The following Terms & Conditions apply to all dealings and transactions between the customer and all of its respective affiliates, successors, predecessors, subsidiaries and related entities (collectively, “Customer”), and Elemetal, LLC, Elemetal Direct USA, LLC and all of their respective affiliates, successors, predecessors, subsidiaries and related entities (collectively, “Elemetal”). Customer and Elemetal agree to be bound by each and all of these General Terms & Conditions, and agree to the terms and conditions herein for their convenience of reference only and will not affect the meaning or construction of any provision hereof.

1. ARBITRATION.  CUSTOMER AND ELEMETAL AGREE THAT ANY CLAIM OR DISPUTE BETWEEN CUSTOMER AND ELEMETAL ARISING IN ANY WAY FROM ANY DEALINGS OR TRANSACTION(S) BETWEEN CUSTOMER AND ELEMETAL OR FROM THESE T&C, INCLUDING THE DETERMINATION OF THE SCOPE OR APPLICABILITY OF THIS AGREEMENT TO ARBITRATE, [COLLECTIVELY, “DISPUTE”], WILL BE RESOLVED EXCLUSIVELY BY ARBITRATION UNDER THE RULES OF THE TEXAS GENERAL ARBITRATION ACT, PURSUANT TO THE FEDERAL ARBITRATION ACT, IF APPLICABLE, OR OTHERWISE PURSUANT TO THE TEXAS GENERAL ARBITRATION ACT, CONDUCTED IN THE ENGLISH LANGUAGE BEFORE A SINGLE ARBITRATOR IN DALLAS, TEXAS, AT THE OPTION OF THE FIRST PARTY TO FILE AN ARBITRATION IN ANY SUCH CASE, AT THE ARBITRATOR’S DISCRETION, THE ARBITRATOR MAY IMPOSE COMPREHENSIVE ARBITRATION RULES & PROCEDURES, OR BY THE AMERICAN ARBITRATION ASSOCIATION PURSUANT TO ITS RULES AND PROCEDURES FOR COMMERCIAL ARBITRATION. THE ARBITRATION WILL BE HELD SOLELY BY ONE PERSON, UNLESS CUSTOMER AND ELEMETAL AGREE TO HAVE TWO ARBITRATORS PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. ANY DECISION RENDERED IN SUCH ARBITRATION IS BINDING ON EACH PARTY, AND JUDGMENT MAY BE ENTERED IN ANY COURT OF COMPETENT JURISDICTION. FEES AND EXPENSES OF THE ARBITRATION WILL BE COLLECTIVELY BORNE BY CUSTOMER AND ELEMETAL WILL EACH BE RESPONSIBLE FOR THEIR OWN ATTORNEYS’ FEES AND COSTS, AND THE ARBITRATOR HAS NO DISCRETION TO SHIFT ATTORNEYS’ FEES OR COSTS OF ARBITRATION TO ELEMETAL, PROVIDE OR DECLARE THAT IN THE EVENT CUSTOMER PRESENTS A CLAIM TO ELEMETAL UNDER A FORWARD TRANSACTION AS DESCRIBED IN PAR. 14, CUSTOMER WILL BE RESPONSIBLE FOR ALL LEGAL AND OTHER EXPENSES INCURRED BY ELEMETAL INCLUDING BUT NOT LIMITED TO ATTORNEYS’ FEES AND COSTS AND ANY ARBITRATION FEES AND COSTS AS A RESULT OF SUCH DEFAULT, IF CUSTOMER BRINGS AN ACTION AGAINST ELEMETAL IN ANY PROCEEDING OTHER THAN INDIVIDUAL ARBITRATION AS REQUIRED BY THESE T&C, OR UNSUCCESSFULLY CHALLENGES OR FAILS TO COMPLY WITH THE ARBITRATOR’S DECISION, THE ARBITRATOR WILL COUNTERSIGN THE DECISION OF ELEMETAL, AND CAN REQUIRE CUSTOMER TO PAY ALL EXPENSES INCURRED BY ELEMETAL INCLUDING BUT NOT LIMITED TO ATTORNEYS’ FEES AND COSTS IN COMPELLING ARBITRATION, ENFORCING THIS ARBITRATION PROVISION OR DEFENDING OR ENFORCING THE ARBITRATION AWARD.

