

**CUSTOMER CONTRACT REQUIREMENTS****Valiant Global Defense Services – JHMCS Evaluation/Repair BOA****VALIANT-2020-001**

The following customer contract requirements apply to this Contract to the extent indicated below.

**1. LANGUAGE AND CURRENCY**

- a. All documents to be supplied in connection with this Agreement, such as shipping documents, drawings, instruction manuals, letters, telegrams, etc., shall be in the English language and commensurate with Seller's usual standards, unless otherwise agreed upon.
- b. Price shall be paid in U.S. dollars.

**2. INSPECTION AND ACCEPTANCE**

- a. All materials purchased under this agreement will be constructed/manufactured in accordance with the specifications agreed upon between the parties and will be inspected by Seller's own system of inspection and quality control. Buyer, however, reserves the right to send representatives, the number of whom shall be agreed with Seller, to the manufacturing plant to be present during inspection.
- b. In the event Buyer does not deem necessary to send a representative(s) by a mutually agreed date to be present during inspection to perform such acceptance, Buyer shall provide its written approval and Seller's Quality Assurance Department signature on a Final Acceptance Document shall be deemed as accepted by Buyer.
- c. In the event Buyer refuses to accept the goods and services due to technical reasons relating to a confirmed defect in the work performed by Seller, Seller shall take due account of such defect and shall correct the matter and demonstrate such correction to Buyer's satisfaction at no additional cost to Buyer.
- d. Buyer shall take acceptance of the goods and services at Seller's facility.

**3. RECOVERY OF U.S. GOVERNMENT COSTS**

- a. U.S. Government cost due to inspection surveillance or any other service provided by the U.S. Government is not contemplated by this Agreement. However, Buyer agrees that should the U.S. Government assess Seller for any recurring cost due to inspection surveillance, upon Seller furnishing reasonable evidence of such cost, Buyer will reimburse Seller for the assessed amount or pay it directly to the U.S. Government.
- b. U.S. Government Source inspection, if desired by Buyer, is to be procured directly from the United States Government by Buyer.

**4. DELIVERY AND TRANSFER OF TITLE**

- a. Deliveries of Goods shall be Ex Works (EXW), INCOTERMS 2000, Seller/Seller Subcontractor's Plant. Delivery is defined as the date when the Goods and/or Services have passed acceptance test and are available for shipment.
- b. Title to equipment shall pass from Seller to Buyer upon completion of both delivery and final acceptance.
- c. Seller shall be responsible for obtaining any and all U.S. licenses, including export licenses, which may be required to effect the sale of the Equipment and Services and the rights to use Data and Documentation hereunder. Buyer agrees to provide Seller with assistance and information necessary to allow Seller to obtain a U.S. export license.

- d. Any import licenses that may be required by Buyer's country shall be the sole responsibility of Buyer.

## 5. CHANGES

- a. Either Buyer or Seller may at any time issue written requests for changes within the general scope of this agreement. The Party receiving the change request shall reply within thirty (30) days of its desire to perform or not perform the requested change, in its sole discretion.
- b. If the Parties agree to proceed with a change, Seller shall submit a proposal for adjustment under this Article within ninety (90) days or within a time period as agreed to between Buyer and Seller after receipt of the written request.
- c. If any change causes an increase or decrease to the price, schedule, or other terms and conditions of this agreement, Buyer and Seller shall mutually agree to an equitable adjustment. Upon mutual agreement between Buyer and Seller on the price and the terms of the change, the Parties shall prepare and execute an amendment to the agreement.
- d. Neither Party shall be obligated to start work on the requested change until the formal amendment has been executed.

