



MBARI

(Monterey Bay Aquarium Research Institute)

Moss Landing, CA

UNITED STATES OF AMERICA

Budgetary

QU_2407_64545

Dated July 12, 2024



1. Reference of the Inquiry

Customer Point of Contact

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Offer Details

This is a budgetary offer from Exail Inc. to MBARI for one (1) Phins 9 Compact Inertial Navigation System (INS), based on Exail's Fiber Optic Gyrocompass (FOG) technology. The budgetary pricing for a Phins Compact C3 INS is also included, as optional.

Applicable Documents

The technical offers for the Phins 9 Compact and Phins Compact C3 are detailed in the documents referenced " Phins 9 Compact Technical Description MU-P9CTD-AN-001-A " and " Phins Compact C3 Technical Description- MU-PHINC3TD-AN-001-A ", respectively.

2. Commercial Offer

Summary

Please refer to related technical documentation or to your contact at Exail for further details.

	Reference	Product	Unit Price	Qty	Total Price
		Phins 9 Compact			
1.	00231552	Inertial Navigation System (INS)	\$103,900.00	1	\$103,900.00
		Dual-use			
		Optional			
		Phins Compact C3 (Gen 2)			
2.	00208375	Inertial Navigation System (INS)	\$70,500.00	1	\$70,500.00
		Dual-use			

Conditions

- **Terms and conditions:** The Exail general terms and conditions of sale, see **chapter 4**, are fully applicable to the present quote and to the related order. They are completed by the following particular terms and conditions which will prevail, as the case may be.
- **Export:** Based on above status, see **chapter 3** for more information.
- **Delivery schedule:** 16 weeks ARO
Whenever an export, import or transfer license or authorization is required, Exail shall not deliver the concerned goods or services before receiving the said license or authorization. Therefore, the delivery terms stipulated in this quote are conditional to the receipt of any export, import or transfer license or authorization required.
- **Prices:** net in U.S. Dollars, exclusive of VAT, freight, insurance, import taxes, custom fee or other duties unless Freight Charges are included above and in subsequent Purchase Order. If Freight Charges are included, then delivery terms are DDP/Delivery to your facility. Otherwise, the Incoterm applicable is EXW Brest – France, according to INCOTERMS ICC 2010 (delivery to factory dock in France).
- **Invoice plan:** 30% invoiced upon placement of the Purchase Order; 70% upon delivery. Payment terms for all invoices are 30 days net upon presentation of Commercial Invoice.
- **Payments:** Payments can be remitted via check, wire transfer or credit card. An additional fee of 3% applies for all credit card payments.
- **Warranty:** 1 year
- **Offer validity:** This offer is valid until August 12, 2024, with delivery within 12 months.

Not included in the present quote:

- Warranty duration extension,
- Bank guarantees (bid bond, advance payment bond) performance and/or warranty bond).

In case of request for warranty duration extension and/or bank guarantee(s), the present quote shall be updated accordingly.

3. Export

Export of the products and services described in this document may be subject to different rules and regulations related to export control. Please check the table in **chapter 2** to find about the export status that applies to each item quoted.

Exail products and services shall not be exported or re-exported in the following countries: Cuba, Iraq, Iran, North Korea, Sudan and Syria. They shall additionally not be used in those countries (including their territorial waters) for any commercial application.

The following export control guidelines shall apply as related to French rules and regulations.

Free export

This product or service can be freely exported.

Dual-use goods

Whenever the dual-use goods category applies to a product or service mentioned in this quote, it has not been specifically developed for military applications but may be used in the scope of either civilian or military applications. It is then concerned by the dispositions of Regulation (EC) N° 428/2009 of the Council of 5th May 2009 as modified, directly applicable in French law.

As a consequence, this product or service is subject to the following dual-use goods export control procedures from France:

- It can be freely delivered to **France or any country within EU**.
- It can be exported under Exail's Union General Export Authorization n° EU001 to the following countries (so called "bona fide"): **Australia, Canada, USA, Japan, New-Zealand, Norway and Switzerland/Liechtenstein**.
- It can be exported to **other countries** but only through the preliminary issuance of an individual export license by the French authorities.

If an individual export license has to be issued by the French authorities, it is required that you provide a description of your usual activity (and the one of the end-user if different) and that the end-user fills in an end-user certificate (using a predefined format). This certificate includes the description and location of the intended application for the product or service as well as a commitment not to re-export the said product or service without the preliminary agreement of the French authorities.

Once the product or service has been delivered to its first destination, the following rules apply:

- From an EU country member, the good is free of movement as long as it remains within EU.
- From an EU country member, the good can only be re-exported to a non EU country member under the dual-use goods export control procedures set forth by the local national authorities.
- From a "bona fide" country, the good can only be re-exported under the dual-use goods export control procedures set forth by the local national authorities.
- From another country, the good can only be re-exported under both the conditions of the original export license from France (depending on its type and content) and the dual-use goods export control procedures set forth by the local national authorities.

Defence related products

Whenever the defense related products category applies to a product or service mentioned in this quote, it is submitted to very strict export control regulations. It is then concerned by the dispositions of the Directive 2009/43/EC of the European Parliament and the Council of 6th May 2009 as modified, implemented in French law by the Law n° 2011-702 of 22nd June 2011, as modified.

Whatever the country of destination (besides France), an export license from French authorities is mandatory before purchase order acceptance, contract signature and/or delivery. It is required that you provide a description of your usual activity (and the one of the end-user if different) and an end-user certificate will have to be filled in (using a predefined format). This certificate includes the description and location of the intended application for the product or service as well as a commitment not to re-export the said product or service without the preliminary agreement of the French authorities.

4. Exail General Terms and Conditions of Sale of Exail – US Market

Rev. April 29th 2024

Preamble

The Order and Order acknowledgement (including any drawings and specifications expressly referenced therein) and these General Terms and Conditions of Sale shall constitute the entire contract between Exail and Customer (collectively the “Contract”), and shall supersede all prior communications or negotiations between the Parties, whether written or oral, with the sole exception of any pre-existing non-disclosure or confidentiality agreement(s) in place between the Parties, which shall remain in effect according to their terms.

