



THE UNITED STATES
CORPORATION
COMPANY

ACCOUNT NO. 072100000032

REFERENCE : 958552 4306827

AUTHORIZATION :

Patricia Pizoto

COST LIMIT : \$ 122.50

ORDER DATE : September 11, 1998

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CUSTOMER NO: 4306827

CUSTOMER: Gene K. Glasser, Esq.
Abrams Anton, P.A.
2021 Tyler Street

Hollywood, FL 33022

*Merger &
Name Change*

FILED
98 SEP 14 PM 3:02
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER

AEROSPACE SPECIFICATION METALS
INC.

INTO

500002638085--2

AEROSPECIFIC ACQUISITION CORP.

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX _____ CERTIFIED COPY
_____ PLAIN STAMPED COPY

CONTACT PERSON: KAREN ROZAR

DIVISION OF CORPORATION

EXAMINER'S INITIALS:

RECEIVED

*1001
9/14/98*

ARTICLES OF MERGER
Merger Sheet

MERGING:

AEROSPACE SPECIFICATION METALS, INC., a Florida corporation 575187

INTO

AEROSPECIFIC ACQUISITION CORP. which changed its name to

AEROSPACE SPECIFICATION METALS, INC., a Florida corporation,
P98000069901

File date: September 14, 1998

Corporate Specialist: Annette Hogan

**STATE OF FLORIDA
ARTICLES OF MERGER
OF
AEROSPACE SPECIFICATION METALS, INC.
A FLORIDA CORPORATION
MERGING INTO
AEROSPECIFIC ACQUISITION CORP.
A FLORIDA CORPORATION**

FILED
98 SEP 14 PM 3:02
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1105 of the Florida Business Corporation Act, the undersigned corporations adopt the following articles of merger:

FIRST: The Agreement and Plan of Merger (the "Agreement") dated September 8, 1998 is attached hereto.

SECOND: The Agreement was adopted by the shareholders and directors of Aerospace Specification Metals, Inc., a Florida corporation, on September 8, 1998, and was adopted by the shareholders and directors of AeroSpecific Acquisition Corp., a Florida corporation, on September 8, 1998. Pursuant to Section 607.1001 of the Florida Business Corporation Act, an affirmative vote of (i) the sufficient number of directors and (ii) the sufficient number of shareholders approved the Agreement. Aerospace Specification Metals, Inc. is merged into AeroSpecific Acquisition Corp. with AeroSpecific Acquisition Corp. being the surviving corporation.

THIRD: The Certificate of Incorporation of AeroSpecific Acquisition Corp. is hereby amended by the amendment of Article I thereof to read in its entirety as follows:

"The name of the corporation is Aerospace Specification Metals, Inc."

Signed this 8th day of September, 1998.

AEROSPACE SPECIFICATION METALS, INC.

By: 

Name: Catherine Riesgo

Title: Chief Executive Officer

AEROSPECIFIC ACQUISITION CORP.

By: 

Terry L. Freeman

Vice President and Assistant Treasurer

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

dated as of September 8, 1998

by and among

METALS USA, INC.

AEROSPECIFIC ACQUISITION CORP.
(a subsidiary of Metals USA, Inc.)

AEROSPACE SPECIFICATION METALS, INC.

and

the Stockholders named herein

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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is made as of September 8, 1998, by and among METALS USA, INC., a Delaware corporation ("Metals"), AEROSPECIFIC ACQUISITION CORP., a Florida corporation and wholly-owned subsidiary of Metals ("Newco"), AEROSPACE SPECIFICATION METALS, INC., a Florida corporation (the "Company"), and the stockholders identified on the signature pages hereto (the "Stockholders"). The Stockholders are all of the holders of equity interests in the Company.

WHEREAS, the respective Boards of Directors of Newco and the Company (collectively called the "Constituent Corporations") deem it advisable and in the best interests of the Constituent Corporations and their respective stockholders that the Company merge with and into Newco pursuant to this Agreement and the applicable provisions of the laws of the State of Florida (the "State of Incorporation"); and

WHEREAS, the Boards of Directors of the Constituent Corporations have approved and adopted this Agreement as a plan of reorganization under Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, concurrently with the execution and delivery of this Agreement, the parties hereto are consummating the transactions described herein;

NOW, THEREFORE, in consideration of the mutual agreements, representations and warranties herein contained, the parties hereto hereby agree as follows:

1. THE MERGER

1.1 **The Merger.** On the terms and subject to the conditions of this Agreement, at the Effective Time (as defined below), the Company shall be merged with and into Newco (the "Merger") and the separate existence of the Company shall cease, all in accordance with the provisions of the law of the State of Incorporation. Newco shall be the surviving corporation in the Merger and is sometimes hereinafter called the "Surviving Corporation".

1.2 **Effective Time.** The Merger shall become effective at such time (the "Effective Time") as a certificate of merger, in form appropriate for filing, is filed with the Secretary of State (or other appropriate authority) of the State of Incorporation (the "Merger Filing"). The Merger

Filing shall be made simultaneously with or as soon as practicable after the execution and delivery of this Agreement.

1.3 Certificate of Incorporation, By-laws and Board of Directors of Surviving Corporation. At the Effective Time:

- (i) the Certificate of Incorporation of Newco then in effect shall be the Certificate of Incorporation of the Surviving Corporation;
- (ii) the By-laws of Newco then in effect shall be the By-laws of the Surviving Corporation;
- (iii) the Board of Directors of the Surviving Corporation shall consist of William B. Edge, Catherine Riesgo and J. Michael Kirksey (and, if necessary, the size of the Board of Directors of the Surviving Corporation shall be expanded so as to accommodate such appointments); and
- (iv) the officers of the Surviving Corporation shall be as follows:

<u>Name</u>	<u>Office(s)</u>
Catherine Riesgo	Chief Executive Officer, Secretary and Treasurer
Timothy Muldoon	President
J. Michael Kirksey	Vice President
Terry L. Freeman	Vice President/Assistant Treasurer
Keith St. Clair	Assistant Secretary/Assistant Treasurer
John A. Hageman	Assistant Secretary

1.4 Effect of Merger. At the Effective Time, the effect of the Merger shall be as provided in the law of the State of Incorporation. Except as herein specifically set forth, the identity, existence, purposes, powers, objects, franchises, privileges, rights and immunities of Newco shall continue unaffected and unimpaired by the Merger and the corporate franchises, existence and rights of the Company shall be merged with and into Newco, and Newco, as the Surviving Corporation, shall be fully vested therewith. At the Effective Time, the separate existence of the Company shall cease and, in accordance with the terms of this Agreement, the Surviving Corporation shall possess all the rights, privileges, immunities and franchises, of a public, as well as of a private, nature, and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all taxes, including those due and owing and those accrued, and all other choses in action, and all and every other interest of or belonging to or due to the Company and Newco shall be taken and deemed to be transferred to, and vested in, the Surviving Corporation without further act or deed; and all property, rights and privileges, powers and franchises and all and every other

interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the Company and Newco; and the title to any real estate, or interest therein, whether by deed or otherwise, under the laws of the state of Incorporation vested in the Company and Newco, shall not revert or be in any way impaired by reason of the Merger. Except as otherwise provided herein, the Surviving Corporation shall thenceforth be responsible and liable for all the liabilities and obligations of the Company and Newco and any claim existing, or action or proceeding pending, by or against the Company or Newco may be prosecuted as if the Merger had not taken place, or the Surviving Corporation may be substituted in their place. Neither the rights of creditors nor any liens upon the property of the Company or Newco shall be impaired by the Merger, and all debts, liabilities and duties of the Company and Newco shall attach to the Surviving Corporation, and may be enforced against the Surviving Corporation to the same extent as if said debts, liabilities and duties had been incurred or contracted by such Surviving Corporation.

1.5 **Name Change.** As part of the Merger, or promptly thereafter, Metals shall have the right to cause the Surviving Corporation to change its name to "Aerospace Specification Metals, Inc." or any variation thereof.

2. **CONVERSION OF STOCK; CLOSING**

2.1 **Manner of Conversion.** The manner of converting the shares of (i) outstanding capital stock of the Company ("Company Stock") and (ii) Newco Stock, issued and outstanding immediately prior to the Effective Time, respectively, into shares of (x) common stock, \$.01 par value per share, of Metals ("Metals Stock"), and (y) common stock of the Surviving Corporation shall be as follows:

As of the Effective Time:

(i) each share of Company Stock issued and outstanding immediately prior to the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, automatically shall be converted into the right to receive its pro rata interest in the aggregate consideration payable to all holders of Company Stock, which consideration shall consist solely of 225,776 shares of Metals Stock;

(ii) all shares of Company Stock, if any, that are held by the Company as treasury stock shall be canceled and retired and no shares of Metals Stock or other consideration shall be delivered or paid in exchange therefor; and

(iii) each share of Newco Stock issued and outstanding immediately prior to the Effective Time shall remain outstanding and shall continue to be owned by Metals immediately after the Effective Time.

