposes connected with the performance of its obligations to the other hereunder, divulge or communicate to any third party any information provided by the other that it reasonably knows or should know to be confidential. In addition, all information that Buyer acquires or obtains from Seller hereunder, directly or indirectly, and all information that arises out of the sale of the Goods hereunder, concerning such Goods, and/or the proprietary manufacturing processes involved, including information concerning Seller's current and future business plans, information relating to Seller's operations, know-how, and other Seller-furnished information shall be deemed Seller's "Proprietary Information". Buyer shall: (a) hold Seller's Proprietary Information in strictest confidence, (b) not disclose it to others, (c) use it solely for purposes of this Agreement, and (d) upon Seller's request, either promptly deliver to Seller all such Proprietary Information that is in written, electronic, or other form, including copies and summaries, or, at Seller's option, destroy such Proprietary Information and provide Buyer certification of such destruction. Neither Party shall be bound by the obligations of confidentiality created hereunder with respect to any information that it can show through written evidence was already known to it at the time of disclosure, is or becomes publicly known through no wrongful act of such Party, or is rightfully received by such Party from a third party who has the right to disclose such information without restrictions as to confidentiality. The Parties agree that money damages would not be a sufficient remedy for any breach of its obligations of confidentiality hereunder and, in addition to all other remedies available under applicable law or provided for herein, that each Party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach. The Parties waive any requirement for the posting of any bond or other security in connection therewith. The obligations under this Section shall survive the expiration or termination of any order, these Terms, and/or the Agreement.

#### **12. Intellectual Property Rights.**

Geissele reserves all intellectual property rights in and to the Goods supplied hereunder and the proprietary manufacturing processes related thereto, including, but not limited to, patent, copyright, trade dress, and trade secret. Buyer shall not reverse engineer, decompile, duplicate or attempt to do so or the like with respect to any Geissele Good. The trademarks, trade dress, and

service marks of Geissele may be used publicly only with prior written permission from Geissele. The absence of any marking, name, or logo shall not constitute a waiver of any intellectual property rights that Geissele may possess in any of its Goods, service marks, or logos. No license is transferred or intended to be transferred by this Agreement with respect to any Geissele Good or its associated intellectual property.

### **13. Force Majeure.**

Geissele shall not be liable for any damage or penalty for failure to perform its obligations under the Agreement, including, but not limited to, delay in shipment or delivery, or for failure to give notice of delay, when such delay or failure to perform is due to causes beyond its reasonable control, including, but not limited to, the elements, acts of God, acts of the Buyer, act of civil or military authority, acts of war, terrorist acts, riots, pandemics, concerted labor action, strikes or other labor disturbances, delays in transportation, fuel or energy shortages, or shortages of materials. Geissele's obligation to perform shall be deemed extended for a period of time equal to the time lost due to any such excusable delay plus a reasonable recovery period.

### **14. Compliance with Laws.**

Buyer warrants and represents that they are lawfully entitled to purchase the item(s) requested and are doing so for lawful purposes and shall comply with all federal, state, and local laws, rules, and regulations pertaining to the Goods purchased or received under this Agreement. Buyer is advised that the Goods purchased or received from Geissele under this Agreement, as well as any related drawings, samples, or technical manuals, may be subject to U.S. export and re-export control laws and regulations or similar laws applicable in other jurisdictions, including the Arms Export Control Act (AECA), the International Traffic in Arms Regulations (ITAR), the Export Administration Act, the Export Administration Regulations (EAR), and trade and economic sanctions regulations maintained by the Office of Foreign Assets Control. In addition, assembly of Geissele parts or placing accessories onto Geissele Goods, and/or their transport or resale may violate applicable laws, rules, or regulations and are done at Buyer's sole risk. Buyer expressly assumes all responsibility and all liability for its conduct and compliance with all laws, rules, and regulations, and Geissele expressly disclaims any responsibility or liability therefor. Buyer agrees to indemnify, defend, and hold Geissele harmless from all sums, costs, liabilities, and expenses and all loss, expense, damage, liability, claims, and demands, either at law or in equity, arising out of or relating in any way to any of Buyer's actions or failures to act lawfully as they relate to Geissele's Goods.

### **15. Assignment.**

These Terms bind and inure to the benefit of Geissele, its successors and assigns. Geissele may assign any right and/or obligation under these Terms without notice to or consent of Buyer. Buyer may not assign any right or interest hereunder or in relation to any sale of Goods by Geissele to Buyer nor delegate the performance of any of its obligations without Geissele's prior written consent. Any assignment or attempted assignment by Buyer in contravention of the foregoing shall be null and void, shall be considered a breach of this Agreement, and shall permit Geissele, in addition to any other rights that it may have, to terminate the Agreement.