NOTWITHSTANDING ANY ADDITIONAL OR DIFFERENT TERMS THAT MAY BE EMBODIED IN AN ORDER, AN ORDER IS ACCEPTED BY EXAIL ONLY UPON THE ISSUANCE OF AN ORDER

ACKNOWLEDGEMENT, INCLUDING THESE TERMS AND CONDITIONS. No statement, representation, covenant or warranty shall be binding on Exail nor shall any provisions of this Contract be changed or waived in any respect except in writing by an authorized representative of Exail.

Article 1. Definitions

For the purposes of these GTCS, words and expressions beginning with a capital letter, whether singular or plural, shall have the following meanings:

Affiliated Company: refers to any entity controlling, controlled by or under common control with Exail.

Background Information: refers to all documents, knowledge, data, plans, methods, models, prototypes, drawings as well as all pending patent applications, patents, trademarks, software, and other IPR, know-how (processes, technologies, Confidential Information) held by a Party and obtained outside of, or prior to the start of performance of the Contract or subsequently, generated or acquired independently (without access to the Prior Knowledge of the other Party) subject to any third party rights.

Classified Information: refers, in accordance with Article 413-9 of the French Criminal Code or any other applicable provision, to any process, object, document, information, computer network, computerised data or file falling within the scope of the protection of national defence secrets, which has been subject to classification measures designed to restrict its dissemination or access.

Confidential Information: refers to information of any nature whatsoever, in particular Technical or Commercial Information, concerning the Purchaser's requirements, and more generally the performance of the Contract, not made available to the public, communicated by between the Parties, in writing or orally, visually, electronically, on magnetic media or in any other form such as, in particular, documentation, drawings, videos, samples, software, mechanisms, demonstrations, tests, presentations or visits to Exail's premises.

Contract: refers to the Offer, the Order (where applicable), the Order acknowledgement and the GTCS combined.

Customer: refers to the entity receiving the Offer and, if the Offer is accepted, the signatory to the Contract.

Deliverable(s): refers to all elements delivered by Exail as part of the Work carried out under the Contract, and in particular any study, recommendations, reports, Software, audits. The Deliverables will be supplied, at Exail's choice, in French or English.

Entrusted Good(s): refers to the goods (including, but not limited to: machines, sub-systems, equipment, tooling, raw materials, parts etc.) made available to Exail by the Customer and placed under Exail's control and responsibility, including any supplies, in order to enable Exail to perform the Contract.

Exail: refers to Exail SAS and/or any Affiliated Company issuing the Offer to the Customer.

Export regulations: refers to all applicable export and import control laws and regulations.

Force Majeure: refers to any event beyond the control of a Party, which could not reasonably have been foreseen when the Contract was signed (strike action being expressly excluded), the effects of which cannot be avoided by appropriate measures, and which prevents the Party from performing its obligation.

Foreground Information: refer(s) to all the IPR on the Work, of any nature whatsoever, on any medium whatsoever and in any form whatsoever, including in particular the work, information, knowledge, know-how, methods, deliverables, technical documentation, processes, data, firmware, software, moulds, tools, equipment, plans, technical notes, drawings, models, mock-ups, prototypes, graphics, databases or any other elements, linked to or resulting from the Contract which may or may not be the subject of IPR, and created or developed by the Parties as part of the performance of the Contract.

GDPR: refers to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

GTCS: refers to these General Terms and Conditions of Sale.

Intellectual Property Right(s) or IPR: refers to patents, copyrights, designs, trademarks, topographies, database rights, rights relating to know-how, moral rights or other similar rights in any country, in each case whether registered or not, all rights to apply for registration, and any application for registration of any of the foregoing.

Offer: refers to the latest version of any technical, financial and/or commercial proposal submitted by Exail to the Customer, as well as all documents referred to in the said proposal.

Order: refers to any purchase order issued by the Customer in response to an Offer.

Party(ies): refer(s), individually or collectively, to Exail and/or the Customer.

Product(s): refer(s) to the equipment exhaustively listed in the Offer, delivered to the Customer in accordance with the terms of the Contract.

REACH Regulation: refers to Regulation (EC) No 1907/2006 of 18/12/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals and establishing a European Chemicals Agency, and any amendments thereto, including Commission Regulation (EU) No 453/2010 of 20 May 2010.

Service(s): refer(s) to all the tasks, services and works exhaustively defined in the Offer, carried out by Exail, in accordance with the terms of the Contract.

Software: refers to any programme, process, and instruction rule addressed to a machine sold by Exail to the Customer, relating to the operation of a data processing unit (regardless of its format), including any copy, update, upgrade, modification, improvement and any derivative work thereof.

Technical Information: refers to any technical data or information, including any technical documentation, communicated to the Customer in connection with the performance of the Work, in any form whatsoever.

Work: refers to all Products and/or Services to be supplied and/or performed by Exail, in accordance with the Contract. The Work also includes Technical Information and/or any Software.

Further capitalised terms and/or expressions may be defined in the Contract.

The words above, whether singular or plural, have the meanings as defined above and hereinafter into the Contract.

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Unless otherwise stipulated in the Contract:

- The terms "day", "week", "month" and "year" shall be understood as calendar days, calendar weeks, calendar months or calendar years;
- The terms "including", "included", "include", "such as", "comprising", "comprise" and the like shall be deemed to be completed by the expression "but not limited to";
- The terms "require", "request", "submit", "answer", "notify", "instruct", "state", "inform", "agree" and the like shall be deemed to be completed by the expression "in writing".

The titles of the Articles have an indicative value and do not affect the interpretation of the Contract.

Article 2. Contractual documents

2.1 The contractual relationship between the Parties is governed exclusively by the following contractual documents, listed in decreasing order of precedence: (i) the Offer, (ii) where applicable, the Order, and in particular the special terms and conditions agreed in writing by the Parties, (iii) the GTCS and (iv) any other contractual document validated in writing by the Parties.

2.2. The general terms and conditions of purchase or any other terms and conditions or document issued by the Customer do not apply to the Contract and are expressly rejected by Exail.

2.3. The application of professional practices is expressly excluded where they do not comply with the GTCS or the Special Terms and Conditions.

Article 3. Formation of the Contract

3.1. Unless otherwise specified in the Offer, any Offer sent to the Customer is valid for thirty (30) calendar days from the date of the Offer. The validity of the Offer cannot be tacitly extended.

