

Foster Miller, Inc.
 DBA QinetiQ North America (QNA)
 Terms & Conditions
 For
 Items Purchased Under QNA for Non-U. S. Government Funding

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Introduction / Instructions on Use of this Document

The following Terms & Conditions, unless self-deleting by definition, apply to all QNA purchase orders funded by QNA or non-U.S. Government customers.

Terms and Conditions are listed in alphabetical order by title and subtitle(s) and delineated by separate but interdependent provision stipulations.

Definitions

1. "Buyer" shall refer to QNA.
2. "Contract" shall refer to the Purchase Order.
3. "Party" or "Parties" shall refer to Buyer and Seller individually or collectively.
4. "Product" shall refer to materials, supplies or services to be delivered by Seller to Buyer under a Contract.
5. "Seller" shall refer to the Party under or contemplated to be under a Contract with the Buyer.
6. "Purchase Order" shall refer to the Contract instrument.

Terms & Conditions

1. Acceptance of Order / Terms & Conditions

- a. Seller's acknowledgement of a Contract, or commencement of work, or acceptance of payment under a Contract shall constitute Seller's unqualified acceptance of the Contract and these Terms & Conditions.
- b. The Contract constitutes the entire agreement between the Parties and supersedes all other preceding offers, negotiations or agreements, expressed or implied, oral or written, concerning the Contract.
- c. In the event that the Contract does not state price or delivery, Buyer shall not be bound to any price or delivery schedule to which it has not specifically agreed to in writing.
- d. Seller proposed terms and conditions not expressly agreed to in writing by the Buyer are objected to by Buyer and shall be void and have no effect on the Contract.
- e. Headings used herein are for the convenience of the Parties and shall not define, limit, or describe the scope or the intent of the provisions thereto.

2. Assignment

- a. Any assignment of Seller's Contract rights or delegation of its duties or obligations hereunder shall be void, unless prior written consent is given by Buyer.
- b. Seller may assign rights to be paid amounts due, or to become due, to a financing institution provided that Buyer is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of said amounts. Such amounts assigned shall be subject to setoff or recoupment for any present or future claim of Buyer against Seller. Buyer shall have the right to make settlements / adjustments in price without notice to any assignee financing institution.

3. Changes / Scope of Work / Equitable Adjustment

- a. From time to time, by written notice, Buyer may make changes to the Contract. A change may be to the delivery dates or any other material aspect of the Contract; it may originate by the Buyer, or the Buyer's customer, or the Seller.
- b. If Seller believes that a change constitutes a material change to the scope of work, such that price or delivery are affected, Seller may, within a reasonable period of time from when the change was first made known, make a request for equitable adjustment.
- c. Buyer and Seller shall negotiate in good faith to determine the validity of a request for equitable adjustment, and if found to be valid, to determine a fair and reasonable price thereto.
- d. Seller shall diligently proceed with the performance of the Contract during a change or equitable adjustment process as directed by the Buyer.

4. Compliance with Law / Governing Law

- a. Seller, in performance of the Contract, agrees to comply with all applicable federal, state, and municipal laws, ordinances, directives, and guidelines, and any and all rules and regulations thereunder.
- b. Seller shall procure all licenses / permits and pay all fees and other charges that may be required in the performance of the Contract.
- c. The Contract and any matter arising out of or relating to it shall be governed by the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles.

5. Contract Direction

- a. Seller shall take direction only from the designated authorized representative of the Buyer with regard to any and all material aspects of the Contract, including but not limited to: (i) acceptance; (ii) changes; (iii) export control; and (iv) termination.
- b. Seller may and is encouraged to communicate directly with Buyer engineering / technical personnel as needed prior to or during the performance of the Contract. However, such communication shall not constitute a change and shall not be a basis for equitable adjustment.

6. Counterfeit Parts / Work

- a. For the purpose of this Section, counterfeit parts / work are defined as parts / work that have been altered to resemble authentic parts / work with the intent to deliberately mislead, misrepresent or defraud.
- b. Seller shall not deliver counterfeit parts /work to the Buyer under the Contract.
- c. Seller represents and warrants that only new and authentic parts / work will be used in the performance of the Contract.
- d. Seller shall immediately notify Buyer if Seller becomes aware of or suspects that it has furnished counterfeit parts / work to the Buyer, and shall assist Buyer in determining the extent and resolution of the matter, up to and including any and all expenses required to replace the counterfeit parts / work and the establishment of new policies and procedures to prevent recurrence.