2. Customer is responsible and liable for insuring and shipping its precious metal products, gem/stone-bearing products, and recyclable electronics. The electric charge, or “EDC”, is the electric charge that is associated with the transfer of precious metal or other items from Customer to Elemetal. Elemetal is not responsible for Material lost, destroyed, stolen, or damaged in transit.

3. Customer will provide a separate, completed Elemetal packing list (or equivalent) with each submitted lot that includes a complete description of the contents (condition, quantity and gross/face/weight), Elemetal-assigned contract number, services requested (e.g., stone removal), and declared value of any gems/stone to be removed. Elemetal is not responsible for any loss or damage claimed if Customer fails to provide the required packing-list information.

4. Customer will ship or deliver such deleterious Material to Elemetal at its sole risk. The薄膜 manner of delivery shall be at the sole discretion of Elemetal.

5. If any provision of these General Terms & Conditions is found by a court of competent jurisdiction to be invalid, it will be enforced according to its terms to the maximum extent consistent with applicable law, and the remaining provisions will nonetheless be valid and enforceable. The waiver by either party of any provision of these General Terms & Conditions shall inure to the benefit of any third person so as to constitute such person a third-party beneficiary hereto or give rise to any cause of action in any such person.

6. If any provision of these General Terms & Conditions is found by a court of competent jurisdiction or an arbitrator to be wholly or partly invalid, the remaining provisions will nonetheless be valid and enforceable.

7. The waiver by Elemetal of any Customer breach of these General Terms & Conditions or failure to enforce any of its rights hereunder shall not be construed as a waiver of any subsequent breach by Customer or of a waiver of other rights of Elemetal.

8. Any notice or demand under these General Terms & Conditions shall be given personally, by certified mail or by facsimile transmission.

9. ELEMETAL IS NOT LIABLE FOR LOSS, DAMAGE, OR DESTRUCTION OF REAL PROPERTY OR PERSONAL PROPERTY, OR LOSS, DAMAGE OR DESTRUCTION OF ANY TREASURY IN ANY PROCEEDING OTHER THAN INDIVIDUAL ARBITRATION AS REQUIRED BY THESE T&C, OR UNSUCCESSFULLY CHALLENGES OR FAILS TO COMPLY WITH THE ARBITRATOR’S DECISION, THE ARBITRATOR WILL COUNTERSIGN THE DECISION OF ELEMETAL, AND CAN REQUIRE CUSTOMER TO PAY ALL EXPENSES INCURRED BY ELEMETAL INCLUDING BUT NOT LIMITED TO ATTORNEYS’ FEES AND COSTS IN COMPELLING ARBITRATION, ENFORCING THIS ARBITRATION PROVISION OR DEFENDING OR ENFORCING THE ARBITRATION AWARD.

10. If Elemetal makes a typographical, mathematical or other error in its calculation of purchase price for any Material delivered to or on behalf of Customer and approves the revised price which exceeds the original price, Customer agrees to pay the revised prices and immediately deliver the Material to Elemetal.

11. If Customer provides a typographical, mathematical or other error in its calculation of purchase price for any Material delivered to or on behalf of Customer and approves the revised price which does not exceed the original price, Customer agrees to pay the revised prices and immediately deliver the Material to Elemetal.

12. Customer acknowledges that Elemetal’s flat-rate shipping fee may exceed the actual fee charged for shipping material or other items to Customer. Elemetal will charge for shipping material or other items to Customer.

13. Pricing. Due to continually-changing market prices, Elemetal offers to purchase or sell Material only for a period of five (5) business days or delivery payment within 2 business days unless otherwise agreed in writing after the lock-in date.