3.2. Unless otherwise agreed by the Parties, a Contract enters into force between the Parties upon the completion of all of the following events: (i) on the date of the acknowledgement of receipt of the Order by Exail without reservation, (ii) where applicable, the receipt by Exail of any certificate and authorisation required by an authority, duly signed by the Customer or (iii) where applicable, the granting by the competent authorities of any export licence or authorisation that may be required for the performance of the Contract, in accordance with Article 16 of the GTCS.

3.3. The Offer may be modified or cancelled by Exail at any time up to the entry into force of the Contract, in accordance with Article 3.2 above, by simple written notification sent by any means, without the Customer being entitled to claim for any damages or compensation of any kind as a result of such amendment or cancellation.

Article 4. Exail's obligations

4.1. Best-efforts obligation: Exail undertakes to use its best efforts to perform its Work.

4.2. Obligation to inform and advise: As a professional in the field concerned, Exail is bound by an obligation to advise and inform the Customer. Exail undertakes to provide it with the advice, warnings and recommendations, particularly in terms of quality and performance, required to carry out the Work.

Article 5. Customer's obligations

5.1. The Customer, an informed professional, acknowledges that it has been duly informed and has taken note of all the useful and necessary information to ensure that its project is feasible, according to its considered assessment of the problem, with the provision of the Work.

5.2. The Customer undertakes to comply with its contractual obligations.

5.3. The Customer undertakes to provide, within the deadlines agreed by the Parties, any element enabling Exail to execute the Contract including, but not limited to: information relating to the final use or purpose of the Work, any study, plan, input data and, more generally, any document deemed necessary.

The Parties agree that an oversight or delay on the Customer's part or the inaccuracy of these documents and/or information may result in delays in performance and/or modifications to the Work, and that all additional costs may be invoiced by Exail (in particular for storage, mobilisation/demobilisation, etc.).

Article 6. Price and payment terms

6.1. Price

6.1.1. Nature of the price

The price of the Work is expressed in the Offer in US Dollars. The prices communicated by Exail are firm for the quantities and characteristics of the Work but may be updated/revised/modified in accordance with Articles **6.1.2** (Revision) and **12.1.1** (Modification).

6.1.2. Update – Revision

Price updates: The prices of the Work in the Offer may be updated by Exail between the date of expiry of the Offer and the date of signature of the Contract.

Price revision: For any Contract with a performance period of more than 12 months, the prices may be revised by Exail in accordance with the price revision formula inserted in the Offer and/or in the Contract. In particular, this revision may reflect increases in the cost of labour and raw materials.

In addition, in case of a change in economic circumstances (particularly the effects of exchange rates or changes in regulatory constraints), Exail will be entitled to revise the prices of the Work after sending written notification to the Customer with supporting documents.

6.1.3. Costs

Travel expenses, including in particular travel and accommodation expenses, shipping costs, as well as expenses incurred for any supplies or documentation, not expressly mentioned in the Offer, will be invoiced in addition, on the basis of the supporting documents provided by Exail. Any bank charges shall be borne by the Customer.

6.1.4. Taxes

The prices communicated by Exail do not include any tax, customs duty, compulsory levy or any other charge or similar tax applicable to the Work. Consequently, the amount of any current or future tax, duty or deduction applicable to the performance of the Work (as well as to the use of the Work by the Customer) will be borne in full by the Customer, in addition to the price stated in the Offer.

6.2. Payment terms

Full payment for the Work must be made by bank transfer to Exail's account, or by any other authorized payment solution accepted by Exail, in accordance with the payment schedule set out in the Offer. Payments must be made within a maximum of thirty (30) calendar days from the date of issue of the invoice. Payments are considered to have been made on the day the funds are received in Exail's bank account. In case of payment of the Work by the Customer thirty (30) days before the date of payment mentioned on the applicable invoice, Exail shall be entitled to apply a three percent (3%) discount on the amount, excluding VAT, of the concerned invoice to the benefit of the Customer, and calculated on a twelve (12) months period.

6.3. Sanctions in case of late payment and non-payment

In case of late payment, or non-payment, Exail shall have the sole right to suspend the execution of the confirmed orders in process, without prejudice to any other right or action that Exail may use or take in order to obtain the cancellation of the confirmed Contract and/or damages. Also, as a penalty clause and without prior notice, the Customer shall be liable for a late fee of [one percent (1%) per month OR eighteen percent (18%) per annum] or the highest rate allowed under the law, whichever is lower, on any overdue amounts. Customer also agrees to pay Exail all reasonable costs and expenses of collection, including attorneys' fees. Exail may decide to cancel the Contract for good reason, without prior notice and Exail may obtain injunctive relief to seek the return of goods, without prejudice to any other claims for damages. Exail may also decide to cancel for good reason and without prior notice confirmed Contract in process and any prior Contracts, whether already delivered or in the delivery process, and for which payment is due. In addition, the Customer will be required to compensate Exail for any additional storage, insurance, handling and/or demobilisation/mobilisation costs.

Article 6 applies without prejudice to any other rights Exail may have under the law or the Contract.

Article 7. Quality, hygiene, health and environment

7.1. Entrusted goods

The Customer guarantees that the Goods entrusted to Exail comply with the regulations in force, whether or not they are incorporated (tangible or intangible / tangible or intangible) into the Work.

7.2. Health and safety

The Parties undertake to comply with the legal and regulatory obligations relating to the protection of the workforce, health, safety and working conditions. The Customer must inform Exail about the risks and working environment on site. The Customer must offer working and safety conditions at least equivalent to those offered by Exail. In addition, any work carried out on the Customer's site requires a joint risk analysis to be drawn up.

7.3. Waste

The Customer undertakes to minimise pollution with the Products during the performance of the Contract or at the end of the Contract. The Customer undertakes to contact Exail when the Product reaches the end of its life or is disposed of as waste in order to determine with Exail the best way to treat the Product as waste in accordance with the laws and regulations in force.

Article 8. Delivery

8.1. Terms of delivery

Unless otherwise stipulated in the Offer, Exail undertakes to use its best efforts to perform the Work in accordance with the terms of the EX-WORKS (EXW ICC 2020) incoterm at the place designated by Exail.

