



PROJECT:

Alachua County Various Fire Stations (1-Door ACS)

(Fire Stations # 20, 23, 24, 41, 60, 62, 80, 81 and 82)

Alachua County



PREPARED FOR:

Scott Travis, Critical Facilities Manager

Public Works (Alachua County)

PREPARED BY:

Davelin Young, RCDD

Security Solutions Sales Rep

W.W. Gay Fire & Integrated Systems, Inc.

A Division of Sciens Building Solutions

DATE:

07.14.2021

2251 ROSSELLE STREET • JACKSONVILLE, FL 32204 • PH: 904-387-7973 • FAX: 904-394-7261

Fire Protection Systems • Fabrication • Alarm Systems • FM-200 • Tele/Data Communications • Access Controls/CCTV • Fiber Optics • A/V Systems
W.W. Gay Fire Protection, Inc dba W.W. Gay Fire & Integrated Systems, Inc



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07.14.2021

Re: Alachua Co. Fire Stations (1 Door ACS for 9 Fire Stations)

W. W. Gay Fire & Integrated Systems, Inc., a Division of Sciens Building Solutions, is pleased to provide pricing for the above referenced project.

Proposal based on:

- Site meeting 06.17.2021 at 11 am 5620 120th Lane.
- Drawings emailed on 06.21.2021 Missing prints for Fire Stations 81 and 82

Scope of Work for all 9 Fire Stations (#20, 23, 24, 41, 60, 62, 80, 81 and 82):

Head end:

- Provide and install (1) Compact Enclosure (coordinate placement before beginning installation with customer).
- Provide and install (1) ACM4CB APC FAI Board.
- Provide and install (1) AL400ULB2 Power Supply 4A 115 VAC Board.
- Provide and install (1) LNL-2210 Intelligent Single Door Controller.

Door:

- Provide and install (1) Magnetic Locks.
- Provide and install (1) LNL-R10320-05TB Blue Diamond Single Gang Reader.
- Provide and install (1) Door Contact.
- Provide and install (1) REX motion sensor and (1) Emergency Push button.
- Programming and testing.
- Provide and install j-hooks along with fire sleeves for cable pathway.
- Provide and install plenum card access cable.

Electrical:

- Provide and install hardwired power to Access Control Panel.
- Provide and install 1" conduit from Access Control Panel to Electrical Panel.
- Provide and install 1" conduit and boxes for Maglock, Card reader, REX motion sensor and Push button at the Door.

Network

- Cat 6 plenum cable with connectors from Access Control Panel Network controller to Network switch, will coordinate with customer termination before installation begins.



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- Upon completion of project will provide test results and as-built drawings (if applicable).
- Labor based upon normal working hours (Monday through Friday, 7:00am – 3:30pm).

Fire Alarm

- Provide install a 2-conductor plenum cable from ACM4CB FAI to Fire alarm panel for power disconnection for maglock.
- Provide and install relay, programming and coordinate with customer FA vendor.

Exclusions:

- Door Hardware
- Weekend and holiday workdays.
- Permits.
- Expedited freight.
- Network equipment (switches, WAPs, etc.) to be provided and installed/patched by end user.

Quote Breakdown for each Fire station:

W.W. Gay proposes to furnish the above, subject to our standard Terms & Conditions of Sale, for the sum of:

Fire Station # 20

\$ 9,197.00 (Nine Thousand One Hundred Ninety-seven dollars)

Fire Station # 23

\$ 10,987.00 (Ten Thousand Nine Hundred Eighty-seven dollars)

Fire Station # 24

\$ 10,497.00 (Ten Thousand Four Hundred Ninety-seven dollars)

Fire Station # 41

\$ 9,352.00 (Nine Thousand Three Hundred Fifty-two dollars)



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Fire Station # 60

\$ 9,235.00 (Nine Thousand Two Hundred Thirty-five dollars)

Fire Station # 62

\$ 10,384.00 (Ten Thousand Three Hundred Eighty-four dollars)

Fire Station # 80

\$ 9,475.00 (Nine Thousand Four Hundred Seventy-five dollars)

Fire Station # 81

\$ 9,333.00 (Nine Thousand Three Hundred Thirty-three dollars)

Fire Station # 82

\$ 9,473.00 (Nine Thousand Four Hundred Seventy-three dollars)

Payment terms are Net 30 days from Invoice. Any alteration or deviation from the above involving additional costs will be performed only following acceptance by W.W. Gay of purchasers' written order and will become additional cost to purchaser at W.W. Gay then current charges. This proposal may be withdrawn by W.W. Gay if not accepted within 30 days from the date shown above.