2.2 **Closing.** The closing of the transactions contemplated by this Agreement is taking place on the date hereof, and the date hereof is sometimes herein called the "Closing Date". At the Closing the Stockholders are delivering to Metals the certificates representing the Company Stock, duly endorsed in blank by the Stockholders, or accompanied by blank stock powers, and with all necessary transfer tax and other revenue stamps, acquired at the Stockholders' expense, affixed and canceled. The Stockholders agree promptly to cure any deficiencies with respect to the endorsement of the stock certificates or other documents of conveyance with respect to such Company Stock or with respect to the stock powers accompanying any Company Stock.

3. REPRESENTATIONS AND WARRANTIES OF THE STOCKHOLDERS

The Stockholders jointly and severally represent and warrant that all of the following representations and warranties are true at the date of this Agreement. As used in this Section 3, unless otherwise required by the context, the term the "Company" includes Aerospace Specification Metals - UK, Inc., a Florida corporation (the "Subsidiary").

3.1 **Due Organization.** (a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Incorporation, and has all requisite power and authority to carry on its business as it is now being conducted. The Company is duly qualified to do business and is in good standing in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary, except where the failure to be so authorized or qualified would not be reasonably likely to have a material adverse effect on the business, operations, properties, assets or financial condition of the Company taken as a whole (as used herein with respect to the Company, or with respect to any other person, a "Material Adverse Effect"). Schedule 3.1 sets forth a list of all jurisdictions in which the Company is authorized or qualified to do business. True, complete and correct copies of the Certificate of Incorporation and Bylaws, each as amended, of the Company (the "Charter Documents") are all attached to Schedule 3.1. The stock records of the Company, a copy of which is attached to Schedule 3.1, are correct and complete in all material respects. There are no minutes that have not been made available to Metals, and all of such minutes are correct and complete in all material respects.

(b) The Subsidiary is a corporation duly organized, validly existing and in good standing under the laws of Florida, and has all requisite power and authority to carry on its business as it is now being conducted. The Subsidiary is duly qualified to do business and is in good standing in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification necessary, except where the failure to be so authorized or qualified would not be reasonably likely to have a Material Adverse Effect on the business, operations, properties,

assets or financial condition of the Subsidiary. Schedule 3.1 sets forth a list of all jurisdictions in which the Subsidiary is authorized or qualified to do business. True, complete and correct copies of the Certificate of Incorporation and Bylaws, each as amended, of the Subsidiary (the "Subsidiary Charter Documents") are all attached to Schedule 3.1. The stock records of the Subsidiary, a copy of which is attached to Schedule 3.1, are correct and complete in all material respects. There are no minutes that have not been made available to Metals, and all of such minutes are correct and complete in all material respects.

3.2 Authorization. (i) The representatives of the Company executing this Agreement have the authority to enter into and bind the Company to the terms of this Agreement and (ii) the Company has the full legal right, power and authority to enter into this Agreement and the Merger, all of which have been unanimously approved by Stockholders and by the Board of Directors of the Company. Copies of resolutions adopted by the Stockholders and the Board of Directors of the Company approving this Agreement and the Merger, certified by the Secretary or an Assistant Secretary of the Company, are attached hereto as Schedule 3.2. This Agreement has been validly executed and delivered by the Company and the Stockholders and constitutes the legal, valid and binding obligation of each of them enforceable in accordance with its terms.

3.3 Capital Stock of the Company. The authorized capital stock of the Company consists solely of 10,000 shares of common stock, par value \$1.00 per share, of which 927.95 shares (the "Company Stock") are issued and outstanding. The Company Stock is owned of record and beneficially by the Stockholders in the amounts set forth on Schedule 3.3 and all of such shares are owned free and clear of all liens, security interests, pledges, charges, voting trusts, restrictions, encumbrances and claims of every kind. All of the issued and outstanding shares of the capital stock of the Company have been duly authorized and validly issued, are fully paid and nonassessable, and were offered, issued, sold and delivered by the Company in compliance with all applicable state and federal laws concerning the issuance of securities. None of such shares were issued in violation of any preemptive rights or similar rights of any person. No option, warrant, call, conversion right or commitment of any kind exists which obligates the Company to issue any shares of its capital stock or obligates any Stockholder to transfer any shares of Company Stock to any person except pursuant to this Agreement, and no stock appreciation right or other similar right or other right of any nature whatsoever exists that entitles or could in the future entitle any person to any amount of cash or other property from the Company based on the value of the Company Stock.

3.4 Subsidiaries. Except for its ownership of 100% of the outstanding shares of capital stock of the Subsidiary or as otherwise set forth on Schedule 3.4, the Company has no subsidiaries and has not conducted business under any name except its exact legal name set forth on its certificate or articles of incorporation. Except as set forth in Schedule 3.4, the Company does not own, of

record or beneficially, or control, directly or indirectly, any capital stock, securities convertible into capital stock or any other equity interest in any corporation, association or other business entity, and the Company is not, directly or indirectly, a participant in any joint venture, partnership or other non-corporate entity.

The authorized capital stock of the Subsidiary consists solely of 1,000 shares of common stock, par value \$1.00 per share, of which 1,000 shares (the "Subsidiary Stock") are issued and outstanding and owned of record and beneficially by the Company free and clear of all liens, security interests, pledges, charges, voting trusts, restrictions, encumbrances and claims of every kind. All of the issued and outstanding shares of the Subsidiary Stock have been duly authorized and validly issued, are fully paid and nonassessable, and were offered, issued, sold and delivered by the Subsidiary in compliance with all applicable state and federal laws concerning the issuance of securities. None of such shares were issued in violation of any preemptive rights or similar rights of any person. No option, warrant, call, conversion right or commitment of any kind exists which obligates the Subsidiary to issue any shares of its capital stock or obligates the Company to transfer any shares of Subsidiary Stock to any person, and no stock appreciation right or other similar right or other right of any nature whatsoever exists that entitles or could in the future entitle any person to any amount of cash or other property from the Subsidiary or the Company based on the value of the Subsidiary Stock.

3.5 **Financial Statements.** Complete and correct copies of the following financial statements are attached as **Schedule 3.5:**

(a) consolidated balance sheets of the Company as of December 31, 1997, 1996 and 1995, and any related statements of operations, stockholder's equity and cash flows for the three-year period ended December 31, 1997, together with any related notes and schedules (the "Year-end Financial Statements"); and

(b) the consolidated balance sheet of the Company as of August 31, 1998 and any related interim statement of operations for the eight-month period then ended (the "Interim Financial Statements"). (The Year-end Financial Statements and the Interim Financial Statements are herein called the "Financial Statements", and August 31, 1998 is herein called the "Balance Sheet Date".)

The Financial Statements have been prepared from the books and records of the Company in conformity with generally accepted accounting principles applied on a basis consistent with preceding years and throughout the periods involved ("GAAP") and present fairly in all material respects the financial position and results of operations of the Company as of the dates of such statements and for the periods covered thereby. The books of account of the Company have been

kept accurately in the ordinary course of business, the transactions entered therein represent bona fide transactions, and the revenues, expenses, assets and liabilities of the Company have been properly recorded therein in all material respects.

3.6 **Liabilities and Obligations.** Except as and to the extent disclosed and adequately provided for in the Financial Statements or on Schedule 3.6 hereto, the Company has no liabilities or obligations of any kind, whether accrued, absolute, secured or unsecured, contingent or otherwise.

3.7 **Accounts and Notes Receivable.** Schedule 3.7 sets forth an accurate list of the accounts and notes receivable of the Company, as of the Balance Sheet Date, and as of the most recent date practicable, which date is specified on such list. Receivables from and advances to employees and the Stockholders and any entities or persons related to or affiliated with the Stockholders are separately identified on Schedule 3.7. Schedule 3.7 also sets forth an accurate aging analysis of all accounts, notes and other receivables as of the Balance Sheet Date, showing amounts due in 30-day aging categories. Except to the extent reflected on Schedule 3.7, all such accounts, notes and other receivables were incurred in the ordinary course of business, are stated in accordance with GAAP and are collectible in the amounts shown on Schedule 3.7, net of reserves reflected in the balance sheet as of the Balance Sheet Date.

3.8 **Permits and Intangibles.** The Company holds all licenses, franchises, permits and other governmental authorizations required in connection with the conduct of the Company's business. Schedule 3.8 sets forth an accurate list and summary description of all such licenses, franchises, permits and other governmental authorizations, including permits, titles (including licenses, franchises, certificates, trademarks, trade names, patents, patent applications and copyrights owned or held by the Company or any of its employees (including interests in software or other technology systems, programs and intellectual property) (it being understood and agreed that a list of all environmental permits and other environmental approvals is set forth on Schedule 3.9). The licenses, franchises, permits and other governmental authorizations listed on Schedules 3.8 and 3.9 are valid, and the Company has not received any notice that any person intends to cancel, terminate or not renew any such license, franchise, permit or other governmental authorization. The Company has conducted and is conducting its business in compliance with the requirements, standards, criteria and conditions set forth in the licenses, franchises, permits and other governmental authorizations listed on Schedules 3.8 and 3.9 and is not in violation of any of the foregoing. Except as specifically set forth on Schedule 3.8 or 3.9, the transactions contemplated by this Agreement will not result in a default under or a breach or violation of, or adversely affect the rights and benefits afforded to the Company by, any such licenses, franchises, permits or government authorizations.

