



Kenton County School District | It's about ALL kids.

Issue Paper

DATE:

June 27, 2022

AGENDA ITEM (ACTION ITEM):

Consider/Approve submitting a credit application with Avari Aerospace for the Kenton County School District as indicated on the attached application.

APPLICABLE BOARD POLICY:

01.11 General Powers of the Board. The Board may borrow money on the credit of the Board.

HISTORY/BACKGROUND:

Ignite Institute will offer a new Logistics Drone class this fall and will need to purchase drones and related equipment utilizing the Logistics Drones Bid. Avari Aero is requesting a credit application be submitted in order to accept District purchase orders.

FISCAL/BUDGETARY IMPACT:

None

RECOMMENDATION:

Approval to submit the credit application with Avari Aerospace for the Kenton County School District as indicated on the attached application.

CONTACT PERSON:

Cinda Roberts, Purchasing Agent


Principal/Administrator


District Administrator


Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.
Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

Please complete the application below by filling in the fields. If you are viewing it on the web, you should first save it to your computer using *File/Save As*. Email the completed application to sales@avariaero.com

APPLICANT COMPANY INFORMATION			
Company Name: Kenton County Board of Education			
Address: 1055 Eaton Drive			
City: Ft. Wright	State: KY	Zip: 41017	
Phone: 859-344-8888	Fax: 859-344-1531		
President/CEO: Dr. Henry Webb, Superintendent	A/P Contact: Katie Smith		
Principal Owner Name (if not Pres/CEO): N/A			
Principal Owner Home Address: N/A			
Applicant Firm is: <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> LLC <input type="checkbox"/> Proprietorship			
Federal Tax ID # or Social Security # if a proprietorship:			
Corporation or LLC Formed:		State of Incorporation:	
<input type="checkbox"/> Subsidiary <input type="checkbox"/> Division			
Parent Company Name:			
Address:			
City:	State:	Zip:	
Will the Parent Company guarantee debts? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Please indicate your company's primary line of business:			
<input type="checkbox"/> System Integrator	<input type="checkbox"/> Service Provider	<input type="checkbox"/> VAR	
<input type="checkbox"/> Water/Power/Utility	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Government	
<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Charitable Organization	<input type="checkbox"/> Other: _____	

BANK REFERENCE			
Bank: See Attached			
Address:			
City:	State:	Zip:	
Phone:	Contact:	Account #:	

CREDIT REFERENCES			
Company 1:	See Attached	Account #:	
Address:			
City:	State:	Zip:	
Phone:	Fax:	Contact:	
Company 2:		Account #:	
Address:			
City:	State:	Zip:	
Phone:	Fax:	Contact:	



CREDIT APPLICATION

Company 3:	Account #:	
Address:		
City:	State:	Zip:
Phone:	Fax:	Contact:

CREDIT TERMS AND CONDITIONS

Applicant warrants that the included information is true and accurate. I/we hereby authorize Avari Aero, LLC and/or affiliates. to contact the references to investigate Applicant's credit and financial responsibility. I certify that on behalf of Applicant, I am familiar with the terms provided by "Terms and Conditions" document by Avari Aerospace, and that failure to abide by the terms and conditions shown may result in interest and/or late fees being assessed to Applicant's account if no other superseding agreements are made in writing and signed by all parties.

Authorized Signature: X	Print Name:	Date:
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Avari Aerospace Terms and Conditions

Revision 2022.01

SUPPLY AND USE OF THE PRODUCTS AND SERVICES

During the Term, the Supplier shall supply and the Client shall purchase Product(s) and Services in accordance with the terms and conditions detailed herein. A completed purchase by the client of the supplier's products or services shall constitute acknowledgement of, acceptance of, and agreement to the terms and conditions detailed herein.

Unless otherwise agreed between the parties in writing Products are intended for a non-military use only.