Acceptance of Proposal - The Price, Clarifications, Exclusions and Terms & Conditions contained herein are hereby accepted. W.W. Gay is authorized to do the work as specified above.

Accepted by (please print): _____

Signature: _____

Title: _____

Date: _____ P.O. #: _____

Sincerely,
W.W. Gay Fire & Integrated Systems, Inc.

Davelin Young, RCDD
Security Solutions Sales Rep
Direct Phone: 904.667.4178
E-mail: dyoung@sciensbuildingsolutions.com



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GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (the "Terms"), is made and entered into as of the date set forth in the attached Proposal (as defined below) by and between Sciens Building Solutions, LLC ("Sciens") and the entity specified in the attached Proposal ("Customer"). The Terms together with any applicable Proposal schedules, appendices, exhibits, and additional terms and conditions which are referenced herein and hereby incorporated by reference constitute the "Agreement". Sciens and Customer may each be referred to herein as a "Party" or collectively as "Parties". In the event of conflict between these Terms and a Proposal, these Terms shall control.

Definitions

"Confidential Information" means information about business affairs, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information of Sciens, including the Sciens Materials, the terms of this Agreement (including any Proposal) and business operations and strategies, designs, marketing, creative elements, artwork, visual representations, research material and data, specifications, processes, and technological developments, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential." Confidential Information does not include information that, at the time of disclosure: (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Article or Article 4 by the Receiving Party; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source; provided, that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of the Receiving Party before being disclosed by or on behalf of the Disclosing Party; or (d) was or is independently developed by the Receiving Party without reference to or use, in whole or in part, of any of the Disclosing Party's Confidential Information.

"Documentation" means operating manuals, user instructions, technical literature and other information in English (including printed material and information recorded in other media), provided with the Software to enable Customer to understand, use and maintain the Software.

"Equipment" means any equipment, systems, cabling, facilities or other materials provided by Sciens and used directly or indirectly in the provision of the Services.

"Facilities Data" means electronic data that is collected or generated by Sciens through scheduled back-ups of the databases or graphics residing in the workstation(s) or field panel(s) that constitute part of Customer's automation control system.

"Intellectual Property" means any and all of the following (by whatever name or term known or designated) now known or hereafter existing anywhere in the world: (a) rights associated with works of authorship, including, without limitation, all exclusive exploitation rights, copyrights, and mask work rights; (b) patents (including, without limitation, reissues, divisions, reexaminations, extensions, continuations, and continuations-in-part thereof), designs, and other industrial property rights; (c) any copyright in source code, object code, formulas, ideas, concepts, mask works, methods, know-how, processes, devices, and the like; (d) trademark, trade dress, and other works based on designation of source or origin, whether arising by operation of law, contract, license, or otherwise, together with the goodwill connected with the use thereof and symbolized thereby; (e) all registrations, applications, renewals, extensions, continuations, divisions, reissues, and the like which is based on any of the foregoing; (f) trade secrets and know-how; (g) Software; and (h) all other intellectual property and proprietary rights of every kind and nature.

"Personally, Identifiable Information" means any personal information that relates to, describes, or is capable of being associated with, a particular individual.

"Pre-Existing Intellectual Property" means: (a) all Intellectual Property which is owned or controlled by Sciens and which existed prior to or independent of this Agreement and (b) all Intellectual Property which results from activities that are conducted by Sciens (including any employee, subcontractor, or affiliate of Sciens) outside of this Agreement.



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"Proposal" means certain proposals attached to this Agreement, and herein incorporated by reference, that supplement these Terms, and describe more specifically the relationship between Sciens and Customer regarding the performance of the Services.