3.9 **Environmental Matters.** Except as set forth on Schedule 3.9, the Company has complied with and is in compliance with all federal, state, local and foreign statutes (civil and

criminal), laws, ordinances, regulations, rules, notices, permits, judgments, orders and decrees applicable to any of them or any of their respective properties, assets, operations and businesses relating to environmental protection (collectively "Environmental Laws") including, without limitation, Environmental Laws relating to air, water, land and the generation, storage, use, handling, transportation, treatment or disposal of Hazardous Wastes, Hazardous Materials and Hazardous Substances including petroleum and petroleum products (as such terms are defined in any applicable Environmental Law) except to the extent that noncompliance with any Environmental Laws, either singly or in the aggregate, (i) has not had and is not reasonably likely to have a Material Adverse Effect on the Company or any of its businesses, and (ii) will not necessitate any material expenditure by or on behalf of the Company. The Company has obtained and adhered to all necessary permits and other approvals required pursuant to any applicable Environmental laws including, without limitation, such permits or approvals as are necessary to treat, transport, store, dispose of and otherwise handle Hazardous Wastes, Hazardous Materials and Hazardous Substances, a list of all of which permits and approvals is set forth on Schedule 3.9. The Company has reported to the appropriate authorities, to the extent required by all Environmental Laws, all past and present sites owned and operated by the Company where Hazardous Wastes, Hazardous Materials or Hazardous Substances have been treated, stored, disposed of or otherwise handled. There have been no releases (as defined in Environmental Laws) at, from, in or on any property owned or operated by the Company except as permitted by Environmental Laws. There is no on-site or off-site location to which the Company has transported or disposed of Hazardous Wastes, Hazardous Materials or Hazardous Substances or arranged for the transportation of Hazardous Wastes, Hazardous Materials or Hazardous Substances which is the subject of any federal, state, local or foreign enforcement action or any other investigation which is reasonably likely to lead to any claim against the Company, Metals or Newco for any clean-up cost, remedial work, damage to natural resources, property damage or personal injury, including, but not limited to, any claim under (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (ii) the Resource Conservation and Recovery Act, (iii) the Hazardous Materials Transportation Act or (iv) comparable state or local statutes and regulations. The Company has no contingent liability in connection with any release of any Hazardous Waste, Hazardous Material or Hazardous Substance into the environment.

3.10 Personal Property. Schedule 3.10 sets forth an accurate list of (a) all personal property included in "plant, property and equipment" on the balance sheet of the Company, (b) all other personal property owned by the Company with an individual value in excess of \$5,000 (i) as of the Balance Sheet Date and (ii) acquired since the Balance Sheet Date and (c) all leases and agreements in respect of personal property, including, in the case of each of (a), (b) and (c), an indication as to which assets are currently owned, by the Stockholders, relatives of the Stockholders, or Affiliates of the Company or the Stockholders. True, correct and complete copies of all of the documents listed on Schedule 3.10 have been delivered to Metals. Except as set forth and

specifically described on Schedule 3.10, (i) all material personal property used by the Company in its business is either owned by the Company or leased by the Company pursuant to a lease included on Schedule 3.10, (ii) all of the personal property listed on Schedule 3.10 is in good working order and condition, ordinary wear and tear excepted and (iii) all leases and agreements included on Schedule 3.10 are in full force and effect and constitute valid and binding agreements of the other parties (and their successors) thereto in accordance with their respective terms.

3.11 Significant Customers; Material Contracts and Commitments. Schedule 3.11 sets forth a list of (i) all customers representing 1% or more of the Company's revenues for the year ended December 31, 1997, and (ii) all material contracts, commitments and similar agreements to which the Company is a party or by which it or any of its properties are bound (including, but not limited to, contracts with significant customers, joint venture or partnership agreements, contracts with any labor organizations, strategic alliances and options to purchase land). True, complete and correct copies of such agreements have been provided to Metals. Except as described on Schedule 3.11, (i) none of the Company's customers identified on Schedule 3.11 have canceled or substantially reduced or, to the knowledge of the Company, are currently attempting or threatening to cancel a contract or substantially reduce utilization of the services provided by the Company, and (ii) the Company has complied with all material commitments and obligations pertaining to it, and is not in default under any contracts or agreements listed on Schedule 3.11 and no notice of default under any such contract or agreement has been received. Schedule 3.11 also includes a summary description of all plans or projects involving the opening of new operations, expansion of existing operations, the acquisition of any property, business or assets requiring, in any event, the payment in the aggregate of more than \$100,000 by the Company.

3.12 Real Property. Schedule 3.12 includes a list of all real property owned or leased by the Company at the date hereof, and all other real property, if any, used by the Company in the conduct of its business. The Company has good and marketable title in fee simple to the real property it purports to own, subject to no encumbrances except encumbrances that do not interfere with the use of such property, none of which encumbrances secures any liability for borrowed money, and has good and valid leasehold interests in the real property it purports to lease. True, complete and correct copies of all leases and agreements in respect of real property leased by the Company have been delivered to Metals. Except as set forth on Schedule 3.12, all of such leases listed on Schedule 3.12 are in full force and effect and constitute valid and binding agreements of the other parties (and their successors) thereto in accordance with their respective terms.

3.13 Insurance. Schedule 3.13 sets forth an accurate list as of the Balance Sheet Date of all insurance policies carried by the Company and an accurate list of all insurance loss runs or workers compensation claims received for the past three policy years. True, complete and correct copies of all insurance policies currently in effect, together with certificates of insurance showing

such policies to be in effect, have been delivered to Metals. Such insurance policies evidence all of the insurance that the Company is required to carry pursuant to all of its contracts and other agreements and pursuant to all applicable laws, and provide adequate coverage against the risks involved in the Company's business. None of such policies is a "claims made" policy.

3.14 **Compensation; Employment Agreements; Organized Labor Matters.** Schedule 3.14 sets forth an accurate list showing all officers, directors and key employees of the Company, listing all employment agreements with such officers, directors and key employees and the rate of compensation (and the portions thereof attributable to salary, bonus and other compensation, respectively) of each of such persons as of (i) the Balance Sheet Date and (ii) the date hereof. True, complete and correct copies of any employment agreements for the persons listed on Schedule 3.14 and all other employment and other agreements of any nature containing any provision that could require the Company to make any payment to any person as a result of the transactions contemplated by this Agreement have been delivered to Metals. Since the Balance Sheet Date, except as described on Schedule 3.14, there have been no increases in the compensation payable or any special bonuses to any officer, director, key employee or other employee.

Except as set forth on Schedule 3.14, (i) the Company is not bound by or subject to (and none of its assets or properties is bound by or subject to) any arrangement with any labor union, (ii) no employees of the Company are represented by any labor union or covered by any collective bargaining agreement, (iii) to the knowledge of the Company, no campaign to establish such representation is in progress and (iv) there is no pending or, to the best of the Company's knowledge, threatened, labor dispute involving the Company and any group of its employees. The Company has not experienced any labor interruptions over the past five years. The Company's relationship with its employees is good.

3.15 **Employee Benefit Plans.** Schedule 3.15 sets forth an accurate schedule showing all employee benefit plans of Company, including all agreements or arrangements (other than agreements or arrangements set forth on Schedule 3.14) containing "golden parachute" or other similar provisions, and deferred compensation agreements, together with true, complete and correct copies of such plans, agreements and any trusts related thereto, and classifications of employees covered thereby as of the Balance Sheet Date. Except for the employee benefit plans, if any, described on Schedule 3.15, the Company does not sponsor, maintain or contribute to any plan program, fund or arrangement that constitutes an "employee pension benefit plan," nor does the Company have any obligation to contribute to or accrue or pay any benefits under any deferred compensation or retirement funding arrangement on behalf of any employee or employees (such as, for example, and without limitation, any individual retirement account or annuity, any "excess benefit plan" (within the meaning of Section 3(36) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) or any non-qualified deferred compensation arrangement). For the

purposes of this Agreement, the term "employee pension benefit plan" shall have the same meaning as is given that term in Section 3(2) of ERISA. The Company has not sponsored, maintained or contributed to any employee pension benefit plan other than the plans set forth on Schedule 3.15, and is not required to contribute to any retirement plan pursuant to the provisions of any collective bargaining agreement establishing the terms and conditions of employment of any of the Company's employees.