The Client shall be responsible for paying any tax and/or customs and duties and paying for and obtaining all necessary import/export regulation documentation or certificates, including but not limited to (i) the US Export Administration Regulations (EAR); (ii) the US International Traffic in Arms Regulations (ITAR); (iii) international non-proliferation regimes, including (without limitation) the Chemical Weapons Convention, the Australia Group and the Wassenaar Arrangement; (iv) sanctions and embargoes imposed by the US Department of Treasury and/or the UK Government; (v) EC Regulation No. 428/2009; (vi) the UK Export Control Act 2002 and Export Control Order 2008; (vii) US and UK import laws; and (viii) any equivalent laws anywhere in the world (Import/Export Legislation).

The Client shall ensure that the Products will not be exported, sold, diverted, transferred or otherwise disposed of in violation of the Import/Export Legislation, either in their original form or after being incorporated into other items.

The Client shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for the Client's actual or alleged breach of the Import/Export Legislation. This clause 2.5 shall survive termination of these Terms and Conditions.

These Terms and Conditions apply to the purchase to the exclusion of any other terms that the Client seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing.

EDUCATIONAL PRODUCTS

All educational products and content are subject to full copyright of Avari Aero LLC. No content to be shared without express, written permission from Avari Aero LLC.

Additionally, all course licenses including STL files and associated designs are sold for the instructional use of the buying educational institution or individual and are not to be used for commercial purposes or distributed for sale or free without express, written permission from Avari Aerospace. Depending on the

product multiple licenses may be required to be purchased for each person. Please ask about multi buy discounts.

ORDERS

No Order shall be deemed to be accepted by the Supplier until it issues an invoice to the Client or (if earlier) the Supplier notifies the Client that the Order is ready for collection. The agreement between the parties will only be formed at that point.

Each Order shall:

- be given in writing or, if given orally, shall be confirmed in writing within two Business Days;
- specify the type and quantity of Products and/or Services ordered;
- specify the Client's proposed end-use of the Products; and
- unless the parties agree that the Client may specify the date after placing the Order, specify the date by which the Order is to be ready for collection (Delivery Date).

The Supplier shall assign an Order Number to each Order it accepts and will notify such Order Numbers to the Client. Each party shall use the relevant Order Number in all subsequent correspondence relating to the Order.

The Client may at any time prior to the Delivery Date amend or cancel an Order for Products by written notice to the Supplier. If the Client amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of deemed receipt of the amendment or cancellation, except that where the amendment or cancellation results from the Supplier's failure to comply with its obligations under these Terms and Conditions the Client shall have no liability to the Supplier in respect of it.

Where the Client's proposed end-use of the Products is for Commercial Operations then the Client will be responsible to (i) obtain any operational waivers or licenses necessary from the FAA and (ii) take out and maintain the necessary insurances as detailed in clause 11.

MANUFACTURE, QUALITY AND PACKING

The Supplier shall build, pack and supply the Product with reasonable skill and care in accordance with generally accepted industry standards and practices.

The Supplier warrants that:

4.2.1 the Products supplied to the Client by the Supplier under these Terms and Conditions shall, for the warranty periods specified per product after Delivery:

4.2.1.1 materially conform to the Supplier's Specification or the Client's Specification (as applicable);

4.2.1.2 be of satisfactory quality and materially fit for any purpose held out by the Supplier; and

4.2.1.3 comply with all applicable statutory and regulatory requirements in the USA.

4.2.2 the Services supplied to the Client by the Supplier under these Terms and Conditions shall:

4.2.2.1 be supplied with reasonable care and skill; and

4.2.2.2 comply with all applicable statutory and regulatory requirements in the USA.

Where the Product is built by the Supplier in accordance with the Client's Specification, the Client shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Client's Specification. This clause 4.4 shall survive termination of these Terms and Conditions.

DELIVERY

If the Client has opted to collect the Order then it shall collect each Order from the Supplier's premises at 7711 Affinity Drive, Cincinnati, OH 45231 (Delivery Location) (unless otherwise directed) on the Delivery Date or within three Business Days of the Supplier notifying the Client in writing that the Order is ready for collection. If the Client has opted for the Order to be shipped then the Supplier will deliver the Order by courier as agreed at the time of Order.