"Sciens Materials" means know-how, tools, and related documentation owned or licensed by Sciens and used by Sciens to install or commission Equipment and Software for operation at the Site, including but not limited to tools for installing any Software, performing diagnostics on Equipment as installed at the Site as well as any reports, notes, calculations, data, drawings, methodologies estimates, specifications, manuals, documents, all computer programs, codes and computerized materials prepared by or for Sciens and used by Sciens to provide the Services, or install or commission the Equipment and Software.

"Services" means the services, functions, responsibilities, and activities described in this Agreement and the applicable Proposal.

"Site" means the designated location as set forth in the Proposal where Sciens will perform the Services described hereunder.

"Software" means any computer programs, operating systems, applications, firmware and other code, including all source code, object code, application programming interfaces, data files, databases, protocols, specifications, and other documentation thereof owned or licensable by Sciens or its affiliates.

Scope of Work

General. This Agreement sets forth the Terms and conditions pursuant to which Sciens agrees to make available to Customer certain Equipment, Software, Documentation, Sciens Materials ("Deliverables"), and Services. Sciens shall use commercially reasonable efforts to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and without liability to Sciens if those dates are not met.

Changes. If either Party wishes to change the scope of the Services or Deliverables, it shall submit details of the requested change to the other Party in writing. Sciens shall, within a reasonable time after such request, provide a written estimate to Customer of: (a) the time required to implement the change; (b) any adjustments or changes to the fees, expenses payment terms or other charges for the Services or Deliverables arising from the change; (c) the likely effect of the change on the Services; and (d) any other material impact the change might have on the performance of this Agreement. Promptly after receipt of the written estimate, the Parties shall negotiate and agree in writing on the terms of such change (a "Change Order"). Neither Party shall be bound by any Change Order unless mutually agreed upon in writing; provided that, as the Services are performed, or development and delivery of any Deliverable is processed, conditions may change or circumstances outside Sciens' reasonable control (such as changes of law) may develop which require Sciens to expend additional costs, effort or time to complete the Services or Deliverables, in which case a formal Change Order shall not be required and Sciens shall notify Customer and an equitable adjustment shall be made to the compensation and time for performance. In the event conditions or circumstances require the Services to be suspended or terminated, Sciens shall be compensated for the Services performed and Deliverables delivered and for costs incurred in connection with the suspension or termination.

Term and Termination

Term. The term of this Agreement shall commence on the date that the Proposal is accepted by an authorized representative of Sciens and will continue for the period specified in the Proposal.

Termination. (a) Sciens may terminate this Agreement for any or no reason upon providing Customer with ninety (90) days' written notice; and (b) either Party may terminate this Agreement in the event that the other Party (i) materially breaches any obligation in this Agreement and fails to remedy such breach (if such breach can be remedied) within thirty (30) days of receipt of written notice of such breach, or (ii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors

Effect of Termination. Upon termination or expiration of the Agreement: (a) each Party shall promptly return to the other Party all copies, whether in written, electronic or other form or media, of the Disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the Disclosing Party that such Confidential Information has been destroyed; provided, that each Party may retain an archival copy which may be maintained by such Party for its records subject at all



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times to the confidentiality obligations hereunder; (b) Customer will promptly pay Sciens for all Services performed and Deliverables provided through the effective day of such termination or expiration; (c) Customer shall immediately cease use of and return all Equipment, Software, Documentation, and Sciens Materials; (d) Customer shall immediately cease use of and delete all Software from its systems (including all object and source code) and certify in writing that such Software has been destroyed, removed or deleted from Customer's systems.

Confidentiality

From time to time, either Party may disclose or make available ("Disclosing Party") to the other Party ("Receiving Party") Confidential Information. Each Party shall: (a) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care that the Receiving Party would protect its own Confidential Information, but in no event with less than a reasonable degree of care; (b) use the Disclosing Party's Confidential Information, or permit it to be accessed or used, solely as necessary to perform its obligations hereunder; and (c) not disclose any such Confidential Information to any person or entity, except: (i) to the Receiving Party's officers, employees, agents, consultants, and legal advisors who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under the Agreement, or (ii) pursuant to applicable federal, state, or local law or regulation, or a valid order issued by a court or governmental agency of competent jurisdiction; provided, that the Receiving Party shall first make commercially reasonable efforts to provide the Disclosing Party with: (A) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy; and (B) reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.

