

Conciliation Agreement  
Between the  
U.S. Department of Labor Office of Federal Contract Compliance Programs  
and  
Aerometals

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Aerometals establishment located at 3920 Sandstone Dr., El Dorado Hills, CA 95762, beginning on January 29, 2021. OFCCP found that Aerometals failed to comply with the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) and its respective implementing regulations. OFCCP notified Aerometals of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on December 16, 2021.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient consideration described in this document, OFCCP and Aerometals enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

**II. General Terms and Conditions**

1. In exchange for Aerometals' fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under VEVRAA based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Aerometals violates any provision of this Agreement, as set forth in Paragraph 10, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Aerometals' compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Aerometals will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents OFCCP requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Aerometals of its obligation to fully comply with the requirements of Executive Order 11246, as amended (E.O. 11246 or the Executive Order), Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503), VEVRAA, their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.
4. Aerometals agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
5. The parties understand the terms of this Agreement and enter into it voluntarily.

6. This Agreement constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
7. This Agreement becomes effective on the day it is signed by the District Director (Effective Date).
8. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. This Agreement will expire sixty (60) days after Aerometals submits its final progress report required in Section IV, below, unless OFCCP notifies Aerometals in writing before the expiration date that Aerometals has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Aerometals has met all of its obligations under the Agreement.
10. If Aerometals violates this Agreement:
  - a. The procedures at 41 C.F.R. 60-300.63 will govern:
    - i. OFCCP will send Aerometals a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. Aerometals shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
    - iii. If Aerometals is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
    - iv. In the event of a breach of this Agreement by Aerometals, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms in the Agreement.
  - b. Aerometals may be subject to the sanctions set forth in 41 C.F.R. 60-300.66 and/or other appropriate relief for violating this Agreement.
11. Aerometals does not admit any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.
12. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.

13. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor.
14. Each party shall bear its own fees and expenses with respect to this matter.
15. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation, or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
16. All references to “days” in this Agreement are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

### **III. Technical Violations and Remedies**

1. **VIOLATION:** During the period January 1, 2020 through December 31, 2020, Aerometals failed to list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred in violation of 41 CFR 60-300.5(a)2-6. Specifically, during the review period Aerometals had twenty-one job openings but only listed one job with the local employment service delivery system.

**REMEDY:** Aerometals will list all employment openings as they occur with an appropriate employment service delivery system where the openings occur, in a manner and format that will allow the employment service delivery system to provide priority referrals of protected veterans to Aerometals, as required by 41 CFR 60-300.5(a)2-6. With its initial listing, and as subsequently needed to update the information, Aerometals must advise the employment service delivery system that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the contractor official responsible for hiring at each location, in accordance with 41 CFR 60-300.5(a)4. Should any of the information in the disclosures change since it was last reported to the employment service delivery system, Aerometals shall provide updated information simultaneously with its next job listing.

2. **VIOLATION:** During the period January 1, 2020 through December 31, 2020, Aerometals failed to invite applicants to inform it whether the applicant believes that he or she is a veteran protected by VEVRAA in violation of 41 CFR 60-300.42.

**REMEDY:** Aerometals will invite applicants to inform whether the applicant believes that he or she is a veteran protected by VEVRAA, as required by 41 CFR 60-300.42. More specifically, Aerometals shall invite applicants for employment, prior to an offer of

employment, to voluntarily identify as a protected veteran. Additionally, Aerometals shall invite applicants for employment, after an offer of employment but before applicants begin their job duties, to voluntarily inform it whether the applicant believes that he or she is a protected veteran. Aerometals may invite the applicant to also indicate if he or she belongs to one or more of the specific categories of protected veterans, as defined by 41 CFR 60-300.2(q). All invitations to self-identify as a protected veteran must comply with the requirements of 41 CFR 60-300.42(c). Aerometals must keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-300.42(e).

- 3. VIOLATION:** During the period January 1, 2020 through December 31, 2020, Aerometals failed to annually review the effectiveness of the outreach and recruitment efforts it took over the previous twelve months to identify and recruit qualified protected veterans, as required by 41 CFR 60-300.44(f)(3).

**REMEDY:** Aerometals will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR 60-300.44(f)(3). If Aerometals concludes that the totality of its efforts were not effective in identifying and recruiting qualified protected veterans, it shall identify and implement alternative efforts listed in 41 CFR 60-300.44(f)(1) or (f)(2).

- 4. VIOLATION:** During the period January 1, 2020 through December 31, 2020, Aerometals documented, but failed to maintain the required data pertaining to applicants and hires, in violation of 41 CFR 60-300.44(k).

**REMEDY:** Aerometals will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 CFR 60-300.44(k). The number of applicants who self-identified as protected veterans, or who are otherwise known to be protected veterans; The total number of job openings and total number of jobs filled; The total number of applicants for all jobs; The number of protected veteran applicants hired; and The total number of applicants hired.

- 5. VIOLATION:** During the period January 1, 2020 through December 31, 2020, Aerometals established a hiring benchmark using the five-factor approach described in 41 CFR 60-300.45(b)(2), but failed to document its methodology as required in 41 CFR 60-300.45(c). Specifically, Aerometals selected to establish their own benchmark using the five-factor approach but did not have all the data required to establish their own benchmark.

**REMEDY:** Aerometals will establish a hiring benchmark for each of its establishments, on an annual basis, using one of the two methods prescribed in 41 CFR 60-300.45(b). Aerometals must document its hiring benchmark, and, if Aerometals sets its benchmark using the five-factor approach described in 41 CFR 60-300.45(b)(2), it must also document each factor that it considered in establishing its benchmark and the relative

significance it accorded to each one. Aerometals must retain these records for three years, as required by 41 CFR 60-300.45(c).