The Company is not now, and cannot as a result of its past activities become, liable to the Pension Benefit Guaranty Corporation or to any multiemployer employee pension benefit plan under the provisions of Title IV of ERISA. All employee benefit plans listed on Schedule 3.15 and the administration thereof are in compliance in all material respects with their terms and all applicable provisions of ERISA and the regulations issued thereunder, as well as with all other applicable federal, state and local statutes, ordinances and regulations. All accrued contribution obligations of Company with respect to any plan listed on Schedule 3.15 have either been fulfilled in their entirety or are fully reflected on the balance sheet of the Company as of the Balance Sheet Date. All plans listed on Schedule 3.15 that are intended to qualify (the "Qualified Plans") under Section 401(a) of the Code are, and have been so qualified and have been determined by the Internal Revenue Service to be so qualified, and copies of the determination letters relating thereto are included as part of Schedule 3.15. Except as disclosed on Schedule 3.15, all reports and other documents required to be filed with any governmental agency or distributed to plan participants or beneficiaries (including, but not limited to, actuarial reports, audits or tax returns) have been timely filed or distributed, and the most recent copies thereof are included as part of Schedule 3.15. Neither the Stockholders, any plan listed in Schedule 3.15 nor the Company has engaged in any transaction prohibited under the provisions of Section 4975 of the Code or Section 406 of ERISA. No plan listed in Schedule 3.15 has incurred an accumulated funding deficiency, as defined in Section 412(a) of the Code and Section 302(1) of ERISA; and the Company has not incurred any liability for excise tax or penalty due to the Internal Revenue Service or any liability to the Pension Benefit Guaranty Corporation. There have been no terminations, partial terminations or discontinuance of contributions to any such Qualified Plan intended to qualify under Section 401(a) of the Code without notice to and approval by the Internal Revenue Service; no plan listed in Schedule 3.15 subject to the provisions of Title IV of ERISA has been terminated; there have been no "reportable events" (as that phrase is defined in Section 4043 of ERISA) with respect to any such plan listed in Schedule 3.15; the Company has not incurred liability under Section 4062 of ERISA; and no circumstances exist pursuant to which the Company could have any direct or indirect liability whatsoever (including, but not limited to, any liability to any multiemployer plan or the PBGC under Title IV of ERISA or to the Internal Revenue Service for any excise tax or penalty, or being subject to any statutory lien to secure payment of any such liability) with respect to any plan now or heretofore maintained or contributed to by any entity other than the Company that is, or at any time was, a member of a "controlled group" (as defined in Section 412(n)(6)(B) of the Code) that includes the Company.

3.16 Conformity with Law; Litigation. Except as set forth on Schedule 3.16, there are no claims, actions, suits or proceedings, pending or threatened against or affecting the Company, at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality having jurisdiction over the Company. Except as set forth on Schedule 3.16, no notice of any claim, action, suit or proceeding, whether pending or threatened, has been received by the Company during the last five years and there is no basis therefor. Except as set forth on Schedule 3.16, the Company has conducted for the past five years and now conducts its business in compliance with all laws, regulations, writs, injunctions, decrees and orders applicable to the Company or its assets. The Company is not in violation of any law or regulation or any order of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality having jurisdiction over any of them.

3.17 Taxes. For purposes of this Agreement, the term "Taxes" shall mean all taxes, charges, fees, levies or other assessments including, without limitation, income, gross receipts, excise, property, sales, withholding, social security, unemployment, occupation, use, service, license, payroll, franchise, transfer and recording taxes, fees and charges, imposed by the United States or any state, local or foreign government or subdivision or agency thereof, whether computed on a separate, consolidated, unitary, combined or any other basis; and such term shall include any interest, fines, penalties or additional amounts attributable to or imposed with respect to any such taxes, charges, fees, levies or other assessments.

All Tax returns ("Returns") required to be filed with respect to any Tax for which the Company is liable have been duly and timely filed with the appropriate Taxing Authority, each Tax shown to be payable on each such Return has been paid, each Tax payable by the Company by assessment has been timely paid in the amount assessed, and adequate reserves have been established on the books of the Company for all Taxes for which the Company is liable, but the payment of which is not yet due. The Company is not, and never has been, liable for any Tax payable by reason of the income or property of a Person other than the Company. The Company has timely filed true, correct and complete declarations of estimated Tax in each jurisdiction in which any such declaration is required to be filed by it. No Liens for Taxes exist upon the assets of the Company except Liens for Taxes which are not yet due. To the best knowledge of the Stockholders and the Company, there are no taxes due outside of the United States except as set forth on Schedule 3.17. No Litigation with respect to any Tax for which the Company is asserted to be liable is pending or, to the knowledge of the Company or any Stockholder, threatened, and no basis which the Company or any Stockholder believes to be valid exists on which any claim for any such Tax can be asserted against the Company. There are no requests for rulings or determinations in respect of any Taxes pending between the Company and any Taxing Authority. No issues have been raised and remain pending by any Taxing Authority in connection with the examination of any Return of the Company. All deficiencies asserted and assessments made, if any, as a result of or in connection with any

examination have been paid in full or are fully reflected as a liability in the Financial Statements. No extension of any period during which any Tax may be assessed or collected and for which the Company is or may be liable has been granted to any Taxing Authority. The Company is not and never has been party to any tax allocation or sharing agreement. All amounts required to be withheld by the Company and paid to governmental agencies for income, social security, unemployment insurance, sales, excise, use and other Taxes have been collected or withheld and paid to the proper Taxing Authority. The Company has made all deposits required by law to be made with respect to employees' withholding and other employment Taxes. None of the Company or any Stockholder is a "foreign person," as that term is referred to in Section 1445(f)(3) of the Code. The Company has not filed a consent pursuant to Section 341 (f) of the Code or any comparable provision of any other tax statute and has not agreed to have Section 341 (f)(2) of the Code or any comparable provision of any other Tax statute apply to any disposition of an asset. The Company has not made, is not obligated to make and is not a party to any agreement that could require it to make any payment that is not deductible under Section 280G of the Code. No asset of the Company is subject to any provision of applicable law which eliminates or reduces the allowance for depreciation or amortization in respect of that asset below the allowance generally available to an asset of its type. No accounting method changes of the Company exist or are proposed or threatened which could give rise to an adjustment under Section 481 of the Code.

The Stockholders made a valid election under the provisions of Subchapter S of the Code on January 1, 1989, and the Company has not, since its formation, been subject to taxation under the provisions of Subchapter C of the Code or under Section 11 or Section 1374 of the Code. Neither any of the Stockholders nor the Company has taken any action that terminated the Subchapter S election, which has been in effect at all times since January 1, 1989 and remains in effect on the date hereof. For the short Subchapter S tax period beginning January 1, 1998 through the Closing, the actual method shall be used to compute the taxable income to the Stockholders.

3.18 No Violations; No Consents Required. The Company is not in violation of any of its Charter Documents. Neither the Company nor, to the knowledge of the Company, any other party thereto, is in default under any lease, instrument, license, permit or material agreement to which the Company is a party or by which its properties are bound (the "Material Documents") that would have a Material Adverse Effect on the Company. The execution of this Agreement and the performance of the obligations hereunder and the consummation of the transactions contemplated hereby will not result in any material violation or breach or constitute a default under any of the terms or provisions of the Material Documents or the Charter Documents, and the rights and benefits of the Company under the Material Documents will not be adversely affected by the transactions contemplated hereby. Except as set forth on Schedule 3.18, none of the Material Documents requires notice to, or any consent or approval that has not been obtained of, any governmental agency or other third party with respect to any of the transactions contemplated hereby in order to

remain in full force and effect. Consummation of the transactions contemplated hereby will not give rise to any right to termination, cancellation or acceleration or loss of any material right or benefit. None of the Material Documents prohibits or restricts the Company from freely providing services to any other person.

3.19 **Absence of Changes.** Since the Balance Sheet Date, the Company has conducted its operations in the ordinary course of business and, except as set forth on Schedule 3.19, there has not been:

(i) any material adverse change in the financial condition, assets, liabilities (contingent or otherwise), income or business of the Company;

(ii) any damage, destruction or loss (whether or not covered by insurance) materially adversely affecting the properties or business of the Company;

(iii) any change in the authorized capital of the Company or its outstanding securities or any change in its ownership interests or any grant of any options, warrants, calls, conversion rights or commitments;

(iv) any declaration or payment of any dividend or distribution in respect of the capital stock (except for \$750,000 in previously taxed S corporation earnings, \$250,000 for the agreed current year tax liability of the Stockholders through the date hereof, and two personal vehicles (a 1997 Chevrolet Tahoe #2463 and a 1997 Ford Expedition #1446)) or any direct or indirect redemption, purchase or other acquisition of any of the capital stock of the Company;

(v) any increase or any commitment to any increase in the compensation, bonus, sales commissions or fee arrangement payable or to become payable by the Company to any of its officers, directors, Stockholders, employees, consultants or agents;

(vi) any work interruptions, labor grievances or claims filed, or any event or condition of any character, materially adversely affecting the business of the Company;

(vii) any sale or transfer, or any agreement to sell or transfer, any material assets, property or rights of Company to any person, including, without limitation, the Stockholders and their affiliates;

(viii) any cancellation, or agreement to cancel, any indebtedness or other obligation owing to the Company, including without limitation any indebtedness or obligation of any Stockholder or any affiliate thereof;

(ix) any plan, agreement or arrangement granting any preferential rights to purchase or acquire any interest in any of the assets, property or rights of the Company or requiring consent of any party to the transfer and assignment of any such assets, property or rights;

(x) any purchase or acquisition of, or agreement, plan or arrangement to purchase or acquire, any property, rights or assets outside of the ordinary course of the Company's business;

(xi) any waiver of any material rights or claims of the Company, provided, however, that this shall not be deemed to apply to ordinary adjustments of bills with customers consistent with past practice;

(xii) any amendment or termination of any material contract, agreement, license, permit or other right to which the Company is a party;

(xiii) any transaction by the Company outside the ordinary course of its business;

(xiv) any cancellation or termination of a material contract with a customer or client prior to the scheduled termination date;

(xv) any change in the Company's Articles of Incorporation or By-laws;

(xvi) any contract, commitment or liability entered into or incurred or any capital expenditures made except in the normal course of business consistent with past practice in an individual amount not in excess of \$25,000 and in an aggregate amount not in excess of \$100,000;

(xvii) any mortgage, pledge or other lien or encumbrance upon any assets or properties created, except (1) with respect to purchase money liens incurred in connection with the acquisition of equipment with an aggregate cost not in excess of \$25,000 necessary or desirable for the conduct of the business of the Company, (2) (A) liens for taxes either not yet due or being contested in good faith and by appropriate proceedings (and for which contested taxes adequate reserves have been established and are being maintained) or (B) materialmen's, mechanics', workers', repairmen's, employees' or other like liens arising in the ordinary course of business; or

(xviii) any other transfer or disposition of any property or equipment except in the normal course of business.