8.2. Packaging

Exail undertakes to send the Products with sufficient and appropriate packaging quality and level of protection so that they do not suffer any damage during transport.

8.3. Transport costs

Transport costs will be borne by the Customer.

8.4. Partial delivery

Exail reserves the right to make partial deliveries after notifying the Customer. In this case, payment for these deliveries is due by the Customer.

Article 9. Time periods and delays

9.1. Time periods

The time periods specified are given in the Exail Contract for information purposes only. Exail will do its best to comply with them.

9.2. Delays

The Parties shall inform each other of any delay in the performance of the Work. In the event of a delay not attributable to Exail (including, but not limited to: Case of Force Majeure, late payment by the Customer, late and/or incomplete supply of documentation or information by the Customer, withdrawal, suspension or refusal of export authorisation or licence, etc.), an extension of the delivery period at least equal to the delay period will automatically be granted to Exail. In this case, Exail may also claim compensation or terminate the Contract. Without prejudice to the foregoing, any type of delay on the part of Exail in relation to the scheduled delivery times will not result in any indemnity, penalty, compensation, price reduction or cancellation of the Contract.

Article 10. Authorization to resell or to transform the Products

10.1. The Customer hereby certifies that it is the end user of the Products or the inclusion of the goods into another product of the Customer is in the Customer's normal course of business. As relevant, Exail may require prior authorization in writing, for the Customer to re-sell the goods. As applicable, the Customer will not supply equipment to anyone other than the designated Customer defined in the End-User Certificate. Delivery of Product to Customer may require authorization from one or more Government export agencies and the issuance of export licenses. Subject to applicable Export control regulations, the Customer shall not pledge the goods delivered, or use them as security, or transfer the title thereto, even as a guarantee, without the prior written agreement of Exail. Once goods have been delivered, the Customer has the continuing obligation to abide by applicable export laws and regulations.

10.2. The Customer is not authorized, to transform the Product without the prior written approval of Exail.

Article 11. Services associated with the Products sold

The provision of any Service related to the Products sold is carried out at Exail's premises or at any other location identified in agreement with the Customer. The said Services will be carried out in accordance with Exail's current procedures, and Exail undertakes to inform the Customer of any prerequisites or prior arrangements that are the Customer's responsibility. Proper compliance with and execution of these prerequisites and prior arrangements, under the Customer's responsibility, at the Customer's expense and risk, is an essential condition for the performance of the Services. The planned execution dates are defined in the Contract and depend on the successful completion of the prerequisites and prior arrangements mentioned. At Exail's sole discretion, scheduled performance dates may be determined from the time of full payment of any deposit due. In the event of delay in the performance of the Services, the provisions of Article 9.2 shall apply. The relevant personnel of Exail and the Customer, including contractors, sub-contractors and consultants, are duly informed of any relevant provisions in force in any place where the Services are to be performed and undertake to ensure compliance with such provisions, Exail and the Customer each remaining responsible for their own personnel.

Article 12. Contract change and Suspension

12.1 Amendment

The Parties are authorised to request any change to the Contract in writing. The other Party will respond (positively or negatively), in writing, as soon as possible. Exail will submit an offer including, in particular, the financial and schedule consequences of the change. After negotiation between the Parties, an amendment to the Contract must be drawn up in writing to validate the changes. Once the amendment has been signed, Exail will implement the changes agreed with the Customer. No amendment shall be implemented without the prior written approval of both Parties. Any consequences of a change in law during the performance of the Contract will be borne by the Customer, after Exail has provided a quotation.

12.2. Suspension

For any suspension of the Work, Exail must give its written agreement, in particular as regards its duration. The Customer will compensate Exail for the costs incurred as well as those related to its remobilisation at the end of the suspension. If suspension results in termination of the Contract, the provisions of Article 25 shall apply.

Article 13. Acceptance and return of the Work

13.1. All Work performed by Exail are subject to Exail's standard quality control and inspection procedures as may be defined in the Offer. Any additional tests and/or inspections agreed by the Parties shall be carried out at the Customer's sole expenses.

13.2. Without prejudice to any claim against the carrier, any claim relating to visible defects or non-compliance of the Work performed must be notified in writing no later than ten (10) calendar days after the date of Ex-Works delivery. After this period and without notification to the contrary, the Customer is deemed to have received and accepted the Work unconditionally and definitively. In order to justify any defect found, the Customer shall provide Exail with all evidence to this effect.

13.3. Any return or new performance of the Work must be agreed in writing by Exail. All transport costs and risks associated with the return of the Work shall be borne by the Customer.

13.4. In the event of an apparent defect or non-compliance observed in the Work, and duly acknowledged by Exail, the Customer shall fully allow Exail to remedy such anomalies and shall refrain from intervening himself or having any third party intervene for that matter. Exail shall not bear any cost associated with Customer's disassembly, assessment or attempted repair of suspected defective goods. Should any defect or non-conformity be observed on the goods, the Customer may request to have the goods repaired or replaced at no extra cost, or reimbursed, without any other indemnification. The decision to repair or replace the item is at the sole discretion of Exail.

13.5. When a Product and/or Deliverable is intended to be integrated with an element not supplied by Exail, the Customer is solely responsible for such integration and must guarantee Exail against (i) any damage caused by the said element to the Product and/or Deliverable as a result of this integration and/or (ii) any damage caused by the Product as a result of this integration.

Article 14. Transfer of ownership and retention of title

14.1. The Products delivered remain the property of Exail until the Customer has fully met its payment obligations (principal, interest, penalties and applicable indemnities). Consequently, and until the transfer of ownership, the Customer undertakes to: (i) keep the Products in its custody, (ii) not to resell the Products delivered, not to encumber them with a security interest of any kind, not to use them as a guarantee or not to transfer ownership thereof, even in the form of a guarantee, (iii) to store the Products separately so that they remain easily identifiable as being the property of Exail, (iv) not to remove or alter the identification marks affixed to the Products and their packaging, (v) to store the Products in accordance with custom, and indications provided by Exail, (vi) in the event of seizure or proceedings by a third party, before full payment of the amounts due, immediately notify Exail and inform the said third party of Exail's retention of title. The Customer is solely responsible for and shall bear the risks and costs of loading/unloading, handling and appropriate storage of the Products, and undertakes to comply with the commitments set out in Article 19. Failure to pay the sums due on the due date will entitle Exail to claim the return of the Products. The above provisions do not prevent the transfer to the Customer of the risks associated with the products sold.