7. Delivery / Notice of Delay

- a. Delivery is a critical element to the performance of the Contract. Seller's failure to meet delivery dates, if unexcused, constitutes a material breach of the Contract; and no acts of the Buyer, including without limitation changes or acceptance of late deliveries shall constitute waiver of this provision.
- b. Seller shall notify Buyer in writing immediately upon any actual or potential delay to perform the Contract. Such notice shall include a proposed revised delivery schedule; however, such notice and proposal or Buyer's acceptance thereof shall not constitute a waiver to Buyer's rights and remedies hereunder.

8. Disputes

- a. Except as otherwise provided in the Contract, Buyer and Seller shall have the right to redress any dispute arising under or related to the Contract.
- b. Executive level reviews by Buyer and Seller respective organizations shall occur if the dispute cannot be disposed of by mutual agreement at the program level within a period of thirty (30) days after one party has provided the other written notice of the dispute.
- c. In the event that executive level reviews are unsuccessful in resolving the dispute within one hundred twenty (120) days, both parties shall endeavor to settle the dispute by non-binding mediation under the CPR Institute for Dispute Resolution Mediation Procedure that is current as of the date of the dispute.
- d. If the dispute is still not resolved within thirty (30) days after the appointment of a mediator, the parties agree to resolve the dispute by binding arbitration by a sole arbitrator in accordance with CPR Rules for Non-Administered Arbitration in effect on the date of the Contract. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. Section 1-16 to the exclusion of state laws inconsistent therewith, and judgment upon award rendered by the arbitrator may be entered into any court having jurisdiction thereof pursuing any right or remedy which Buyer or Seller, as the case may be, may have at law, or in equity, or under the Contract in any U.S. court of competent jurisdiction.

- e. The arbitrator is not empowered to award punitive damages or damages in excess of compensatory damages and each party hereby irrevocably waives any right to recover such punitive damages or excess damages.
- f. Any dispute not resolved by arbitration may be decided by recourse to an action at law or in equity.
- g. Pending resolution of any dispute, Seller shall proceed diligently with the performance of work, including the delivery of Product in accordance with Buyer's direction.
- h. Upon resolution of any such dispute, the Contract shall be equitably adjusted, if necessary, to reflect such resolution.

9. Electronic Contracting

If the Contract or acknowledgement thereto is transmitted electronically neither Party shall contest the validity of the Contract or its acknowledgement on the basis that they contain an electronic signature.

9.1 Ethics / Bribery / Anti-Corruption

Buyer and Seller will ensure compliance of their officers, directors, affiliated companies, subcontractors and shareholders with the US Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010, U.S. Combating Trafficking in Persons/U.K. Modern Slavery Act of 2015 and any other anti-corruption and anti-bribery laws, legislation, regulations or directives ("Anti-Corruption Legislation") which apply to their business or which apply in the place where the Contract is performed. Each party will not, and will certify that its employees, subcontractors, agents and representatives will not, engage in any activity, practice or conduct which would constitute an offense under any Anti-Corruption Legislation. In addition, Seller shall maintain policies and procedures that govern its business ethics to ensure that they comply with the requirements of Buyer's Ethics Policy, which can be viewed at: ethics@qna.com

9.2 Antiboycott

It is Buyer's policy to fully comply with U.S. antiboycott laws and regulations. Accordingly, under no circumstances does Buyer agree to comply with, further, or support the boycott of Israel or any other foreign boycott that the United States does not sanction in contravention of U.S. law or in a manner inconsistent with U.S. law.

- a. Seller represents and warrants that it is familiar with all applicable U.S. antiboycott laws and regulations (26 U.S.C. § 999, 50 U.S.C. §§ 1701-1707, 50 U.S.C. app. § 2407, 15 C.F.R. Part 760, and Treasury Guidelines). Seller also expressly agrees that in no case shall Buyer be required to take any action or agree to take any action, including but not limited to, entering into a boycott agreement; refusing to do business with or in Israel or with blacklisted companies; discriminating against other persons based on race, religion, sex, national origin, or nationality; furnishing boycott-related information; or implementing a letter of credit containing boycott terms, conditions, or requirements, that is prohibited by or penalized under U.S. law.
- b. Without limiting the availability of any other remedies, Buyer reserves the right to rescind its offer to Seller if, in Buyer's sole discretion, Buyer believes or suspects that the sale or any activities associated with the sale may violate or be inconsistent with U.S. law.