3.20 Deposit Accounts; Powers of Attorney. Schedule 3.20 sets forth a schedule as of the date of this Agreement of: (i) the name of each financial institution in which the Company has accounts or safe deposit boxes, (ii) the names in which the accounts or boxes are held, (iii) the type of account and account number, (iv) the type of account and the amount of cash, cash equivalents and securities held in such account, and (v) the name of each person authorized to draw thereon or have access thereto. Schedule 3.20 also sets forth the name of each person, corporation, firm or other entity holding any general or special power of attorney from the Company and a description of the terms of each such power.

3.21 Competing Lines of Business; Related-party Transactions. Except as set forth on Schedule 3.21, neither any of the Stockholders nor any other affiliate of the Company owns, directly or indirectly, any interest in, or is an officer, director, employee or consultant of or otherwise receives remuneration from, any business which is a competitor, lessor, lessee, customer or supplier of the Company, except for ownership of less than 1% of the outstanding stock of any publicly traded company in which such person has no management or other similar position. Except as set forth on Schedule 3.21, no officer, director or stockholder of the Company has, any interest in any property, real or personal, tangible or intangible, used in or pertaining to the Company's business.

3.22 **Disclosure.** The Stockholders have provided Metals or its representatives with all the information that Metals has requested in analyzing whether to consummate the transactions described herein. Neither the information so provided nor any representation or warranty contained in this Agreement contains any untrue statement or omits to state a material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. Except as disclosed in this Agreement or the schedules hereto, there is no fact that to any Stockholder's actual knowledge has specific application to the Company (other than general economic or industry conditions) which materially adversely affects or, so far as the Stockholders can reasonably foresee, materially threatens, the assets, business, or condition (financial or otherwise), results of operations or prospects of the Company.

3.23 **Preemptive Rights.** The Stockholders do not have, and hereby waive, any preemptive or other right to acquire shares of the Company's capital stock that the Stockholders have or may have had. No other person has any preemptive or other right to acquire any shares of the Company's capital stock.

3.24 **Certain Business Practices.** Neither the Company nor, to the knowledge of the Company or the Stockholders, any person acting on behalf of the Company, has given or offered anything of value to any governmental official, political party or candidate for government office nor has it or any of them otherwise taken any action which would cause the Company to be in violation of the Foreign Corrupt Practices Act of 1977, as amended, or any law of similar effect.

3.25 **Notices and Consents.** The Company has given any notices to third parties (including bargaining agents, if any) and has obtained any third party consents that may be necessary to consummate the transactions contemplated hereby.

3.26 **Inventory, Working Capital; Related Matters.** The Company's inventory and working capital levels are adequate to successfully operate the business and there has been no unusual build-up of cash needs at the date hereof. Except as set forth on Schedule 3.26, the Company's (a) net working capital calculated in accordance with GAAP (defined as total current assets less total current liabilities, including interest-bearing debt) as of the date hereof is at least \$400,000; and (b) net book value calculated in accordance with GAAP as of the date hereof is at least \$630,000.

3.27 **Representation by Counsel.** The Company and Stockholders severally warrant and represent that: (a) each has been fully informed by his or its legal counsel and by his or its own independent judgment of the terms, conditions and effects of this Agreement; (b) each has been represented by independent legal counsel of his or its choice throughout all negotiations preceding the execution of this Agreement and has received the advice of his or its attorney in entering into this

Agreement; (c) each, both personally and through his or its independently retained attorneys, is fully satisfied with the terms and effects of this Agreement; (d) no promise or inducement has been offered or made to him or it except as expressly stated in this Agreement; (e) this Agreement is executed without reliance on any statement or representation by any party or any other party's agent or attorney; and (f) this Agreement supersedes all prior negotiations and discussions.

3.28 Year 2000 Compliant. The Company represents that all properties and assets, including but not limited to computer hardware, microprocessor driven equipment, software and data, owned or used by the Company is Year 2000 Compliant. "Year 2000 Compliant" shall mean that (i) the properties and assets will accurately process and reflect date/time data, including but not limited to storing, displaying, calculating, comparing and sequencing, from, into and between the twentieth and twenty-first centuries, the years 1999, 2000 and 2001 specifically, and leap year calculations; (ii) Metals and Purchaser will suffer no loss of functional ability when processing dates and related data outside the 1900-1999 year range; and (iii) the properties and assets, when used in combination with other products, software, equipment, components or systems including without limitation those that are also Year 2000 Compliant, shall accurately process date/time data if the other products, software, equipment components or systems properly exchange date/time data with the properties and assets. The company further represents that it has received assurances and warranties from its suppliers and customers that past and future products software, equipment, components or systems, provided by the Company's suppliers and customers are and will be Year 2000 Compliant as defined herein.

4. REPRESENTATIONS OF METALS

Metals represents and warrants that all of the following representations and warranties in this Section 4 are true at the date of this Agreement.

4.1 Due Organization. Metals and Newco are each corporations duly incorporated, validly existing and in good standing under the laws of the States of Delaware and the State of Incorporation, respectively, and each has the requisite power and authority to carry on its business as it is now being conducted. Metals and Newco are each qualified to do business and are each in good standing in each jurisdiction in which the nature of its business makes such qualification necessary, except where the failure to be so authorized or qualified would not have a Material Adverse Effect.

4.2 Authorization. (i) The respective representatives of Metals and Newco executing this Agreement have the authority to enter into and bind Metals and Newco to the terms of this Agreement and (ii) Metals and Newco have the full legal right, power and authority to enter into this Agreement and the Merger.

4.3 **No Violations.** The execution of this Agreement and the performance of the obligations hereunder and the consummation of the transactions contemplated hereby will not result in any violation or breach or constitute a default under any of the terms or provisions of the Restated Certificate of Incorporation, as amended, of Metals or the Amended and Restated Bylaws of Metals or the Articles of Incorporation or Bylaws of Newco.

4.4 **Validity of Obligations.** The execution and delivery of this Agreement by Metals and Newco and the performance of the transactions contemplated herein have been duly and validly authorized by the respective Boards of Directors of Metals and Newco and this Agreement has been duly and validly authorized by all necessary corporate action and is a legal, valid and binding obligation of Metals and Newco.

4.5 **Metals Stock.** At the time of issuance thereof, the Metals Stock to be delivered to the Stockholders pursuant to this Agreement will constitute validly and legally issued, fully paid and nonassessable shares of Common Stock of Metals. The offer and sale of the Metals Stock to be delivered to the Stockholders pursuant to this Agreement have been registered by Metals on Form S-1 (such Registration Statement, as amended at the time of the delivery of the Metals Stock to be delivered to the Stockholders pursuant to this Agreement, being herein called the "Registration Statement" and the Prospectus contained therein being called the "Prospectus"). The Registration Statement has been declared effective by the SEC under the Securities Act of 1933, as amended (the "Securities Act") and no stop order suspending the effectiveness of the Registration Statement is in effect and no proceedings for such purpose have been instituted or are pending or, to the best knowledge of Metals, are contemplated or threatened by the SEC. The shares of Metals Stock to be delivered to the Stockholders pursuant to this Agreement have been approved for listing on the New York Stock Exchange ("NYSE"), subject to official notice of issuance.

4.6 **Absence of Changes.** At the date of the financial statements of Metals contained in the Prospectus, the financial condition of Metals was as set forth in such financial statements. There has not been any material adverse change in the financial condition, assets, liabilities (contingent or otherwise), income or business of Metals since the date thereof; however, since the date of the Prospectus, Metals may have acquired a number of additional companies or businesses, and at the date hereof may be a party to one or more definitive agreements to acquire additional companies or businesses, and may be a party to one or more letters of intent that contemplate Metals' acquisition of additional companies or businesses. Moreover, at the date hereof Metals and its representatives may be engaged in discussions with owners of additional companies or businesses and/or their representatives that may result in Metals' acquisition of additional companies or businesses.