## 6. TERMINATION

- a. Buyer or Seller shall have the right to cancel this agreement partially or completely in the case of Default, as hereinafter defined, by the other party. The term "Default" shall mean any material breach of this agreement, or failure to comply with any material term, provided such breach or failure to comply is not due to those conditions described in the Force Majeure Article of the General Provisions. Any cancellation will be effective if within thirty (30) days of the breach, written notice stipulating the nature of the breach is provided by the canceling party to the other party, and the breach is not cured within 60 days of receipt of such notice.
- b. Default by Seller
  - i. If the Agreement is canceled by Buyer for default by Seller, payments received by Seller in excess of services or work performed, including allocable profit, will be refunded with interest at the prevailing U.S. Treasury rate at time of cancellation for the time Seller had such excess amounts. The cost of the work performed up to the date of cancellation will be certified by a U. S. Public Accounting Firm mutually acceptable to Seller and Buyer. In the event that the cost incurred by Seller is greater than the advance payment, Buyer shall be liable to Seller for such amount. The above shall constitute the sole liability of Seller and the exclusive remedy of Buyer for default by Seller.
- c. Default by Buyer
  - i. If the Agreement is canceled by Seller for default of Buyer, Seller will have the right to be paid the price, including allocable profit, for work or services performed up to the date of cancellation plus necessary termination expense for materials and services initiated, less any savings or salvage which Seller can achieve. The price of the work performed up to the date of cancellation will be certified by a mutually acceptable U. S. Public Accounting Firm. In the event that the price determined to be due Seller is greater than the advance payment, Buyer shall be liable to Seller for such amount with interest from date of suspended payments by Buyer at the prevailing U.S. Treasury rate.

## d. Disposition of Goods

- i. If this Agreement is canceled by either Party, the Buyer, in addition to any other rights provided in this Article, may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer (1) any completed Goods, or (2) such partially completed Goods as Seller has specifically produced or specifically acquired for the performance of such part of this agreement as has been canceled, for which final payment has been received.

## 7. TAXES, FEES AND DUTIES

- a. Subsequently awarded order pricing will exclude, and Seller will not be required to pay, any present or future non-United States of America taxes, duties, fees, levies, bonds, charges, contributions, or any other such fiscal burden related to the execution and performance of this agreement, imposed by any jurisdiction other than the United States of America including any subdivisions thereof.
- b. Taxes are defined as including but not limited to the following:
  - i. Income taxes, withholding taxes, branch profits, goods and services taxes, value added taxes, gross receipts, excise taxes, sales and use taxes, ad valorem, property, employment, social security, stamp duties, tariffs, import duties, as well as customs duties and all other duties and charges of any kind imposed by, or payable to, the authorities, instrumentalities, or agencies (including any related interest or penalties thereon).
- c. Buyer will be responsible for payment of all taxes duly levied by any taxing authority other than the United States of America including any political subdivision thereof.
- d. In the case of a withholding tax imposed on payments to Seller, Buyer shall withhold the appropriate amount of tax and forward this amount to Seller. If any payments to Seller under this agreement are subject to withholding tax, Buyer shall pay Seller such gross amount that after payment of withholding tax, would result in the receipt by Seller of an and all payments due Seller specified in the agreement exclusive of taxes (i.e., Seller will receive as net payments the full contract price specified in this agreement regardless of the amount of withholding taxes paid).
- e. Buyer shall provide Seller with official tax receipts certificate evidencing payment of such a withholding tax.
- f. To the extent effort under this agreement is exempt from value added tax, goods and services tax, or other taxes, Buyer shall assist Seller with obtaining appropriate exemptions. Failure to obtain and/or meet requirements of such exemption will result in the charging of value added tax at the standard rate.

## 8. GOVERNING LAW AND FORUM SELECTION

- a. The Agreement, and any disputes, shall be governed by the laws of the State of Washington, U.S.A. but without regard to its conflict of laws rules. The Parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- b. The Parties hereby irrevocably agree that any and all disputes relating to this Agreement shall be resolved exclusively by the courts of King County Washington and the federal courts of the State of Washington, U.S.A. Each Party hereby waives and agrees not to assert by way of motion, as a defense or otherwise, in any such suit, action or proceeding, any claim that (1) such Party is not personally subject to the jurisdiction of the above-

named courts, (2) the suit, action or proceeding is brought in an inconvenient forum, or (3) the venue of the suit, action or proceeding is improper.

- c. The Parties agree that the matters that are the subject of this Agreement are commercial transactions and irrevocably agree not to claim and to waive any sovereign, state or other immunity from service, suit, execution, pre-judgment or post-judgment attachment, or other legal process in any jurisdiction in connection with the Agreement or any arbitration or the enforcement of any arbitral award hereunder.
- d. Each party shall bear its own costs and expenses, including without limitation attorneys' fees and other costs of legal representation.