14. Customer represents and warrants to Elemetal that: (a) Customer has good and marketable title to Material, (b) all rights and legal interests therein are free of all liens, encumbrances, liabilities and adverse claims of any kind, and Customer will fully defend, protect, indemnify and hold Elemetal harmless from any adverse claim thereto; (b) the Material Customer provides to Elemetal will originate from, relate to, further, or be involved in any transaction that is criminal, illegal, illicit, or otherwise prohibited; (c) in no event will the Material Customer provides to Elemetal be derived in any way from any type of activity that is criminal, illegal, illicit, or otherwise prohibited; and (d) the Material Customer provides to Elemetal will originate from, relate to, further, or be involved or associated with any type of real property or personal property, or loss, damage or destruction of any treasuries, in any proceeding other than individual arbitration as required by these T&C

15. Elemetal will charge Customer a flat rate for shipping Material or other items to Customer.

16. If Elemetal makes a typographical, mathematical or other error in its calculation of purchase price for any Material delivered to or on behalf of Customer and approves the revised price which does not exceed the original price, Customer agrees to pay the revised prices and immediately deliver the Material to Elemetal.

17. Customer represents and warrants to Elemetal that: (a) Customer has good and marketable title to Material, (b) all rights and legal interests therein are free of all liens, encumbrances, liabilities and adverse claims of any kind, and Customer will fully defend, protect, indemnify and hold Elemetal harmless from any adverse claim thereto; (b) the Material Customer provides to Elemetal will originate from, relate to, further, or be involved in any transaction that is criminal, illegal, illicit, or otherwise prohibited; (c) in no event will the Material Customer provides to Elemetal be derived in any way from any type of activity that is criminal, illegal, illicit, or otherwise prohibited; and (d) the Material Customer provides to Elemetal will originate from, relate to, further, or be involved or associated with any type of real property or personal property, or loss, damage or destruction of any treasuries, in any proceeding other than individual arbitration as required by these T&C

18. If any provision of these General Terms & Conditions is found by a court of competent jurisdiction or an arbitrator to be wholly or partly invalid, the remaining provisions will nonetheless be valid and enforceable.

19. The waiver by Elemetal of any Customer breach of these General Terms & Conditions or failure to enforce any of its rights hereunder shall not be construed as a waiver of any subsequent breach by Customer or of a waiver of other rights of Elemetal.

20. Customer authorizes Elemetal to make such credit, criminal, and other background investigations as it deems necessary in connection with its business and financial affairs of Customer, and (b) consist of transfers made in the ordinary course of business and for ordinary business purposes, without notice, consent or approval of Elemetal. The薄膜 manner of delivery shall be at the sole discretion of Elemetal.

21. Transactions. All payments received by Elemetal from Customer in exchange for the shipment of Material to Customer constitute contemporaneous exchanges for new value within the meaning of section 475(11) of the United States Bankruptcy Code. Transactions between Customer and Elemetal will not be included in the bankruptcy estate of Customer or any Debtor or affiliate of Customer. The薄膜 manner of delivery shall be at the sole discretion of Elemetal.

22. Death of Customer. Customer agrees that if Customer dies or becomes incapacitated or for any reason becomes unable to fulfill or otherwise perform any of its obligations hereunder, then Elemetal shall have the sole discretion to (a) terminate the pending transaction and reclaim any Material or monies provided by Elemetal to Customer and (b) retain any monies due to the agent or its successor, without any further act or process required. The薄膜 manner of delivery shall be at the sole discretion of Elemetal.