10. Export Control

- a. Seller agrees to comply with all applicable U.S. export control laws and regulations, specifically including but not limited to: (i) Arms Export Control Act 22 U.S.C. 2751-2794; (ii) International

Traffic in Arms Regulations (ITAR) 22 C.F.R. 120 et seq.; and (iii) Export Administration Regulations 15 C.F.R. 730-774.

- b. Seller agrees to obtain all export licenses required to perform the Contract at their expense.
- c. Seller agrees that it will not transfer any export controlled items, data or services to foreign persons employed by, associated with or under contract to Seller or Seller's lower tier subcontractors, without the authority of an export license, agreement or applicable exception or exemption.
- d. Seller agrees to notify Buyer if any Product delivered under the Contract is restricted by export control laws or regulations.
- e. Seller shall immediately notify Buyer if Seller is or becomes listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.
- f. If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the Office of the Directorate of Defense Trade Controls (DDTC), as required by ITAR, and it maintains an effective export / import compliance program in accordance with ITAR.
- g. If Seller is a signatory under a Buyer export license or export agreement, Seller shall provide prompt notification to Buyer in the event of changed circumstances including but not limited to: (i) ineligibility; (ii) a violation or potential violation of the ITAR; and (iii) the initiation or existence of a U.S. Government investigation that may affect Seller's ability to perform the Contract.
- h. Seller shall be solely responsible for and hold the Buyer and its customer harmless from and against any and all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

11. Extras

- a. Product shall not be supplied in excess of the quantities specified in the Contract.
- b. Seller shall be liable for shipping and handling costs associated with the return of excess quantities.

12. Force Majeure

- a. Neither Party shall be liable for failure to perform the Contract due to any cause beyond their reasonable control and without their fault or negligence. Such causes may include but are not limited to: (i) acts of God; (ii) acts of the public enemy; and (iii) acts of a government in its sovereign or contractual capacity.
- b. The Party whose performance of the Contract is affected by "Force Majeure" shall notify the other Party in writing and the Parties shall negotiate in good faith to determine a fair and reasonable adjustment to the performance requirements of the Contract.

13. Gratuities / Kickbacks

- a. For the purpose of this Section, a gratuity or kickback is defined as the offer or provision of gifts, entertainment or other such enticements by the Seller to the Buyer for the purpose of obtaining or rewarding favorable treatment.
- b. Seller shall not offer or give a gratuity or a kickback to Buyer.
- c. By accepting the Contract, Seller certifies and represents that it has not made nor solicited and will not make nor solicit kickbacks in violation of the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

14. Inspection and Test

- a. Buyer or the Buyer's customer shall have the right to inspect and/or test Seller's Product at all reasonable times and places before, during and after Seller's performance and delivery under the Contract.
- b. Seller shall, without additional charge, make available and furnish to representatives of Buyer or Buyer's customer, all reasonable facilities, information and assistance necessary for the safe and convenient inspection and test of Product under the Contract.
- c. Buyer's acceptance of Product under the Contract shall not void / diminish Buyer's rights or be final or binding upon Buyer in the event that latent defects, fraud, or misrepresentation on the part of the Seller exists.
- d. Neither Buyer's actions to inspection and/or test nor Buyer's failure to inspect and/or test Seller's Product under the Contract shall relieve Seller of any responsibility to perform according to the terms of the Contract.

15. Intellectual Property / Infringement / Patent Indemnification

- a. Seller warrants that work performed or Product delivered under the Contract will not infringe or otherwise violate the intellectual property rights of any third party in the U.S. or any foreign country.
- b. Seller agrees to defend, indemnify, and hold harmless Buyer and its customer from and against claims, damages, losses, costs, and expenses, including reasonable attorney's fees, arising out of any action by a third party that is based upon a claim that the work performed or Product delivered under the Contract infringes or otherwise violates the intellectual property rights of any person or entity.
- c. The tangible medium storing all reports, memoranda or other materials in written form, including machine readable form, prepared by Seller and furnished to Buyer pursuant to the Contract shall become the sole property of the Buyer.
- d. Buyer shall have full right and title to any and all intellectual property conceived, developed, generated, or delivered in performance of the Contract.

16. Nonconforming Product

- a. For the purpose of this Section, nonconforming product is defined as Product that does not meet the specification requirements set forth in and is unfit for its intended use under the Contract.
- b. Buyer's disposition of nonconforming Product may include but is not limited to: (i) rejection and requirement that Seller repair, rework or replace nonconforming Product; (ii) acceptance and requirement that Seller repair, rework, replace nonconforming Product;; and (iii) any combination of the preceding.
- c. Seller shall be responsible for any and all costs that may be incurred for remedial actions caused by a nonconforming Product event.
- d. Seller's obligations with respect to nonconforming Product shall cease the earlier of 90 days from delivery of Product or Buyer's acceptance of Product.