14.2. Transfer of risks

The risks associated with the Work shall be transferred in accordance with the Incoterm (ICC 2020) defined in the Contract and/or the Offer.

Article 15. Access to the Customer and Exail sites

15.1. When necessary throughout the term of the Contract, the Customer undertakes to provide free and unrestricted access to Exail, its Affiliated Companies and any subcontractors and/or suppliers: to its workshops, factories, buildings and offices for any meeting, delivery, installation, inspection, integration, testing and/or trials. In such a case, the Customer must provide Exail with the following prior to Exail's intervention:

- Prevention plans, individual or collective protective equipment and other instructions necessary for the safety of Exail's personnel, its Affiliated Companies and any subcontractors and/or suppliers;
- Unrestricted access to all information systems and equipment necessary for the performance of the Contract.

15.2. In the event of access by the Customer to any Exail site, the Customer undertakes to respect the access and security deadlines and conditions of the said site, which will be communicated to it by Exail.

Article 16. Export control

16.1. The Work may be subject to Export Regulations. Any use, change of control and/or re-export contrary to the applicable Export Regulations is strictly prohibited. The Customer, who declares that it is fully aware of the Export Regulations, undertakes to comply with them and also declares that he is not subject to any embargo or similar restriction.

16.2. Note that, when applicable, the Contract only comes into force once Exail has received all the required export or transfer authorisations or licences. **16.3.** For all Work subject to any Export Regulations, the Customer undertakes: (i) to provide, at Exail's request, in a timely manner, all assistance, information or certificates required for customs clearance (if applicable) or to obtain an export authorisation or licence. Any delay by the Customer in supplying them is likely to result in delays in delivery or performance of the Contract, as well as various costs which may be invoiced to the Customer by Exail; (ii) not to sell, lend, hire or entrust them to a third party, temporarily or permanently, if required, without the prior written consent of the competent national authority and (iii) to comply with any applicable Export Regulations.

16.4. Any delay in obtaining, or cancellation, or suspension of an export authorisation or licence by the competent authorities for reasons outside Exail's control will be treated as a Case of Force Majeure. Where applicable, the Contract may be terminated without fault in accordance with Article 25.2.

Article 17. Contractual warranty

17.1. Terms and conditions of the contractual warranty

17.1.1. The Work are guaranteed against any malfunction that may result from a defect in material, manufacture, design or assembly, for: (i) in the case of Products, twelve (12) months from the date of delivery of each Product, (ii) in the case of Software not integrated into a Product, thirty (30) calendar days from the date of delivery of said Software, and (iii) six (6) months in the case of Services from their completion date.

17.1.2. The Customer acknowledges having received from Exail the elements and information necessary for its decision to enter into the Contract, and therefore remains solely responsible for: (i) the use of the Products/Deliverables, and (ii) the choice of Services, their compatibility with its installations and equipment, as well as their suitability for its needs.

17.1.3. The Parties agree (i) no warranty of performance, effectiveness or fitness for purpose or otherwise is given to the Customer in respect of the Work, (ii) the provisions of this article 17 constitute the sole and exclusive remedy of the Customer under the warranty provided under this Contract and (iii) the warranties, obligations and liabilities of EXAIL and the rights and remedies of the Customer under this Contract, replaces and excludes any other obligations, liabilities, guarantees, representations, warranties (including for latent defect) and/or conditions in relation to the Work and any related products and services delivered or rendered under this Contract, expressed or implied at law, in contract, civil liability or in tort, customary, statutory or otherwise, including but not limited to any fitness for purpose obligation or any conditions implied by any applicable law, act or regulation.

17.2 Exclusion

17.2.1 The contractual warranty may be invoked, subject to normal use of the Work. The contractual warranty is definitively void or excluded in the following cases:

- In the event of the opening, repair or modification of a Product sold by the Customer or a third party, without the prior written consent of Exail;
- The Products are not installed by Exail or by a third party with the prior agreement of Exail or not according to the instructions in the user manual or communicated by Exail;
- The training to use the Products, mentioned, if applicable, in the special terms and conditions, is not carried out by Exail or by a third party selected with the prior written agreement of Exail;
- The component used or the defective design of the Products is attributable to specific requirements of the Customer or results from a modification or component integrated or required by the Customer;
- The malfunction is caused by an intervention or following a modification carried out without the prior written consent of Exail;
- The malfunction has been caused by abnormal use and/or use that does not comply with the normal function of the Product and/or results from non-compliance with the Product's user manual;
- The failure was caused by normal damage (wear and tear) of the Product, or by negligence or inadequate maintenance on the part of the Customer;
- The failure was caused by a Case of Force Majeure.

17.2.2 Exail is bound to perform the Work under a best-efforts obligation.

17.3. Application of the contractual warranty

17.3.1. As soon as the Customer becomes aware of a malfunction covered by the warranty, it undertakes to notify Exail in writing, during the warranty period. Exail will carry out a remote diagnosis to check the validity of the warranty claim.

17.3.2. In the event that this appeal is declared justified by Exail, Exail alone may decide to repair, bring into conformity or replace free of charge, in the same quantities and to the exclusion of any indemnity or damages, the Product and/or to re-execute the Service or to reimburse the Customer.

17.3.3. The warranty services will be carried out at Exail's premises, and the defective product must be returned to Exail in accordance with the conditions of article 17.4 below.

17.3.4. In the context of interventions under this contractual warranty, the initial warranty period will be suspended for the part to be repaired or replaced from the date of notification of the defect by the Customer and will resume from the date of delivery of the repaired or replaced Product to the Customer.

17.3.5. This warranty covers, at Exail's expense, the repair or replacement of defective parts of the Products. Any dismantling or reinstallation of the Products will be at the Customer's expense and under its sole responsibility. The warranty period will be suspended from the date of notification of the defect by the Customer and will resume from the date of delivery of the repaired or replaced Product to the Customer. All costs incurred for the docking of a vessel or submarine to carry out warranty work shall be borne by the Customer.