The Supplier offers optional basic training in the use and maintenance of the Products at the time of collection which is included in the Estimate Provided and/or Product Price and/or as determined applicable by the supplier. The Supplier can also provide industry specific training packages (including where the Client intends to use the Product(s) for Commercial Operations) as detailed in Schedule 3. The Supplier does not accept any liability for loss and/or damage caused as a result of the Client failing to follow the Supplier's instructions with regard to use and maintenance of the Products.

Delivery of an Order shall be completed on the completion of loading of the Order at the Delivery Location.

Delays in the delivery of an Order shall not entitle the Client to:

- refuse to take delivery of the Order; or
- claim damages; or
- terminate these Terms and Conditions.

The Supplier shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by the Client's failure to comply with its obligations under these Terms and Conditions.

If the Client fails to take delivery of an Order within three Business Days of the Supplier notifying the Client that the Order is ready for collection, then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under these Terms and Conditions:

- delivery of the Order shall be deemed to have been completed at 9.00am on the third Business Day following the day on which the Supplier notified the Client that the Order was ready for collection; and
- The Supplier shall store the Order until delivery takes place, and charge the Client for all related costs and expenses (including insurance).

Each Order shall be accompanied by a delivery note from the Supplier showing the Order Number, the date of the Order, the type and quantity of Products and/or Services included in the Order and, in the case of an Order being delivered by installments, the outstanding balance of Products remaining to be delivered.

Packaging materials shall remain the Supplier's property and the Client shall make them available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

ACCEPTANCE AND DEFECTIVE PRODUCTS

6.1 The Client may reject any Products delivered to it that do not materially comply with clause 4.2, in accordance with the provisions of clause 6.2.

6.2 The Supplier offers a Return and Refund Service, a Replacement Service and a Warranty Repair Service, the qualifying details for which are as follows:

6.2.1 Return and Refund Service

The Client can request this within seven calendar days of Delivery if the Product has a manufacturing defect. The Supplier will not provide the Return and Refund Service where:

- Service is requested more than seven calendar days from Delivery;
- The returned Product does not include all original accessories, attachments or packaging, or any Product is not in a new or like-new condition, i.e. with cracks, dents or scratches;
- Legal proof of purchase, receipts or invoices are not provided or are reasonably believed to have been forged or tampered with.
- Any fault or damage of the Product is caused by unauthorized use or modification of the Product, including exposure to moisture, entry of foreign bodies (water, oil, sand etc) or improper installation or operation;
- Product labels, serial numbers, waterproof marks, etc show signs of tampering or alteration;
- Damage is caused to the Product by uncontrollable external factors, including fire, floods, high winds or lightning strikes; and/or
- A Product is not delivered to the Supplier within seven calendar days after Return and Refund Service confirmation is sent by the Supplier

Excluding the factors related to time periods these are collectively defined as the "Disqualifying Factors".

6.2.2 Replacement Service

The Client can request this within fifteen calendar days after Delivery if (i) the Product does not comply with the Client Specification or the Supplier Specification (as appropriate) in one or more significant respects or (ii) if the Product suffers performance failure.

The Supplier will not provide the Replacement Service where:-

- Service is requested more than fifteen calendar days after Delivery;
- A Product is not delivered to the Supplier within seven calendar days after Replacement confirmation is sent by the Supplier; and/or
- Any of the Disqualifying Factors apply

6.2.3 Warranty Repair Service

The Client can request this within the time periods specified in Schedule 4 where (i) the Product has not been subjected to abnormal or unauthorized use as intended by the manufacturer during the warranty period, (ii) Product labels, serial numbers, water damage marks, false proof mark etc, show no signs of tampering or altering, (iii) no unauthorized disassembling, modification or installation has been performed on the Product or a component and (iv) the Client provides a valid proof of purchase, receipt or order number.