4.7 **Securities Filings.** Metals has filed all periodic and other reports (collectively, including the Registration Statement, the "Metals' Securities Filings") required to be filed by Metals

with the SEC and NYSE since the date of its initial public offering of Common Stock, each of which has complied in all material respects with the applicable requirements of the Securities Act or the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as applicable, and the rules and regulations of the NYSE, each as in effect on the date so filed. As of their respective dates, none of the Metals' Securities Filings contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

5. DELIVERIES

5.1 **Employment Agreements.** The persons listed on Schedule 5.1 are entering into Employment Agreements with the Company in the form of Annex I hereto.

5.2 **Opinion of Counsel to the Company.** Counsel to the Company and the Stockholders is delivering to Metals an opinion dated the date hereof in the form of Annex II.

5.3 **Opinion of Counsel to Metals.** Counsel to Metals is delivering to the Company an opinion dated the date hereof in the form of Annex III.

5.4 **Good Standing Certificates.** The Company is delivering to Metals certificates, dated as of a date no earlier than ten days prior to the date hereof, duly issued by the appropriate governmental authority in the State of Incorporation and in each state in which the Company is authorized to do business, showing the Company is in good standing and authorized to do business. The Company is delivering to Metals certificates, dated as of a date no earlier than ten days prior to the date hereof, duly issued by the appropriate governmental authority in the Subsidiary's jurisdiction of incorporation and in each jurisdiction in which the Subsidiary is authorized to do business, showing the Subsidiary is in good standing and authorized to do business.

5.5 **Lease.** The parties to the form of Lease attached hereto as Annex IV are executing and delivering such Lease.

5.6 **FIRPTA Certificate.** Each Stockholder is delivering to Metals a certificate to the effect that he is not a foreign person pursuant to Section 1.1445-2(b) of the Treasury regulations.

5.7 **Related Party Transactions.** All existing leases, agreements and arrangements between the Company and any Stockholder or any affiliate of any Stockholder (including without limitation any stockholders agreements, voting agreements, voting trusts, options, warrants and employment agreements between the Company and any employee except as specifically approved

in writing by Metals) are either being canceled or the terms thereof are being renegotiated on an arm's length basis satisfactory to Metals.

5.8 **Stockholders' Release.** The Stockholders are delivering to Metals an instrument dated the date hereof releasing the Company from (i) any and all claims of the Stockholders against the Company and (ii) obligations of the Company to the Stockholders, except for (x) items specifically identified on Schedule 3.6 or 3.12 as being claims of or obligations to the Stockholders, (y) continuing obligations to Stockholders relating to employment by the Company and (z) obligations arising under this Agreement.

5.9 **Certain Indebtedness.** Metals is causing the Surviving Corporation to assume or pay in full the outstanding balance of the term loans, capital leases, shareholder loans and lines of credit of the Company described on Schedule 5.9 hereto, which amount, in the aggregate, does not exceed \$2,000,000.

5.10 **Certain Guarantees.** Metals is either (i) paying or causing the Surviving Corporation to pay all indebtedness of the Company guaranteed by any of the Stockholders and identified on Schedule 5.10 hereto, or (ii) hereby agreeing to secure releases of such guarantees as promptly as may be practicable after the date hereof (and in any case within 30 days), by paying or causing the payment of such indebtedness or otherwise.

6. POST-CLOSING COVENANTS

6.1 **Preparation and Filing of Tax Returns.**

(i) The Stockholders shall file or cause to be filed all tax returns for all taxable periods that end on or before the Closing Date (including the final S corporation tax return), but in each case only after Metals has reviewed such filings and consented thereto. The Stockholders shall pay all income taxes payable on all income attributable to the Company for all periods prior to the Closing Date.

(ii) Metals shall file or cause to be filed all tax returns for all taxable periods ending after the Closing Date.

(iii) Each party hereto shall, and shall cause its subsidiaries and affiliates to, provide to each of the other parties hereto such cooperation and information as any of them reasonably may request in filing any tax returns, amended tax returns or claim for refund, determining a liability for Taxes or a right to refund of Taxes or in conducting any audit or other proceeding in respect of Taxes. Such cooperation and information shall include providing copies of all relevant portions of relevant tax returns, together with relevant accompanying schedules and relevant work papers,

relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property, which such party may possess. Each party shall make its employees reasonably available on a mutually convenient basis at its cost to provide explanation of any documents or information so provided. Subject to the preceding sentence, each party required to file tax returns pursuant to this Agreement shall bear all costs of filing such tax returns.

(iv) The Company shall maintain its books and records for a minimum of six years, and the Stockholders shall be permitted free access to such books and records to the extent they relate to the activities of the Company prior to and including the Closing Date.

(v) Metals shall not make, and shall not cause the Surviving Corporation to make, any tax election, including an election under Section 338(h)(10) of the Code, that would have the effect of increasing the Stockholders' taxable income.

6.2 **Further Assurances.** The parties hereto agree to execute and deliver, or cause to be executed and delivered, such further instruments or documents or take such other action as may be reasonably necessary or convenient to carry out the transactions contemplated hereby.

6.3 **Additional Consideration.** As additional consideration to the Stockholders, Metals shall pay to the Stockholders the following amounts, if, but only if, the conditions described below are satisfied:

- (a) In the event that the Company's EBITDA (as defined below) for the four-month period beginning September 1, 1998 and ending December 31, 1998, equals or exceeds \$400,000, Metals shall pay to the Stockholders an aggregate of \$100,000 in cash by wire transfer or by check.
- (b) In the event that the Company's EBITDA (as defined below) for the twelve-month period beginning January 1, 1999 and ending December 31, 1999, equals or exceeds \$2,500,000, Metals shall pay to the Stockholders an aggregate of \$500,000 in cash by wire transfer or by check.

For purposes of this Section 6.3, "EBITDA" means the Company's earnings before interest, taxes, depreciation and amortization, calculated in accordance with generally accepted accounting principles applied on a basis consistent with past practices. The Company's EBITDA shall exclude any Metals or any Company charges such as management fees or cost allocations. The initial calculation of the Company's EBITDA for each of the periods described above shall be made by Metals within sixty days after the end of the applicable period, and shall be reviewed by the Stockholders within thirty days after the date such calculation is delivered to Metals by the Company. In the event that the Stockholders approve such calculation, payment of the applicable

amount to the Stockholders shall be made within ten business days after such approval. In the event that the Stockholders disagree with such calculation in any respect, the parties shall endeavor to reach agreement within thirty days after the Stockholders notify Metals of their disagreement with such calculation. In the event that the parties are unable to reach agreement within such thirty-day period, the parties shall submit the issues to binding arbitration to be conducted by three independent accounting experts, one of which shall be appointed by Metals, one of which shall be appointed by the Stockholders, and the third of which shall be appointed by the first two arbitrators. The expenses of such arbitration shall be borne 50% by Metals and 50% by the Stockholders. The results of such arbitration shall be final and binding upon all of the parties hereto.

7. INDEMNIFICATION

The Stockholders, Metals and Newco each make the following covenants that are applicable to them, respectively:

7.1 Survival of Stockholders' Representations and Warranties.

(a) The representations and warranties of the Stockholders made in this Agreement and in the documents and certificates delivered in connection herewith shall survive the Merger for a period of two years after the date hereof, except that the representations and warranties relating to tax matters shall survive until the expiration of the applicable statutes of limitation, and the representations and warranties relating to environmental matters shall survive for a period of five years after the Closing Date; provided, however, that representations and warranties and indemnification obligations with respect to which a claim is made within the applicable survival period shall survive until such claim is finally determined and paid.

(b) The representations and warranties of Metals and Newco made in this Agreement and in the certificates delivered in connection herewith shall survive the Merger for a period of two years after the date hereof, provided, however, that representations and warranties (and related indemnification obligations) with respect to which a claim is made within such period shall survive until such claim is finally determined and paid.

(c) The date on which a representation or warranty expires as provided herein is herein called the "Expiration Date." No claim for indemnification may be made with respect to a representation or warranty after the Expiration Date, other than claims based on fraud.

7.2 General Indemnification by the Stockholders. The Stockholders jointly and severally covenant and agree to indemnify, defend, protect, and hold harmless Metals and the Surviving Corporation and their respective subsidiaries and officers, directors, employees,

stockholders, agents, representatives and affiliates at all times from and after the date of this Agreement until the Expiration Date from and against all claims, damages actions, suits, proceedings, demands, assessments, adjustments, costs and expenses (including specifically, but without limitation, reasonable attorneys' fees) (collectively "Damages") incurred by such indemnified person as a result of or incident to (i) any breach of any representation or warranty of the Stockholders set forth herein or in the certificates or other documents delivered in connection herewith, and (ii) any breach or nonfulfillment of any covenant or agreement by the Company or the Stockholders under this Agreement, provided, however, that the payment of any amount of Damages shall be reduced by any tax or insurance benefit accruing to the Indemnified Party as a result of the event giving rise to such Damages, even though such benefit may arise after the Expiration Date.