17.4. Transport risks and costs

17.4.1. Any return of Products under warranty must be accepted in writing by Exail.

17.4.2. The risks and costs of returning a defective Product under warranty are borne by the Customer. The risks and costs related to: (i) Exail's handling of the warranty claim, and (ii) the return of the Products to the Customer's premises, are assumed by Exail, within the limits of the country in which its site is located. If the inspection carried out by Exail demonstrates that the warranty claim is unfounded, the Customer will bear all the costs and risks relating to actions (i) and (ii) above.

17.5. Intervention on the Customer's site

17.5.1. If Exail agrees to carry out the warranty services on the Customer's premises, the interventions will be carried out in accordance with Exail's current procedures.

17.5.2. The Parties undertake to provide each other with all the prerequisites and prior arrangements for which they are responsible. The relevant personnel of Exail and the Customer, including contractors, subcontractors and consultants, will be duly informed of any relevant provisions in force in any place where the warranty services are to be performed and undertake to comply with these provisions. The Parties remain responsible for their own personnel. If the conditions of the contractual warranty referred to in Article 17.1 above or the prerequisites and prior arrangements stipulated are not fulfilled, Exail reserves the right to invoice the Customer for the intervention carried out (personnel and travel costs), the rates being available on request.

Article 18 – Liability

18.1. EXAIL'S TOTAL AND CUMULATIVE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT, REGARDLESS OF THE CAUSE, SHALL NOT EXCEED ONE HUNDRED PER CENT (100%) OF THE TOTAL VALUE OF THE WORK TO WHICH THE CLAIM RELATES. THE CUSTOMER WAIVES ANY CLAIM, ACTION OR RECOURSE AND WARRANTS EXAIL AND ITS INSURERS AGAINST ANY CLAIM, ACTION OR RECOURSE BY ITS OWN INSURERS IN EXCESS OF THIS AMOUNT.

18.2. IN NO EVENT WILL EXAIL BE LIABLE TO THE CUSTOMER, ITS AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS, FOR ANY INDIRECT, CONSEQUENTIAL OR NON-CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO, LOSSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF CONTRACT, WORK, USE, DATA, IMAGE, REPUTATION, REVENUE, PROFITS OR GOODWILL), COSTS, DAMAGES, INCURRED OR SUFFERED BY THE CUSTOMER OR ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH ANY BREACH BY EXAIL OF ITS CONTRACTUAL OBLIGATIONS.

18.3. The aforementioned limitations on liability are not applicable in cases of personal injury or death or damages resulting from any fraudulent act, infringement of intellectual property rights, Willful Misconduct or Gross Negligence of EXAIL. For the purpose of this clause 20 and for the purpose of this entire Contract:

- Willful misconduct shall mean any deliberate wrongful act or deliberate wrongful failure to act (whether sole, joint or concurrent) with actual knowledge that such act (or failure to act) is wrongful and with the sole intention to cause injury to a person or physical loss of or damage to property. Wilful Misconduct expressly excludes an act, omission, error of judgment or mistake made in the exercise in good faith of any function, authority or discretion vested in or exercisable by such person or entity and which in the exercise of such good faith is justifiable by special circumstances, including safeguarding of life, property or the environment and other emergencies; and
- Gross Negligence shall mean means any act or failure to act (whether sole, joint or concurrent) which seriously and substantially deviates from a diligent course of action and which is in reckless disregard of or conscious indifference of a risk known, or so obvious that it should have been known, and so great as to cause harm to people, property or the environment. Gross Negligence expressly excludes an act, omission, error of judgment or mistake made in the exercise in good faith of any function, authority or discretion vested in or exercisable by such person or entity and which in the exercise of such good faith is justifiable by special circumstances, including safeguarding of life, property or the environment and other emergencies.

18.4. The Customer is solely responsible and undertakes to indemnify Exail against all damages caused to Exail and/or its Affiliated Companies, suppliers and subcontractors, in particular, in the event of use of the Work that

does not comply with: (i) the instructions and recommendations issued by Exail, or (ii) the use or purpose for which the Work were delivered or provided by Exail.

18.5. Customer agrees to hold harmless, defend and indemnify Exail, its affiliates and parent company for any actions brought against Exail regarding this Contract, including but not limited to the violation of export control laws and regulations.

Article 19. Insurance

Each Party undertakes to cover itself against the risks of damage and civil liability relating to the performance of its obligations. During the term of the Contract, each Party undertakes to provide the other Party with an insurance certificate as soon as possible, on first request.

Article 20. Force Majeure

20.1 In the event of Force Majeure, Exail must inform the Customer by registered letter with acknowledgement of receipt as soon as possible after its occurrence.

20.2 The notification of a Case of Force Majeure in accordance with the preceding paragraph results in the suspension of performance of the obligation that has become impossible for the duration of the Force Majeure, subject to the provisions of Article 25. In the event of a notified Case of Force Majeure, neither Party shall owe any indemnity or penalty to the other Party, and the contractual deadlines shall be extended by a period at least equivalent to that of the Case of Force Majeure.

20.3 If a Case of Force Majeure prevents Exail from fulfilling its contractual obligations for more than thirty (30) calendar days from the date of the aforementioned notification, and if no agreement has been reached on how to continue the performance of the Contract, the Contract may be terminated under the terms of Article 25.2.2. Exail will be paid for the Work performed and/or delivered to the Customer up to the date of termination.

Article 21. Specific provisions for Products for space and aeronautical applications

21.1. It is expressly the Customer's responsibility to notify Exail of the aeronautical purposes or applications planned by the Customer for the use of the Products sold. In the event of failure to provide information by the Customer, Exail will not be liable for any damages to the Customer. In this regard, the latter must warrant and indemnify Exail against any consequences arising from the use or exploitation of the Products for aeronautical purposes.

21.2. Without prejudice to the foregoing and to the provisions of Article 21.1 above, for the supply of Products for space applications, Exail's liability for any damage vis-à-vis the Customer as well as the contractual warranty are excluded and will cease as from the firing of the launcher incorporating the Product (i.e. when the firing can no longer be interrupted).

Article 22. Intellectual property

22.1 Background Information and Foreground Information

22.1.1 Each of the Parties remains the owner of the IPR on its Background Information, whether protectable or not, relating to the Work, including in particular the rights relating to studies, know-how, software, firmware, patents, diagrams, models, drawings and other documents supplied or sent by the Parties, subject to the rights of third parties. The IPR may not be transferred to any third party without the prior written authorisation of an authorised representative of the other Party.