The Supplier will not provide the Warranty Repair Service where:-

- Crash or fire damage caused by non-manufacturing factors;
- Damage caused by unauthorized modification, disassembly, or shell opening not in accordance with the official instructions or manuals;
- Damage caused by improper installation, incorrect use or operation not in accordance with the official instructions or manuals;
- Damage caused by unauthorized repair;
- Damage caused by unauthorized circuit modification and mismatch or misuse of the battery or charger;
- Damage caused by flights which did not follow the instruction manual recommendations;
- Damage caused by operation in bad weather (i.e. strong wind, rain, sand/dust storms, etc);
- Damage caused by operating the Product in an environment with electromagnetic interference (i.e. a mining area, close to radio transmission towers, high-voltage wires, substations, etc);
- Damage caused by operating the Product in an environment containing interference from other wireless devices (i.e. transmitter, video-link, Wi-Fi signals etc);
- Damage caused by operating the Product at a weight greater than the safe take-off weight as specified by the instruction manuals;
- Damage caused by a flight in which damaged components or components suffering from natural wear and tear were used;
- Damage caused by reliability or compatibility issues when using unauthenticated third-party parts;
- Damage caused by operating the unit with a low-charged or defective battery;
- Product labels, serial numbers, waterproof marks, etc show signs of tampering or alteration; or
- A Product has not been returned to the Supplier seven calendar days after Warranty Repair Service confirmation is sent by the Supplier; or
- The Client has not kept full back-up copies of all of its flight data.

6.3 If the Client fails to give notice of rejection in accordance with clauses 6.1 and 6.2, it shall be deemed to have accepted such Products.

6.4 If the Client rejects Products under clause 6.1 then subject to the provisions of clause 6.2, the Client shall be entitled to:

6.4.1 require the Supplier to repair or replace the rejected Products; or

6.4.2 require the Supplier to refund the price of the rejected Products in full.

6.5 Once the Supplier has complied with the Client's request, it shall have no further liability to the Client in respect of the rejected Products' failure to comply with clause 4.2.

6.6 The terms of these Terms and Conditions shall apply to any repaired or replacement Products supplied by the Supplier. 6.7 If the parties dispute whether any Products comply with clause 4.2, either party may refer the matter to an Independent Expert for determination in accordance with clause 10.

TITLE AND RISK

Risk in Products shall pass to the Client on Delivery.

Title to Products shall not pass to the Client until the Supplier has received payment in full (in cash or cleared funds) for:

- such Products; and
- all other sums which are or which become due to the Supplier from the Client for sales of Products and for Services or on any account.

Until title to Products has passed to the Client, the Client shall:

- hold such Products on a fiduciary basis as the Supplier's bailee;
- store such Products separately from all other goods held by the Client so that they remain readily identifiable as the Supplier's property;
- not remove, deface or obscure any identifying mark or packaging on or relating to such Products; and
- maintain such Products in satisfactory condition and keep them insured on the Supplier's behalf for their full price against all risks with an insurer that is reasonably acceptable to the Supplier. The Client shall obtain an endorsement of the Supplier's interest in the Products on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Client shall allow the Supplier to inspect such Products and the insurance policy, but the Client may resell or use Products in the ordinary course of its business.

If before title to Products passes to the Client the Client becomes subject to any of the insolvency events in clause 15 then, provided that such Products have not been resold and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Client to deliver up such Products and, if the Client fails to do so promptly, enter any premises of the Client or of any third party where the relevant Products are stored in order to recover them.

PRODUCT PRICES

The Product Prices and Services Prices are exclusive of amounts in respect of any state or federal taxes. The Client shall, on receipt of a valid tax invoice from the Supplier, pay to the Supplier such additional amounts in respect of tax as are chargeable on a supply of Products and/or Services.

The Product Prices and Services Prices are exclusive of the costs of packaging, insurance and carriage of the Products, which shall be paid by the Client.