6. **VIOLATION:** During the period January 1, 2020 through December 31, 2020, Aerometals failed to design and implement an audit and reporting system as required by 41 CFR 60-300.44(h)(1). Specifically, Aerometals failed to measure their compliance with the affirmative action program's specific obligations.

**REMEDY:** Aerometals will design and implement an audit and reporting system, as required by 41 CFR 60-300.44(h)(1). Specifically, Aerometals must design and implement an audit and reporting system that measures Aerometals' compliance with the affirmative action program's specific obligations; and documents the actions taken to comply with these obligations.

#### IV. OFCCP Monitoring Period

1. **Recordkeeping.** Aerometals agrees to retain all records relevant to the violations cited in Section III above and the reports submitted in compliance with Paragraph 2, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. Aerometals will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Aerometals Reports.** Aerometals agrees to furnish OFCCP with the following reports during the Monitoring Period. Each report will contain the documentation specified according to the dates scheduled:
  - a. Progress Report 1: Due on August 1, 2022 covering the period of January 1, 2022 through June 30, 2022.

A report of:

1. The jobs listed with the local employment delivery system during the covered period.
2. An applicant self-identification report that demonstrates that Aerometals invited applicants to inform it whether the applicant was a veteran. The report shall include the number of applicants during the covered period, the number of applicants who completed the self-identification form, and the number of applicants who identified themselves as a veteran.
3. A hire self-identification report. The report will include the total number of hires during the covered period, the number hires that completed the self-identification form, and the number of hires who identified themselves as a veteran.
4. Each outreach and recruitment activity designed to effectively recruit qualified veterans to include the name of the activity, the date of the activity,

the name of the job titles of employees involved in the activity, and the goal and results of the activity.

5. The assessment of each outreach and recruitment activity, the criteria used to assess each activity and Aerometals' assessment of the totality of all of its activities. If Aerometals concludes that the totality of its efforts were not effective in identifying and recruiting veterans, it shall identify and report what alternative efforts were made.
  6. Aerometals' data collection analysis. The report shall contain the number of applicants who self-identified as protected veterans, or who are otherwise known to be protected veterans; the total number of job openings and total number of jobs filled; the total number of applicants for all jobs; the number of protected veteran applicants hired; and the total number of applicants hired.
  7. The benchmark Aerometals used for the covered period. If Aerometals established a benchmark using the five-factor approach, then Aerometals must provide the methodology used and supporting documents.
- b. Progress Report 2: Due on February 1, 2023 covering the period of July 1, 2022 through December 31, 2022.

A report of:

1. The jobs listed with the local employment delivery system during the covered period.
2. An applicant self-identification report that demonstrates that Aerometals invited applicants to inform it whether the applicant was a veteran. The report shall include the number of applicants during the covered period, the number of applicants who completed the self-identification form, and the number of applicants who identified themselves as a veteran.
3. A hire self-identification report. The report will include the total number of hires during the covered period, the number hires that completed the self-identification form, and the number of hires who identified themselves as a veteran.
4. Each outreach and recruitment activity designed to effectively recruit qualified veterans to include the name of the activity, the date of the activity, the name of the job titles of employees involved in the activity, and the goal and results of the activity.
5. The assessment of each outreach and recruitment activity, the criteria used to assess each activity and Aerometal's assessment of the totality of all if its activities. If Aerometals concludes that the totality of its efforts were not effective in identifying and recruiting veterans it shall identify and report what alternative efforts were made.
6. Aerometal's data collection. The report shall contain the number of applicants who self-identified as protected veterans, or who are otherwise known to be protected veterans; the total number of job openings and total number of jobs filled; the total number of applicants for all jobs; the number

of protected veteran applicants hired; and the total number of applicants hired.

7. Evidence that Aerometals developed and implemented an audit and reporting system that monitors the effectiveness of its total affirmative action programs under VEVRAA, in accordance with 41 CFR 60-300.44(h)(1). The report will include the dates the actions were taken, the individuals involved by name and job title and proof that these actions were taken.

Aerometals will submit reports to Lynda Sakseangvirat, District Director of OFCCP, via email at (b) (6), (b) (7)(C)@dol.gov with a copy to Compliance Officer (b) (7)(C), (b) (7)(E) at (b) (6), (b) (7)(C)@dol.gov. Aerometals and OFCCP have a common interest in the information being provided in the reports pursuant to this Agreement. To the extent any of the reports Aerometals provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and the Aerometals believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Aerometals will provide such reports to OFCCP marked as “Confidential”. In the event of a FOIA request, OFCCP will promptly notify Aerometals of the FOIA request and provide Aerometals an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Aerometals’ final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Aerometals in writing within sixty (60) days of the date of the final progress report that Aerometals has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies Aerometals within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Aerometals has met all of its obligations under the Agreement.

**V. SIGNATURES**

The person signing this Agreement on behalf of Aerometals personally warrants that he or she is fully authorized to do so, that Aerometals has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Aerometals.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Aerometals, 3920 Sandstone Dr., El Dorado Hills, CA 95762.

**(b) (6), (b) (7)(C)**

Lorje Symon  
President  
Aerometals  
3920 Sandstone Dr.  
El Dorado Hills, CA 95762-9652

DATE: 12/23/21

**(b) (6), (b) (7)(C)**

Lynda Sakseangvirat  
District Director  
San Jose, Hawaii, and Guam Offices

DATE: 12/29/2021