22.1.2 Subject to full payment of all sums due under the Contract, Exail grants the Customer, for the sole purpose and duration of the performance of the Contract and the use of the Work, to the exclusion of any other use, a licence to use only the IPR required on its Background Information, which is free of charge, worldwide, non-exclusive, personal, non-assignable, non-transferable, without the right to sub-licence and revocable at any time. The Customer will take all necessary measures to ensure the respect of Exail's IPR and their confidentiality, in particular for any industrial secret linked to technical documents, studies, information or know-how.

22.1.3 The Customer grants Exail a non-exclusive, worldwide, transferable, non-revocable licence to use all Background Information included in the Work and/or the Foreground Information, for the purposes of the performance of the Contract and for the duration of such use. This licence covers the rights to use, exploit, maintain, produce or reproduce, represent, correct, modify, adapt, translate, interpret, market and distribute, in any language and on any medium (known and unknown to date), in any format and by any means, throughout the world, the IPR belonging to the Customer.

22.2 Results

Exail acquires, as and when they are created, full and complete ownership of the IPR of the Foreground Information arising from the performance of the Work.

22.3 Infringement and guarantee

22.3.1 Exail warrants the Customer against any infringement action brought by a third party on the grounds that the Products/Deliverables constitute an infringement of IPR belonging to the third party. This guarantee is however subject to the following conditions: (i) that Exail has the direction of the action and the freedom to defend and settle, and (ii) that the alleged infringement is not the result of modifications specified or carried out by the Customer or by a third party. In the context of this guarantee, and within the limits set out in Articles 16.1 and 16.2, Exail will bear the cost of the damages that the Customer is ordered to pay in a decision that has acquired the force of res judicata based on the demonstration of an infringement. Exail shall, at its option and expense: (i) obtain a licence to the rights of the aforementioned third party, (ii) modify the part of the Products/Deliverables in question, (iii) provide an equivalent replacement solution, or (iv) take back the Products/Deliverables delivered and reimburse the Customer for the price of the latter, with the application of a reasonable depreciation rate.

22.4 Software

22.4.1 Subject to the specific provisions contained in the licence terms associated with the Software concerned, which will prevail where applicable, for any Software supplied by Exail, the Customer's rights are limited to the use of said Software for its own requirements, to the exclusion of any other right. This restriction must not be interpreted as limiting the Customer's ownership rights to the physical medium of the Software. No source code for the Software will be assigned or transferred to the Customer.

22.4.2. It is the sole responsibility of the Customer to ensure that its hardware and IT infrastructures are compatible and suitable for use of the Software. The Customer therefore undertakes: (i) not to use the Software for any purpose other than that specified in its user licence, (ii) not to copy, study, test, decompile or reproduce any Software.

22.4.3 Exail's liability is excluded as to (i) the use of the Software by the Customer and the results obtained by the Customer following this use of the Software (ii) the use of the Software made under the sole and unique responsibility of the Customer (iii) the consequences, of any nature whatsoever, linked to a modification of the Software at the initiative of the Customer or to an integration of the Software without the agreement of Exail in another hardware or computer system of the Customer.

Article 23. Confidentiality

23.1. Confidential Information

Each Party undertakes to keep confidential the Confidential Information sent to it by the other Party, and undertakes not to divulge it, directly or indirectly, to any third party, nor to use it other than in the context of and solely for the needs of the Contract, nor to copy, reproduce, decompile or reverse engineer it, without the prior written consent of the other Party. Confidential Information remains the property of the Party disclosing it. Any disclosure of Confidential Information by one Party shall not be construed as conferring on the other Party, even implicitly, any right whatsoever in respect of such information. The Customer acknowledges and accepts that Exail may: (i) exchange Confidential Information with any sub-contractor, Affiliated Company, partner, consultant or supplier in the context of the performance of the Contract, (ii) communicate on the existence of the contractual relationship with the Customer, and in particular mention the latter as a "customer reference". These confidentiality obligations are valid for the period of validity of the Offer and/or the term of the Contract, remaining in force for a period of five (5) years from the date of termination or expiry of the Contract and/or the Offer.

23.2 Classified Information

The Parties undertake to comply with the legal and regulatory provisions applicable to exchanges of Classified Information under the Contract.

Article 24. Ethics and compliance

The Customer undertakes, from the date drawing up of the Contract as referred to in Article 3.2 of the GTCS, to comply with all regulations, laws and codes relating to the areas specified in articles 24.1 and 24.2 below:

24.1 Anti-bribery

24.1.1. Each Party shall comply with all regulations, laws and codes relating to the fight against bribery, including but not limited to the provisions of: (i) Law 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life, and more generally (ii) the OECD Convention of 17

December 1997 on Combating Bribery of Foreign Public Officials in International Business Transactions and their transpositions into any applicable national law.

24.1.2. At Exail's request, the Customer will provide within a reasonable period of time any certificate of compliance with this article, or any other declaration reasonably required by Exail.

24.1.3. The Customer also declares:

- That it has never violated any law or regulation relating to transparency and/or the fight against bribery in France, in its country of establishment, and/or in any other country;
- That it has never been the subject of a civil or criminal conviction, in France, in its country of establishment, and/or any other country, for violation of a law or regulation relating to transparency and/or the fight against bribery, and that to its knowledge it is not the subject of any investigation or investigative measure to this effect;
- To its knowledge, none of its legal representatives has ever been convicted of a civil or criminal offence, in France, in the country in which it is established, and/or in any other country, for violating a law or regulation relating to transparency and/or the fight against bribery, and that they are not the subject of any investigation or investigative measure to this effect.

24.1.4. The Customer is prohibited to make any gift, donation, payment, remuneration or benefit whatsoever that it may be required either directly or indirectly to offer to any employee, manager or representative of Exail or any Affiliated Company or to any person likely to influence their decision in the context of the performance of the Contract.

24.2 Personal data

24.2.1 The Customer undertakes to comply with the provisions of the applicable regulations on the protection of personal data, and in particular those of the GDPR, where applicable.