7.3 **Indemnification by Metals.** Metals covenants and agrees that it will indemnify, defend, protect and hold harmless the Stockholders at all times from and after the date of this Agreement until the Expiration Date from and against all Damages incurred by the Stockholders as a result of (i) any breach of any representation or warranty of Metals or Newco set forth herein or in the certificates delivered in connection herewith; or (ii) any breach or nonfulfillment of any covenant or agreement by Metals or Newco under this Agreement.

7.4 **Third Person Claims.** Promptly after any party hereto (the "Indemnified Party") has received notice of or has knowledge of any claim by a person not a party to this Agreement ("Third Person") or the commencement of any action or proceeding by a Third Person that may give rise to a right of indemnification hereunder, such Indemnified Party shall give to the party obligated to provide indemnification hereunder (an "Indemnifying Party") written notice of such claim or the commencement of such action or proceeding; provided, however, that the failure to give such notice will not relieve such Indemnifying Party from liability under this Section with respect to such claim, action or proceeding, except to the extent that the Indemnifying Party has been actually prejudiced as a result of such failure. The Indemnifying Party (at its own expense) shall have the right to retain lead counsel and to lead in the defense of such claim, suit or proceedings, unless the Indemnified Party reasonably determines that one or more of the defenses potentially available to the Indemnified Party may be different from those available to the Indemnifying Party, in which case counsel for the Indemnified Party shall act as lead counsel in all matters pertaining to the defense or settlement of such claims, suit or proceedings unless the Indemnified Party otherwise agrees. The Indemnified Party shall not, except at its own cost, make any settlement with respect to any such claim, suit or proceeding without the prior consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. It is understood and agreed that in situations where failure of the Indemnifying Party to settle a claim expeditiously could have an adverse effect on the Indemnified Party, the failure of the Indemnifying Party to act upon the Indemnified Party's request for consent to such settlement within ten business days of the Indemnifying Party's receipt of notice thereof from

the Indemnified Party shall be deemed to constitute consent by the Indemnifying Party of such settlement for purposes of this Section.

7.5 **Method of Payment.** Claims for indemnification may be paid (at the election of the Indemnifying Party) in cash or in shares of Metals Stock valued at the average of the closing prices of Metals Stock on the New York Stock Exchange for the 60 trading days ending ten business days prior to the date any such payment is to be made. Any indemnification payment under this Section 7 will be treated as an adjustment to the exchange consideration for tax purposes unless a final determination with respect to the Indemnified Party or any of its affiliates causes such payment not to be treated as an adjustment to the exchange consideration for United States federal income tax purposes.

7.6 **Limitations on Indemnification.** Metals and the other persons indemnified pursuant to this Section shall not assert any claim for indemnification hereunder against the Stockholders until such time as the aggregate of all claims such persons may have against the Stockholders shall exceed \$50,000 (the "Indemnification Threshold") and then only to the extent that such claims exceed the Indemnification Threshold. The Stockholders shall not assert any claim for indemnification hereunder until such time as the aggregate of all claims the Stockholders may have hereunder shall exceed the Indemnification Threshold and then only to the extent that such claims exceed the Indemnification Threshold.

8. NONCOMPETITION

8.1 **Prohibited Activities.** The Stockholders will not, for a period of five (5) years following the Closing Date, for any reason whatsoever, directly or indirectly, individually or on behalf of or in conjunction with any other person, persons, company, partnership, corporation or business of whatever nature:

(i) own, manage, join, control, consult or advise (whether or not Stockholders are compensated or receive a benefit for such consultation or advice), or participate in, or render assistance to, or derive any benefit whatever from, any business offering services or products in direct competition with the Company within 200 miles of where the Company conducts business (the "Territory").

(ii) engage, as an officer, director, shareholder, owner, partner, joint venturer, or in a managerial capacity, whether as an employee, independent contractor, consultant or advisor, or as a sales representative, in any business offering services or products in direct competition with the Company within the Territory.

(iii) call upon any person who is, at that time, within the Territory, an employee of the Company, Metals or any of its subsidiaries for the purpose or with the intent of enticing such employee away from or out of the employ of the Company, Metals or any of its subsidiaries.

(iv) call upon any person or entity which is, at that time, or which has been, within one year prior to that time, a customer of the Company, Metals or any of its subsidiaries within the Territory for the purpose of soliciting or selling products or services in direct competition with the Company, Metals or any of its subsidiaries within the Territory; or

(v) call upon any prospective acquisition candidate, on the Stockholders' own behalf or on behalf of any competitor, which candidate was to Stockholders' actual knowledge after due inquiry, either called upon by the Company, Metals or any of its subsidiaries or for which the Company, Metals or any of its subsidiaries made an acquisition analysis for the purpose of acquiring such entity.

Notwithstanding the above, the foregoing covenant shall not be deemed to prohibit any Stockholder from acquiring as a passive investor with no involvement in the operations or management of the business, not more than one percent (1%) of the capital stock of a competing business the stock of which is publicly traded on a national securities exchange or over-the-counter market; but in no event may Stockholders provide consultation, advice or render any assistance to

such business. If Metals breaches any of its covenants under this Agreement, the noncompetition provisions of this Section 8 shall not apply.

8.2 **Equitable Relief.** Because of the difficulty of measuring economic losses to Metals as a result of a breach of the foregoing covenant, and because of the immediate and irreparable damage that could be caused to Metals for which it would have no other adequate remedy, the Stockholders agree that the foregoing covenant may be enforced by Metals in the event of breach by the Stockholders, by injunctions, restraining orders and other equitable actions.

8.3 **Reasonable Restraint.** It is agreed by the parties hereto that the foregoing covenants in this Section impose a reasonable restraint on the Stockholders in light of the activities and business of Metals and its subsidiaries on the date of the execution of this Agreement and the current plans of Metals; but it is also the intent of Metals and the Stockholders that such covenants be construed and enforced in accordance with the changing locations of Metals and its subsidiaries throughout the term of this covenant. During the term of this covenant, if Metals or one of its subsidiaries establishes new locations for its current activities or business in addition to or other than the locations currently established therefor, then the Stockholders will be precluded from soliciting the customers or employees from such new location and from directly competing within 200 miles of its then-established operating location(s) through the term of this covenant.

8.4 **Severability; Reformation.** The covenants in this Section are severable and separate, and the unenforceability of any specific covenant shall not affect the provisions of any other covenant. Moreover, in the event any court of competent jurisdiction shall determine that the scope, time or territorial restrictions set forth are unreasonable, then it is the intention of the parties that such restrictions be enforced to the fullest extent which the court deems reasonable, and the Agreement shall thereby be reformed.

8.5 **Independent Covenant.** The Stockholders acknowledge that the covenants set forth in this Section are material conditions to Metals' willingness to execute and deliver this Agreement and to consummate the transactions contemplated hereby. All of the covenants in this Section shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Stockholders against Metals or any subsidiary thereof, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by Metals of such covenants. It is specifically agreed that the period of five (5) years stated at the beginning of this Section, during which the agreements and covenants of the Stockholders made in this Section shall be effective, shall be computed by excluding from such computation any time during which such Stockholder is in violation of any provision of this Section. The covenants contained in this Section shall not be affected by any breach of any other provision hereof by any party hereto.

9. NONDISCLOSURE OF CONFIDENTIAL INFORMATION

9.1 **General.** The Stockholders recognize and acknowledge that they may have had in the past, may currently have, and in the future may possibly have, access to certain confidential information of the Company and/or Metals, such as operational policies, pricing and cost policies, customer lists, and other information, that are valuable, special and unique assets of the Company and/or Metals. The Stockholders agree not to disclose such confidential information to any person, firm, corporation, association or other entity for any purpose or reason whatsoever, except (a) to authorized representatives of Metals, (b) following the Closing, such information may be disclosed by the Stockholders as is required in the course of performing duties for Metals or the Surviving Corporation and (c) to counsel and other advisers, provided that such advisers (other than counsel) agree to the confidentiality provisions of this Section, unless (i) such information becomes known to the public generally through no fault of the Stockholders, or (ii) disclosure is required by law or the order of any governmental authority, provided, that prior to disclosing any information pursuant to this clause (ii), the Stockholders shall, if possible, give prior written notice thereof to Metals and provide Metals with the opportunity to contest such disclosure. In the event of a breach or threatened breach by the Stockholders of the provisions of this Section, Metals shall be entitled to injunctive or other equitable relief restraining the Stockholders from disclosing, in whole or in part, such confidential information. Nothing herein shall be construed as prohibiting Metals from pursuing any other available remedy for such breach or threatened breach, including the recovery of damages.

9.2 **Equitable Relief.** Because of the difficulty of measuring economic losses as a result of the breach of the foregoing covenants, and because of the immediate and irreparable damage that would be caused for which Metals would have no other adequate remedy, the Stockholders agree that the foregoing covenants may be enforced by injunctions, restraining orders and other appropriate equitable relief.

9.3 **Survival.** The obligations of the parties under this Article shall survive the termination of this Agreement for an unlimited time with respect to proprietary information and for a period of five years with respect to non-proprietary information.