17. Open Source Software

- a. This clause applies to Contracts for Product that includes the delivery of software, including software residing on hardware.
- b. Seller shall not deliver any Free, Libre and Open Source Software (FLOSS) under or in connection to the Contract without Buyer's prior written consent, for which Buyer may withhold at its sole discretion.

- c. Seller agrees to defend, indemnify, and hold harmless Buyer, its customer and suppliers from and against claims, damages, losses, costs, and expenses, including reasonable attorney's fees, relating to the use or delivery of FLOSS under the Contract.

18. Order of Precedence

Any inconsistencies in the Contract shall be resolved in accordance with the following descending order of precedence: (i) Purchase Order; and (ii) Terms & Conditions herein.

19. Packing and Shipping

- a. Seller shall ensure that Product delivered under or in connection with the Contract is properly packaged and shipped in accordance with Buyer's written instructions and/or good commercial practices.
- b. Seller shall include Buyer's Contract number on all pertinent shipping documents.
- c. Unless otherwise stated by Buyer in the Contract, shipments under the Contract shall be Free-on-Board (FOB) origin.

20. Payment / Invoicing / Taxes / Duties

- a. Unless otherwise specified by Buyer in the Contract, payment terms under the Contract shall be net forty five (Net 45) days from the date Buyer approves and/or posts Seller's invoice for payment.
- b. Each payment made to Seller under the Contract shall be subject to reduction to the extent of amounts which are found by Buyer or Seller not to have been properly payable.
- c. Each payment made to Seller under the Contract shall be subject to reduction for overpayment; Seller shall promptly notify Buyer of any such overpayments found by Seller.
- d. Buyer reserves the right to recoup and/or setoff, as the case may be, against payments due or at issue under the Contract or any other contract between the Parties.
- e. Payment shall be deemed to have been made as of the date of mailing Buyer's payment or electronic funds transfer.
- f. Unless otherwise specified by Buyer, prices as they appear on Seller's invoice are assumed to include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government.
- g. Invoice instructions, in order of preference:
 - Electronic Summary Invoice sent to: TSG.Accountspayable@QinetiQ-NA.com or downloaded by QNA in the QNA approved format.
 - Electronic Invoice emailed to: TSG.Accountspayable@QinetiQ-NA.com.
 - Paper Invoice mailed to:

Attention Accounts Payable
Foster Miller, Inc.
DBA QinetiQ North America (QNA)
350 2nd Avenue
Waltham, MA 02451

21. Privity of Contract / Communication with Buyer's Customer

Buyer shall be solely responsible for all liaison and coordination with Buyer's customer as it affects the applicable Prime Contract, the Contract, and any related contract.

22. Product Obsolescence

Seller shall provide Buyer with a “Last Time Buy Notice” immediately after being made aware that Product will become obsolete. Upon receipt of such notice, Buyer reserves the option to place a “Last Time Purchase” under the Contract.

23. Remedies

- a. Except as otherwise provided herein, the rights and remedies of both Parties hereunder shall be in addition to their rights and remedies at law or in equity.
- b. Failure of either Party to exercise or enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.

24. Representations / Certifications / Authorizations

Seller shall provide to Buyer all representations, certifications and authorizations as required by law or regulation and as specified by Buyer in the Contract, which may include but are not limited to: (i) direct deposit authorization; (ii) insurance certificates; (iii) W-9 taxpayer identification number and certification; and (iv) Dodd-Frank Act Section 1502 Conflict Minerals.