24.2.2 Under the terms of the Contract, neither Party will process the personal data of persons acting on behalf of the other Party without the latter's consent. In the event that personal data is exchanged between the Parties in the context of the Contract, each Party undertakes to inform the natural persons concerned by this data processing in accordance with the applicable rules.

24.3. Whistleblowing Procedure: Pursuant to Sapin II Act (law n° 2016-1691 from December 9th, 2016) as amended by law n° 2022-401 from March 21st, 2022 for the improvement of whistleblower protection, the Customer of Exail as well as its subcontractors and/or suppliers are entitled to make any internal notice through the Whistleblowing Procedure set up by Exail, subject to compliance with the legal requirements. The Whistleblowing Procedure is accessible on Exail website which details the scope, the conditions and modalities of notification. It is the responsibility of Exail's Customer to inform their concerned personnel, including their subcontractors and suppliers of the existence of the Whistleblowing Procedure and of its modalities.

24.4 Compliance with the provisions of this Article 24 is an essential obligation of the Customer. Consequently, and without prejudice to any other rights or remedies available to Exail in application of the provisions of the Contract, international conventions or the law, including in particular the awarding of damages, Exail reserves the right to carry out any useful verification to ascertain the Customer's compliance with this article. If it is found that any of the obligations entered into by the Customer under the terms of this article have not been respected, then Exail will be authorised to suspend and/or terminate the Contract in accordance with Article 25, with immediate effect, and with no compensation to the Customer.

Article 25. Termination

25.1. Termination for fault

If a Party fails to comply with its contractual obligations and this non-compliance has not been remedied within thirty (30) calendar days from the date of the formal notice, the non-defaulting Party shall be entitled to terminate the Contract within five (5) working days and without further formality. In this case, Exail will be paid (i) for the Work delivered or performed for the Customer up to the date of termination and (ii) if the termination is due to the fault of the Customer, for the Work in progress and/or in production and not yet delivered at the date of termination.

25.2. No-fault termination

25.2.1 Bankruptcy: In the event of the receivership, liquidation or bankruptcy of one of the Parties, and subject to the agreement of the bodies responsible for the proceedings, the Parties shall have the right to terminate the Contract in accordance with Article L641-11-1 of the French Commercial Code.

25.2.2 Force Majeure: The Parties may terminate the Contract in the event of non-performance by the other Party of its obligations following the occurrence of a Case of Force Majeure, the duration of which exceeds thirty (30) calendar days from its notification to the other Party in accordance with Article 20.

25.2.3. Termination following suspension: Exail may terminate the Contract if the suspension exceeds ninety (90) calendar days or any other maximum period agreed between the Parties in writing. 25.3 In all cases of termination without fault, regardless of the reason, each Party remains bound to fulfil its contractual obligations until the effective date of termination. In this case, Exail will be paid (i) for the Work delivered or performed for the Customer up to the date of termination and (ii) for the Work in progress and/or in production and not yet delivered at the date of termination and (iii) will be compensated for all other consequences of this termination (including but not limited to, demobilisation of personnel, termination of subcontracting and purchasing contracts, etc.).

Article 26. Miscellaneous

26.1. The Customer declares: (i) that it is a professional, (ii) that it has had the opportunity to negotiate the terms and conditions of the Contract, and (iii) that it has sufficient information to enter into the Contract.

26.2. Transfer or sale: The Contract is concluded by Exail in consideration of the Customer and may not be sold or transferred (in whole or in part) by the Customer, except with the prior written consent of Exail. The partial or total transfer or sale of the Contract by the Customer, with Exail's prior written consent, will not imply any reduction in Exail's rights nor any increase in its obligations.

The Customer acknowledges that Exail has the right to sell or transfer the Contract to any company in the group to which Exail belongs. In such a case, Exail will be released from its obligations on the effective date of the transfer, which will be notified by Exail to the Customer within a reasonable time period.

26.3. Relationship between the Parties: Exail acts solely as an independent good and service provider, under its own responsibility, and without any subordinate relationship to the Customer. As such, it cannot be considered as an agent, employee or partner of the Customer.

26.4. Language: all correspondence between the Parties will be in English.

26.5. Validity: If any of the provisions of the Contract should prove to be null and void or unwritten with regard to a rule of law in force or a final court decision, it will then give way to the application of common law, without invalidating the Contract or altering the validity of its other provisions.

26.6. Waiver: The fact that a Party does not invoke the benefit or the strict application of any provision of the Contract shall not imply a waiver by that Party of the benefit of the said provision.

26.7. Entire agreement: The Contract contains all the agreements entered into by the Parties concerning the subject matter of the Contract, with the exception of any confidentiality agreements in force, and cancels and replaces all undertakings, agreements, representations, conditions, warranties or other terms exchanged or agreed between the Parties, without exception. Any amendment to the Contract must be the subject of a written amendment signed by the Parties, failing which it will be null and void.

26.8. Address for service: For the purposes of performing the Contract, each Party declares that it selects its registered office as its address for service.

26.9. Subcontracting: Exail is authorised to sub-contract all or part of the Contract and remains liable to the Customer, under the conditions and within the limits set out in the GTCS, for the performance of the Contract.

26.10. Notification: All notifications to be made under the Contract shall be made in writing (by post or e-mail) to the addresses indicated in the Contract.

27. Applicable law and settlement of disputes

27.1. Applicable law

27.1.1 The formation, validity, interpretation, performance or non-performance, termination, rescission of the Contract or the consequences thereof, as well as any dispute between the Parties arising from the Contract or from extra-contractual events prior to, concurrent with or subsequent to the Contract, shall be governed by laws of the Commonwealth of Massachusetts. The application of the United Nations Convention on Contracts for the International Sale of Goods, signed at Vienna on 11 April 1980, is expressly excluded by the Parties.

27.2 Settlement of disputes

27.2.1 Amicable settlement: In the event of a dispute, the Parties will do their utmost to resolve it amicably, within a maximum period of thirty (30) calendar days from the date on which the dispute arose.

27.2.2 Mediation: The Parties may, by mutual agreement, have recourse to mediation before going to court.

27.2.3 Jurisdiction: Notwithstanding multiple defendants or introduction of third parties, any dispute arising from this agreement and that cannot be settled by amicable arrangement shall be settled in state court in the Commonwealth of Massachusetts, of which both Parties' consent to jurisdiction.