### **16. Subcontracting.**

Geissele shall be entitled at all times to delegate or subcontract any part of the work to be provided under these Terms or any order for the sale of Goods, at its sole and absolute discretion.

#### **17. Notices.**

Any notice hereunder shall be deemed to have been given if sent by email or prepaid first class mail to the Party concerned at its last known address. Notice to Geissele shall be in writing to Geissele Automatics, 800 North Wales Rd., North Wales, PA 19454.

#### **18. Waiver.**

Failure by Geissele to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

#### **19. Governing Law; Venue; Dispute Resolution.**

This Agreement and Geissele's sale of the Goods, and all claims or causes of action (whether in contract, tort, or statute) that may be based upon, arise out of, or relate to, this Agreement and/or the sale of Goods (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or Geissele's sale of any Goods) shall be governed by, construed in accordance with, and all disputes governed by the laws of the Commonwealth of Pennsylvania, specifically including the provisions of the Uniform Commercial Code, as adopted by Pennsylvania, and without regard to principles of conflicts of laws or the provisions of the Convention on the International Sale of Goods. Buyer submits exclusively to the jurisdiction of the courts in the Commonwealth of Pennsylvania and any disputes arising out of or related to the Agreement and/or Geissele's sale of the Goods shall be brought and maintained in the state or federal courts situated in Montgomery County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania. The Buyer consents to the jurisdiction of such courts and waives any right to jury trial and agrees that all proceedings shall be heard and decided by a judge without a jury. In the event Geissele is involved in any litigation with respect to this Agreement, Geissele shall recover from Buyer its costs and attorneys' fees incurred in enforcing or defending its rights hereunder.

#### **20. Severability.**

In the event that any provision of this Agreement or any word, phrase, clause, sentence or other portion thereof, is held to be unenforceable or invalid by any competent court, authority, or tribunal for any reason, such provision or portion thereof shall be modified or deleted in such a manner so as to make this Agreement as modified legal and enforceable to the fullest extent permitted under applicable law, and the remainder of this Agreement shall be interpreted so as best to effect the intent of the Parties. In addition, if any provision of this Agreement is held to be excessively broad, it shall be reformed and construed by limiting and reducing it so as to be enforceable to the maximum extent permitted by law.

#### **21. Advertising and Announcements.**

Buyer shall not advertise or publicly announce the fact Buyer has contracted with Geissele for the supply of Goods without Geissele's prior written consent.

## **22. No Third-Party Beneficiaries.**

Unless otherwise stated herein, this 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.

## **23. Statute of Limitations.**

All rights of Buyer to commence any court action or proceeding with respect to or arising out of the Agreement shall terminate one (1) year after the cause of action has accrued.

## **24. Remedies Cumulative.**

Geissele's rights and remedies for the sale of Goods shall be cumulative, non-exclusive, and in addition to any other rights and remedies available at law or in equity. Waiver of any breach by Geissele shall not constitute waiver of any other breach of the same or any other provision. Shipment of any Goods by Geissele shall not waive any breach.

## **25. Interpretation.**

The captions and headings used in these Terms are provided for convenience only and shall not be used to construe meaning or intent. In addition, each Party hereto acknowledges and agrees that: (a) it/their counsel reviewed and agreed to these Terms; (b) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of the Terms; (c) these Terms shall be construed fairly as to both parties hereto and not in favor of or against either party, regardless of which party was generally responsible for the preparation; and (d) the use of "include," "includes," or "including" herein shall not be limiting and "or" shall not be exclusive.

## **26. Survival.**

Provisions of these Terms and the Agreement that by their nature should apply beyond their terms will remain in force after any termination or expiration of the subject order including, but not limited to, the following provisions: Indemnification, Compliance with Laws, Import/Export Controls, Governing Law, Venue, Disputes, and Survival. In addition, the obligations of Buyer to Seller shall survive termination of the subject order.

## **27. Entire Agreement and Amendment.**

These Terms and any documents or agreements specifically incorporated by reference constitute the entire agreement for the Buyer's purchase of the Goods. These Terms and any documents or agreements incorporated herein by reference may only be amended with Geissele's express written agreement. Buyer once again affirms, as first set forth above, that by placing an order with, sending a purchase order to, or requesting a quotation from Seller, Buyer has carefully reviewed, understands, and accepts these Terms as the only terms and conditions that apply to Seller's sale of Goods.