Sanctions

- a. Seller shall: (i) comply with trade, financial or other sanctions imposed by the UN, EU, UK or US (including regimes administered by the US Department of the Treasury and Office of Foreign Assets Control (OFAC)) and any other such regime which applies to Seller’s business (“Sanctions”); (ii) certify that its affiliate companies, suppliers and subcontractors remain compliant with Sanctions during the Contract; (iii) not supply any Product pursuant to the Contract from, or on behalf of, and person listed as, or owned by or controlled by any person listed as, targeted by Sanctions, or located in, or incorporated in, any country which is the target of countrywide Sanctions (“Restricted Person”); and (iv) not use any monies paid by Buyer pursuant to the Contract for payment to, or for the benefit of, and Restricted Person.
- b. Seller warrants that at the date of entering into the Contract neither itself, its affiliates, or any of its shareholders or owners that have an interest of more than 50% in Seller (by virtue of the ownership of shares or rights which give a person the ability to secure that its affairs are conducted in accordance with the wishes of that person) is a Restricted Person, nor are such persons engaging in any transactions which could result in them becoming Restricted Persons, or engaging in any transactions which are contrary, or have alleged to be contrary by a competent authority, to Sanctions.
- c. Seller shall immediately provide written notification to Buyer if: (i) Seller or any of its affiliate companies becomes a Restricted Person; (ii) any of its shareholders or owners who have a 50% or greater interest in Seller becomes a Restricted Person; or (iii) Seller becomes aware that it has, or any of its affiliate companies, suppliers, or subcontractors have breached or infringed any Sanctions or are under investigation by any competent authority in respect of the same.
- d. Seller acknowledges that a breach of this Clause shall be deemed a material breach of the Contract.

25. Termination for Convenience

- a. Buyer may, by written notice to Seller, terminate the Contract for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default.
- b. Upon receipt of a termination for convenience notification Seller shall: (i) stop work as specified in the termination notice; (ii) place no further purchase orders; and (iii) except as necessary to complete

the non-terminated portion of the Contract, terminate all purchase orders to the extent they relate to the work terminated.

- c. In the event of a partial termination, Seller is not excused from and shall diligently perform any non-terminated balance of work under the Contract.
- d. Seller may submit a settlement proposal to Buyer promptly, but no later than ninety (90) days from the effective date of the termination.
- e. Buyer and Seller agree to negotiate in good faith to determine a fair and reasonable settlement amount.
- f. In no event shall the settlement amount exceed the value of the Contract.

26. Termination for Default

- a. Buyer may, by written notice to Seller, terminate the Contract for default, in whole or in part at any time.
- b. Buyer may issue a termination for default if Seller fails to perform one or more material aspects of the Contract, which may include but is not limited to: (i) failure to deliver Product within the time specified; (ii) failure to make progress so as to endanger its performance; or (iii) failure to provide adequate assurance of future performance.
- c. Buyer shall clearly and fully state the specific material aspect of the Contract that Seller has failed to perform and that which prompted issuance of the termination for default notification.
- d. In conjunction with or soon after Buyer issues a termination for default notification to Seller, Buyer may, at its sole discretion, issue a written cure notice with a cure period of not more than ten (10) days.
- e. Buyer may acquire Product similar to those terminated and Seller shall be liable to Buyer for any excess costs related thereto.
- f. Buyer may require Seller to transfer title and deliver to Buyer Product and/or partially completed Product and/or materials and supplies related to Product under the Contract.
- g. Buyer shall pay Contract price for completed Product delivered to and accepted by Buyer.
- h. Buyer may negotiate in good faith with Seller to determine a fair and reasonable price for partially completed Product and for the protection and preservation of such partially completed Product.
- i. In the event of a partial termination, Seller is not excused from and shall diligently perform any non-terminated balance of work under the Contract.

27. Warranty

- a. Seller warrants that Product delivered under the Contract shall: (i) be new; (ii) contain only materials and supplies from the Original Equipment Manufacturer (OEM) or authorized reseller or distributor thereto; (iii) not contain counterfeit parts / work (as defined herein); (iv) contain only original, authentic and unaltered OEM labeling and markings; (v) be free from defects in workmanship, materials, and design.
- b. Seller warrants that Product delivered under the Contract is free from any liens or encumbrances.
- c. Seller warrants that all acquisition and manufacturing processes used by Seller in the production and delivery of Product under the Contract will be performed in compliance with law (as defined herein).
- d. Seller warrants that Product containing software or software residing on hardware delivered under the Contract shall: (i) not contain any viruses or malicious code of any shape or form; (ii) shall not contain any third party software not under the control or license of the Seller; and (iii) shall not contain Open Source Software (as defined herein).
- e. Seller agrees that the warranty period shall begin upon final acceptance of Product and extend for a period of not less than one (1) year.
- f. Seller agrees that these warranties shall survive inspection, test, final acceptance, and final payment of Product under the Contract.

- g. Buyer shall retain its rights with respect to the disposition of nonconforming Product (as defined herein) throughout the warranty period.
- h. Seller agrees that this warranty shall inure to the benefit of both the Buyer and the Buyer's customer.

End of Terms & Conditions