The Supplier may review and increase the Product Prices and Services Prices from time to time. The Supplier shall give the Client written notice of any such increase as soon as practicable before the proposed date of that increase.

All disputes concerning the Product Prices and Services Prices shall be resolved in accordance with clause 16.17 (except for any dispute referred to an Independent Expert for determination in accordance with clause 10).

TERMS OF PAYMENT

If a party fails to make any payment due to the other under these Terms and Conditions by the due date for payment (due date), then, without limiting the other party's remedies under these Terms and Conditions, the defaulting party may be subject to interest charges and/or late fees. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.

If the Client disputes any invoice or other statement of monies due, the Client shall immediately notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the Client giving notice to the Supplier, the dispute shall be resolved in accordance with clause 16.17. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 9.1.

The Supplier may, without limiting any other rights or remedies it may have, set off any amounts owed to it by the Client against any amounts payable by it to the Client.

All payments payable to the Supplier or the Client under these Terms and Conditions shall become due immediately on its termination. This clause 9.5 is without prejudice to any right to claim for interest under the law or under these Terms and Conditions.

EXPERT DETERMINATION

Where under these Terms and Conditions a matter may be referred to an Independent Expert for determination, the Independent Expert shall be a suitably qualified person appointed by the Supplier.

The parties are entitled to make submissions to the Independent Expert including oral submissions and will provide (or procure that others provide) the Independent Expert with all such assistance and

documents as the Independent Expert may reasonably require for the purpose of reaching a decision. Each party shall with reasonable promptness supply each other with all information and give each other access to all documentation and personnel as the other party reasonably requires to make a submission under this clause.

The parties agree that the Independent Expert may in its reasonable discretion determine such other procedures to assist with the conduct of the determination as it considers appropriate, including (to the extent it considers necessary) instructing professional advisers to assist it in reaching its determination.

The Independent Expert shall act as an expert and not as an arbitrator. The Independent Expert's decision shall be final and binding on the parties in the absence of fraud or manifest error.

The Independent Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Independent Expert) shall be borne by the parties in equal shares or in such proportions as the Independent Expert shall direct.

INSURANCE

The Supplier's liabilities under these Terms and Conditions shall not be deemed to be released or limited by the Supplier taking out the insurance policy referred to in clause 11.1.

Where the Client is going to be using the Product for Commercial Operations, the Client shall maintain in force (i) aviation insurance and (ii) insurance for such amounts as a prudent owner or operator would insure for to cover any third party liability or public liability risk.

CONFIDENTIALITY AND IP

Each party undertakes that it shall not at any time during these Terms and Conditions and for a period of two years after termination disclose to any person any confidential information disclosed to it by the other party concerning the business or affairs of the other party, including but not limited to information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers (Confidential Information), except as permitted by clause 12.2.

Each party may disclose the other party's Confidential Information:

- to its employees, officers, agents, consultants or sub-contractors (Representatives) who need to know such information for the purposes of carrying out the party's obligations under these Terms and Conditions, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this clause 12 as though they were a party to these Terms and Conditions. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this clause; and
- as may be required by law, court order or any governmental or regulatory authority.

Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in these Terms and Conditions are granted to the other party or to be implied from these Terms and Conditions. In particular, save as set out in clause

12.4 below, no license is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other intellectual property right held, made, obtained or licensable by either party now or in the future.

All Documents are the intellectual property of the Supplier and are protected by copyright. Words indicating such proprietary rights may not be altered, covered or eliminated by the Client. The Supplier grants to the Client a non-exclusive limited license to use the Documents for the purpose of operating the Product. Where the Documents include training materials the license is granted for the sole purpose of completing the training. Documents shall not be made available to any third party without the Supplier's prior written consent.

LIMITATION OF LIABILITY

This clause sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of their respective employees, agents and subcontractors) to each other in respect of:

- any breach of these Terms and Conditions however arising;
- any use made or resale of the Products by the Client, or of any product incorporating any of the Products; and
- any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms and Conditions.