23. Investment Risks. Customer understands and acknowledges that: (a) all investments, including precious metal, coins and bullion, involve risk, (b) the value of precious metal, coins and bullion may be affected by many economic factors, including current market prices, perceived scarcity, quality, and current demand, (c) investing in precious metal, coins and bullion may not be suitable for all investors.
24. LIMITATION OF LIABILITY. NOTWITHSTANDING THE CONTRARY IN THESE GENERAL TERMS & CONDITIONS, UNDER NO CIRCUMSTANCES SHALL ELEMETAL BE LIABLE TO CUSTOMER FOR ACTUAL DAMAGES, LOST PROFITS, DAMAGE TO REPUTATION, LOST BUSINESS OPPORTUNITY, LOST TIME, OR ANY OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR CONSEQUENTIAL LOSSES OR DAMAGES INCURRED BY CUSTOMER FOR BREAK OF ANY AGREEMENT ARISING OUT OF OR RELATING TO THE TRANSACTIONS CONTEMPLATED HEREIN. IN ADDITION TO THE INDEMNITY OBLIGATIONS SET FORTH IN PAR. 14, CUSTOMER AGREES THAT IN NO EVENT WILL ELEMETAL BE LIABLE TO CUSTOMER FOR ANY LOSS OF OR DAMAGE TO MATERIAL, INCLUDING BUT NOT LIMITED TO ANY DAMAGE OCCURRING DURING HANDLING, PROCESSING, STONE REMOVAL OR SHIPPING, SHALL BE AT THE RISK OF THE CUSTOMER AND DECLARED ACTUAL WEIGHT ON THE BILL OF LADING FOR SHIPPING PURPOSES, 2) THE ACTUAL, PROVEN AMOUNT PAID BY CUSTOMER FOR THE MATERIAL, OR 3) WITH RESPECT TO GEMS/STONES, THE AMOUNT OF FEES PAID BY CUSTOMER TO ELEMETAL FOR REMOVAL SERVICES, NOT TO EXCEED $500.

25. Changes of Ownership. Customer will promptly provide written notice to ELEMETAL of any changes to the ownership of Customer’s business within 15 days of such change.

26. DISCLAIMER OF WARRANTIES. CUSTOMER AGREES THAT NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, SHALL BE BINDING UPON ELEMETAL UNLESS EXPRESSED IN WRITING HEREIN. ELEMETAL SPECIFICALLY DISCLAIMS AND CUSTOMER ACKNOWLEDGES AND ACCEPTS THAT ELEMETAL DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTEES AND REPRESENTATIONS OF ANY KIND, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF GOOD AND WORKMANLIKE PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, LAW, USAGE OR TRADE PRACTICE. ELEMETAL EXPRESSLY DISCLAIMS ANY REPRESENTATION OF QUALITY, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, LAW, USAGE OR TRADE PRACTICE, TO ELEMETAL’S GEMS/STONE REMOVAL SERVICES, TO ANY FORWARD CONTRACT ENTERED INTO BY ELEMETAL, ANY SERVICES PROVIDED BY ELEMETAL, OR ANY OTHER ASPECT OF CUSTOMER’S DEALINGS OR TRANSACTIONS WITH ELEMETAL.

27. Confidentiality. Customer and ELEMETAL will maintain the confidentiality of any and all non-public information concerning the disclosing party’s business or its products which the receiving party may obtain. Any and all non-public information shall be used by the receiving party exclusively for its business purposes and shall remain the property of the disclosing party. Customer shall do everything necessary to prevent any unauthorized use of any confidential or proprietary information.

28. Intellectual Property. ELEMETAL reserves the right to protect its intellectual property. Customer acknowledges that ELEMETAL is the owner of all rights, including all copyrights and trademarks, in and to all ELEMETAL websites. ELEMETAL shall apply all reasonable efforts and due care or otherwise by any act or omission, disclose to any person whatsoever or use or exploit any confidential or proprietary information, interpretations, other documents, technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential or proprietary nature and have been disclosed to such parties by any other party or its agent and likewise in confidence.

29. Indemnification. Customer agrees to indemnify, defend and hold ELEMETAL, its officers, agents and employees, and its successors and assigns, harmless from and against any and all claims, suits, recoveries, demands, judgments, settlements, costs, fees, and all liability or responsibility for (a) any injury, disability or death, (b) personal or property damage or loss, (c) any other injuries to any third party or property of any third party, and (d) any liability or responsibility for any act or omission, disclosure to any person whatsoever or use or exploit any confidential or proprietary information.

30. Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be resolved by arbitration in accordance with the rules of the American Arbitration Association, before a single arbitrator. The costs of arbitration shall be borne equally by the parties or as the arbitrator shall otherwise direct.

31. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Colorado, U.S.A., without giving effect to any choice or conflicts of law provision or rule. Customer agrees that any action brought hereunder may be brought in any state or federal court of competent jurisdiction located in the state of Colorado and that customer consents to the personal jurisdiction of such courts.

32. Entire Agreement. This Agreement, along with any other agreements, exhibits, schedules, or attachments between the parties, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, written or oral, with respect to the subject matter hereof. No modification of or supplement to this Agreement is binding unless it is signed by Customer and ELEMETAL.

33. Indemnification. In the event of any third party action against ELEMETAL for any cause, whether based in law or equity, and whether or not such cause of action is related to Customer’s business, then Customer agrees to indemnify ELEMETAL and hold it harmless from and against all claims, demands, judgments, settlements, costs, and expenses, including any reasonable attorneys’ fees and expenses, for which ELEMETAL may become liable in connection with such third party action.

34. 翻译：

24. 限制赔偿责任。除非本一般条款和条件中另有规定，否则对于因任何原因而产生的任何实际损害、利润损失、声誉损害、失去商机、失去时间或其他间接、偶然、特殊或后果性损失或损害，ELEMETAL均不承担任何赔偿责任。

25. 改变所有权。客户必须在业务所有权改变之日起15日内书面通知ELEMETAL。

26. 否认保证。本协议中未以书面形式表达的所有保证、条件、保证和代表，无论是书面或口头的、明示或默示的，均不对ELEMETAL具有约束力。

27. 保密。客户和ELEMETAL将保持对任何非公开信息的保密性。ELEMETAL保留所有权利，包括所有版权和商标，对于披露方的业务或其产品的任何非公开信息。任何非公开信息仅用于业务目的和归披露方所有。

28. 知识产权。ELEMETAL保留其知识产权的权利。客户承认ELEMETAL是所有权利的拥有者，包括所有版权和商标。

29. 保证。客户同意保证、辩护并使ELEMETAL、其官员、代理和雇员，及其各自继承人和受让人，就任何和所有索赔、诉讼、索赔、判决、和解、费用、或者对任何人的任何责任或责任，免于赔偿。

30. 解决争议。任何因本协议而引起的争议应通过美国仲裁协会根据其规则由一名仲裁员仲裁解决。仲裁费用应由双方平均分担，或由仲裁员另行决定。

31. 治理法律。本协议连同任何其他协议、附件或附录，构成了双方就双方所涉及的事项的全部协议和理解，并取代了任何先前的协议或理解，无论是书面或口头的。

32. 全部协议。本协议以及任何其他协议、附件或附录构成双方之间的全部协议和理解，并取代了任何先前的协议或理解，无论是书面或口头的。

33. 侵权。在任何第三方针对ELEMETAL的任何行为中，无论是基于法律还是基于公平，无论是与客户业务有关还是无关，客户同意为ELEMETAL及ELEMETAL的任何代表及代理人赔偿并保障其不受任何索赔、判决、和解、费用，包括任何合理的律师费和费用，ELEMETAL可能因此而承担。

34. 翻译：

24. 限制赔偿责任。除非本一般条款和条件中另有规定，否则对于因任何原因而产生的任何实际损害、利润损失、声誉损害、失去商机、失去时间或其他间接、偶然、特殊或后果性损失或损害，ELEMETAL均不承担任何赔偿责任。

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28. 知识产权。ELEMETAL保留其知识产权的权利。客户承认ELEMETAL是所有权利的拥有者，包括所有版权和商标。

29. 保证。客户同意保证、辩护并使ELEMETAL、其官员、代理和雇员，及其各自继承人和受让人，就任何和所有索赔、诉讼、索赔、判决、和解、费用、或者对任何人的任何责任或责任，免于赔偿。

30. 解决争议。任何因本协议而引起的争议应通过美国仲裁协会根据其规则由一名仲裁员仲裁解决。仲裁费用应由双方平均分担，或由仲裁员另行决定。

31. 治理法律。本协议连同任何其他协议、附件或附录，构成了双方就双方所涉及的事项的全部协议和理解，并取代了任何先前的协议或理解，无论是书面或口头的。

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