10. INTENDED TAX TREATMENT

10.1 **Tax-Free Reorganization.** Metals and the Stockholders are entering into this Agreement with the intention that the Merger qualify as a tax-free reorganization for federal income tax purposes, except to the extent of any "boot" received, and the Stockholders and Metals will not take any actions that disqualify the Merger for such treatment. The Stockholders represent, warrant and covenant that:

(i) the Company operates at least one historic business line, or owns at least a significant portion of its historic business assets, in each case within the meaning of Reg. 1.368-1(d) under the Code;

(ii) the Stockholders have no present plan, intention or arrangement to dispose of any of the Metals Stock to be received in the Merger in a manner that would cause the Merger to violate the continuity of shareholder interest requirements set forth in Reg. Section 1.368-1 under the Code; and

(iii) Newco will acquire at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets held by the Company immediately prior to the Merger. For purposes of this representation, amounts (if any) paid by the Company to the Stockholders, Company assets used to pay their reorganization expenses, and all redemptions and distributions (except for normal, regular dividends) made by the Company immediately prior to the Merger will be included as assets of the Company held immediately prior to the Merger.

11. SECURITIES LAW MATTERS

11.1 **Economic Risk; Sophistication.** Each Stockholder acknowledges and confirms that he or she has received and reviewed a Prospectus from Metals relating to his or her acquisition of shares of Metals Stock hereunder. Each Stockholder (A) has such knowledge, sophistication and experience in business and financial matters that he is capable of evaluating the merits and risks of an investment in the shares of Metals Stock, (B) fully understands the nature, scope and duration of any limitations on transfer described in this Agreement and (C) can bear the economic risk of an investment in the shares of Metals Stock.

11.2 **Compliance with Law.** Each Stockholder covenants that none of the Metals Stock will be offered, sold, assigned, hypothecated, transferred or otherwise disposed of by such Stockholder except after full compliance with all of the applicable provisions of the Securities Act of 1933, as amended (the "Act") and the rules and regulations of the Securities and Exchange Commission.

11.3 **Contractual Restrictions** The Stockholders agree that in the aggregate they will not offer, sell, assign, pledge, hypothecate, transfer or otherwise dispose of or reduce their risk with respect to the shares of Metals Stock issued pursuant to this Agreement prior to the date one year after the date hereof, except that up to an aggregate of \$500,000 worth of such Metals Stock (valued at the same price used in Article 2 hereof) may be sold after February 1, 1999. The Stockholders agree to use their best efforts to effect any sales of their shares of Metals Stock through Metals' investment bankers. Certificates representing the Metals Stock issued to the Stockholders shall bear a legend or legends reflecting the foregoing restriction as well as the restrictions referred to in Section 11.2 hereof.

11.4 **Delivery of Prospectus.** Metals shall promptly deliver to the Stockholders such number of copies of the Prospectus as the Stockholders shall reasonably request.

12. GENERAL

12.1 **Cooperation.** The Company, the Stockholders, Metals and Newco shall each deliver or cause to be delivered to the other after the date hereof such additional instruments as the other may reasonably request for the purpose of carrying out this Agreement. The Company will cooperate and use its reasonable efforts to have the present officers, directors and employees of the Company cooperate with Metals on and after the date hereof in furnishing information, evidence, testimony and other assistance in connection with any tax return filing obligations, actions, proceedings, arrangements or disputes of any nature with respect to matters pertaining to all periods prior to the date hereof.

12.2 **Successors and Assigns.** This Agreement and the rights of the parties hereunder may not be assigned (except by operation of law) and shall be binding upon and shall inure to the benefit of the parties hereto, the successors of Metals, and the heirs and legal representatives of the Stockholders.

12.3 **Entire Agreement.** This Agreement (including the schedules, exhibits and annexes attached hereto) and the documents delivered pursuant hereto constitute the entire agreement and understanding among the Stockholders, the Company, Newco and Metals and supersede any prior agreement and understanding relating to the subject matter of this Agreement. Each of the Stockholders and the Company expressly warrants and represents and does hereby state that no promise or agreement which is not herein expressed has been made to him, her or it in connection with the execution and delivery of this Agreement, and none of the Stockholders or the Company is relying upon any statement or representation of any agent of Metals or Newco in entering into the transactions described herein. This Agreement, upon execution, constitutes a valid and binding agreement of the parties hereto enforceable in accordance with its terms and may be modified or amended only by a written instrument executed by the Stockholders, the Company, Newco and Metals, acting through their respective officers, duly authorized by their respective Boards of Directors.

12.4 **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, by facsimile or otherwise, each of which counterparts shall be deemed an original and all of which together shall constitute but one and the same instrument.

12.5 **Brokers and Agents.** The Stockholders agree to pay all fees and other amounts, if any, due to any broker, if any, engaged by the Stockholders or the Company, and agree to indemnify the other parties hereto against all loss, cost, damages or expense arising out of claims for fees or commission of brokers employed or alleged to have been employed by the Stockholders or the Company.

12.6 **Expenses.** Except as otherwise provided herein, whether or not the transactions herein contemplated shall be consummated, Metals will pay the fees and expenses of Metals' representatives, accountants and counsel incurred in connection herewith, and the Stockholders will pay the fees and expenses of the Stockholders' and the Company's representatives, accountants and counsel incurred in connection herewith that have not been paid or invoiced as of the date hereof. The Stockholders shall pay any sales, use, transfer, real property transfer, recording, gains, stock transfer and other similar taxes and fees ("Transfer Taxes") imposed in connection with the Merger. The Stockholders shall file all necessary documentation and Returns with respect to such Transfer Taxes. In addition, the Stockholders acknowledge that the Stockholders, and not the Company or Metals, will pay all taxes, if any, due upon their receipt of the consideration payable pursuant to this Agreement.

12.7 **Notices.** All notices and communications required or permitted hereunder shall be in writing and may be given by depositing the same in United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, or by delivering the same in person or by facsimile to an officer or agent of such party, as follows:

- (a) If to Metals or Newco, addressed to it at:

Metals USA, Inc.
Three Riverway, Suite 600
Houston, Texas 77056
Attn: General Counsel
Facsimile No. 713-965-0067

- (b) If to the Company or the Stockholders, addressed to it or them at:

Aerospace Specification Metals, Inc.
1384 West McNab Road
Ft. Lauderdale, FL 33309
Attention: Chief Executive Officer

or to such other address as any party hereto shall specify pursuant to this Section from time to time.

12.8 **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Incorporation other than its principles governing conflicts of laws.

12.9 **Survival of Representations and Warranties.** The representations, warranties, covenants and agreements of the parties made herein or in writing delivered pursuant to the provisions of this Agreement shall survive the consummation of the transactions contemplated hereby and any examination on behalf of the parties until the applicable Expiration Date or as otherwise provided herein.

12.10 **Effect of Investigation; Knowledge.**

(a) No investigation by the parties hereto in connection with this Agreement or otherwise shall affect the representations and warranties of the parties contained herein or in any certificate or other document delivered in connection herewith and each such representation and warranty shall survive such investigation.

(b) When a representation or warranty contained herein or in any certificate or other document delivered in connection herewith is made to the "knowledge" of a party, such party shall be deemed to know all facts and circumstances that a reasonable investigation of the subject matter of such representation or warranty would have revealed.

12.11 **Exercise of Rights and Remedies.** Except as otherwise provided herein, no delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of any similar breach or default occurring later; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

12.12 **Time.** Time is of the essence with respect to this Agreement.


12.13 **Reformation and Severability.** In case any provision of this Agreement shall be invalid, illegal or unenforceable, it shall, to the extent possible, be modified in such manner as to be valid, legal and enforceable but so as to most nearly retain the intent of the parties, and if such modification is not possible, such provision shall be severed from this Agreement, and in either case the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

12.14 **Remedies Cumulative.** No right, remedy or election given by any term of this Agreement shall be deemed exclusive but each shall be cumulative with all other rights, remedies and elections available at law or in equity.

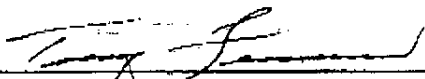
12.15 **Captions.** The headings of this Agreement are inserted for convenience only, and shall not constitute a part of this Agreement or be used to construe or interpret any provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

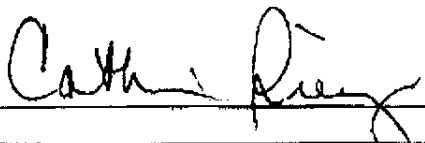
METALS USA, INC.

By: 
Arthur L. French
Chairman & Chief Executive Officer

AEROSPECIFIC ACQUISITION CORP.

By: 
Terry L. Freeman
Vice President

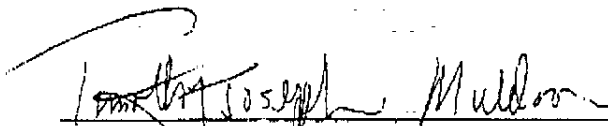
AEROSPACE SPECIFICATION METALS, INC.

By: 
Name: _____
Title: Chief Executive Officer

Stockholders:



Catherine Riesgo a/k/a Catherine Gasston, Trustee,
Catherine Riesgo a/k/a Catherine Muldoon
Declaration of Trust dated July 16, 1997



Timothy Joseph Muldoon