Nothing in these Terms and Conditions shall limit or exclude the liability of the Supplier for:

- death or personal injury resulting from negligence; or
- fraud or fraudulent misrepresentation;

Without prejudice to clause 13.2, the Supplier shall not under any circumstances whatever be liable to the Client, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:

- loss of profit; or
- loss of goodwill; or
- loss of business; or
- loss of business opportunity; or
- loss of anticipated saving; or
- loss or corruption of data or information; or
- special, indirect or consequential damage; or
- any damage caused by the use of the Product for any purpose other than the purpose originally intended for the Product; or
- any injury caused by the use of the Product for any purpose other than the purpose originally intended for the Product; or
- any injury caused by the unapproved use of the Product by minors unattended or attended by an adult for any purpose.

Without prejudice to clause 13.2, the Supplier's total liability arising under or in connection with these Terms and Conditions, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to the sums paid or payable under these Terms and Conditions.

FORCE MAJEURE

Neither party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfill any obligation under these Terms and Conditions so long as and to the extent to which the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.

A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:

- notify the other party of the nature and extent of such Force Majeure Event; and
- use all reasonable endeavors to remove any such causes and resume performance under these Terms and Conditions as soon as feasible.

For the purposes of this clause 14, a Force Majeure Event means an event beyond the control of a party (or any person acting on its behalf), which by its nature could not have been foreseen by such party (or such person), or, if it could have been foreseen, was unavoidable, and includes, without limitation

14.3.1 acts of God, storms, floods, drought, earthquake or other natural disaster;

14.3.2 riots, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared), armed hostilities, imposition of sanctions, embargo, breaking off of diplomatic relations or one or more acts of terrorism;

14.3.3 nuclear, chemical or biological contamination or sonic boom;

14.3.4 collapse of buildings, fire, explosion or accident;

14.3.5 interruption or failure of utility service;

14.3.6 epidemic or pandemic; or

14.3.7 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition or failing to grant a necessary license or consent.

TERMINATION

Subject to clause 15.3, these Terms and Conditions shall terminate automatically on completion of the Services.

Without prejudice to any other rights or remedies which the parties may have, either party may terminate these Terms and Conditions without liability to the other on giving the other not less than 3 months' written notice or immediately on giving notice to the other if:

- the other party fails to pay any amount due under these Terms and Conditions on the due date for payment and remains in default not less than 28 days after being notified in writing to make such payment; or

- the other party commits a material breach of any of the material terms of these Terms and Conditions and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- the other party repeatedly breaches any of the terms of these Terms and Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Terms and Conditions; or
- the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within insolvency or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, or (being a partnership) has any partner to whom any of the foregoing apply; or
- the other party commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with, its creditors; or
- a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party; or
- an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party; or
- a floating charge holder over the assets of that other party has become entitled to appoint, or has appointed, an administrative receiver; or
- a person becomes entitled to appoint a receiver over the assets of the other party, or a receiver is appointed over the assets of the other party; or
- a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2.4 to clause 15.2.10 (inclusive); or
- the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- there is a change of control of the other party.

On termination of these Terms and Conditions for any reason:

- the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Products and/or Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- the Client shall return all of the Supplier's equipment and materials. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping;
- the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination; and

- clauses which expressly or by implication have effect after termination shall continue in full force and effect, including the following clauses: clause 12 (Confidentiality and the Supplier's property), clause 13 (Limitation of liability), clause 15.3, clause 16.13 (Notices), clause 16.17 (Dispute resolution), clause 16.18 (Governing law and jurisdiction).

GENERAL

No variation of these Terms and Conditions shall be valid unless it is officially released and/or published by the supplier. These Terms and Conditions are subject to change without notice.

A waiver of any right or remedy under these Terms and Conditions is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under these Terms and Conditions or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

No single or partial exercise of any right or remedy provided under these Terms and Conditions or by law shall preclude or restrict the further exercise of any such right or remedy.

Unless specifically provided otherwise, rights arising under these Terms and Conditions are cumulative and do not exclude rights provided by law.

If any court or competent authority finds that any provision of these Terms and Conditions (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Terms and Conditions shall not be affected. If any invalid, unenforceable or illegal provision of these Terms and Conditions would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

These Terms and Conditions constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of these Terms and Conditions. Each party acknowledges that, in entering into these Terms and Conditions, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in these Terms and Conditions. Each party agrees that its only liability in respect of those representations and warranties that are set out in these Terms and Conditions (whether made innocently or negligently) shall be for breach of agreement. Nothing in this clause shall limit or exclude any liability for fraud.

The Client shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms and Conditions.

The Supplier may at any time assign, transfer, charge, mortgage, sub-contract deal in any other manner with all or any of its rights or obligations under these Terms and Conditions.

Each party that has rights under these Terms and Conditions is acting on its own behalf and not for the benefit of another person.

Nothing in these Terms and Conditions is intended to, or shall operate to, create a partnership between the parties, or to authorize either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

A person who is not a party to these Terms and Conditions shall not have any rights under or in connection with it and the agreement does not give rise to any rights to enforce any term of the agreement.

A notice given to a party under or in connection with these Terms and Conditions shall be in writing and sent to the party at the address given in these Terms and Conditions or as otherwise notified in writing to each other party.

For the purpose of clause 16.13 and calculating deemed receipt:

- all references to time are to local time in the place of deemed receipt; and
- if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

Subject as may be provided elsewhere in these Terms and Conditions, all disputes, differences or questions arising in relation to these Terms and Conditions shall be referred in the first instance to the CEO of the Supplier and the CEO of the Client, who shall meet together and attempt to settle the dispute between themselves (acting in good faith) within one calendar month. If the CEOs fail to resolve the matter within one calendar month, then either party may refer the dispute to an appropriate court or tribunal, or may (at its discretion) opt for mediation (in which case such an election shall bind the other party until a conclusion is made or the mediator rejects the case).

These Terms and Conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of the USA. The parties irrevocably agree that the courts of the USA shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions or its subject matter or formation (including non-contractual disputes or claims).

These Terms and Conditions has been entered into on the date stated on the Invoice/Online Order Details.



Avari Aerospace
7711 Affinity Drive,
Cincinnati, OH 45231

June 30, 2022

Kenton County Board of Education
Attn: Cinda Roberts, Purchasing Agent
1055 Eaton Dr.
Ft. Wright, KY 41017

Subject: Software Terms and Conditions Addendum

To Whom It May Concern,

Avari Aero, LLC is issuing an addendum to the Terms and Conditions provided to Kenton County Board of Education to include the following regarding software:

1. This agreement shall be governed by and construed in accordance with the internal laws of the state of Kentucky (Kenton County, KY) applicable to agreements made and to be performed in such state and/or county.
2. If applicable, you have the right to opt out of the software contract with Avari Aero, LLC 30 days after signing / registration. Your notice must include your name and address, your username (if any / applicable), the email address you used to set up your account (if you have one), and an unequivocal statement that you want to opt out of this software contract. If you opt out of this software contract, all other parts of this Sales Agreement will continue to apply to you. Opting out of this software contract has no effect on any other sales contracts / arbitration agreements that you may currently have, or may enter in the future, with us.
3. Avari Aero, LLC shall charge no late fees for the third-party software relating to drone use or 3D printing that has been recommended by Avari Aero, LLC for this contract.

Avari Aero, LLC is not responsible for the use of any third party softwares recommended by Avari Aero for the use of drones including but not limited to flight planning, remote viewing, or mock inspections. Avari Aero, LLC is not selling any third party software through this sales contract and is not the holder of any user data related to registration or use of said third party software. Avari Aero, LLC does not control or determine the T&C of third party providers or their late fee (if any / applicable) structure. The above addendum applies only to software related purchases, usage, or arbitration.

Regards,

Amanda Cannell
Amanda Cannell
CEO - Avari Aero, LLC