License Grant and Ownership

Ownership. The Parties acknowledge and agree that: (a) all right, title, and interest in and to any Pre-Existing Intellectual Property shall remain the sole property of Sciens and, except as expressly set forth in this Agreement, no right, title or interest in any Pre-Existing Intellectual Property shall be granted to Customer; (b) except for the limited rights explicitly granted by Sciens to the Customer in this Agreement, as between the Parties, Sciens shall exclusively own and shall retain all Intellectual Property rights in and to the Deliverables, including those made for the benefit of Customer; the forgoing includes, but is not limited to, all source and object code and derivatives thereof, upgrades, modifications, and improvements made to the Deliverables or any other Intellectual Property conceived or developed in connection with the Deliverables (collectively, "Sciens IP") in connection with this Agreement; (c) except for the limited rights explicitly granted by Sciens to Customer under this Agreement, as between the Parties, Sciens shall exclusively own all right title and interest, including any Intellectual Property appurtenant thereto, in and to all Facilities Data. In the event that Customer may be deemed to hold any proprietary or other interest in the Facilities Data, or Sciens IP (whether under copyright, patent, trademark, trade secret, or other right), except as expressly granted herein, Customer hereby agrees to unconditionally and irrevocably convey and assign, and does hereby unconditionally and irrevocably convey and assign, to Sciens all right, title and interest in and to all Sciens IP and Facilities Data (present and future), including any Intellectual Property appurtenant thereto, without further consideration. The Parties acknowledge and agree that the Facilities Data and Sciens IP are not to be considered "works for hire" under provisions of the U.S. Copyright Act (17 U.S.C. §101 et seq. and 201(b)).

Limited License.

Subject to the terms and conditions of this Agreement, for the term of the Agreement, Sciens hereby grants Customer a limited, revocable, nonexclusive, non-transferable, non-sublicensable license to use the Intellectual Property embedded in any of the Deliverables solely for the purposes provided to Sciens in writing and pre-approved by Sciens.

To the extent that any Software that is owned or licensed by Sciens or its affiliates is either: (i) a separate Deliverable for use in the Equipment; (ii) for use in a computer system owned by the Customer; or (iii) delivered as firmware embedded in the Equipment ("Delivered Software"), subject to the terms and conditions of this Agreement, for the Term of the Agreement, Sciens hereby grants Customer a limited, revocable, nonexclusive, non-transferable, non-sublicensable license solely to: (A) use the Delivered Software in object code, and (B) solely in the case of 5.2 (b)(ii) and (iii), make and retain archival and emergency copies of the Delivered Software (subject to the confidentiality obligations contained in this Agreement).

Customer hereby grants to Sciens a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to



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any suggestions, enhancement requests, recommendations or other feedback from Customer and its affiliates relating to the Services, or Deliverables ("Feedback"). Feedback, even if designated as confidential by Customer, shall not create any confidentiality obligation for Sciens notwithstanding anything else contained herein. Sciens may freely use, disclose, reproduce, license or otherwise distribute and exploit the Feedback for any purpose without regard to any Intellectual Property, payment or other obligation.

Use Restrictions. In consideration of the license grants in Article 5.2, the Customer agrees: (a) not to reverse engineer any Delivered Software or Deliverable or any Intellectual Property embedded or appurtenant to any Delivered Software, Deliverable or any other materials or services provided hereunder; (b) not to reconstruct or discover any source code, object code, firmware, underlying ideas, or algorithms of any Delivered Software, Deliverable or any other materials or services provided hereunder, even to the extent such restriction is allowable by law; (c) to only use Deliverables and Delivered Software solely in connection with a project pre-approved by Sciens in writing and at the Site; and (d) Deliverables and Delivered Software shall not be used or relied upon by any third-party and any such use or use by any third party in violation of this Section 5.3(d) will be at the Customer's or applicable users' risk and Sciens hereby expressly disclaims any and all liability resulting therefrom or related thereto.

Responsibilities of Sciens

Services. Sciens will perform the Services expressly described in this Agreement or Change Order(s) in accordance with Article 2.2 above. Sciens shall perform the Services during its normal working hours, Monday through Friday, excluding holidays, unless otherwise agreed herein. The Services performed by Sciens shall be performed using personnel of required skill, experience and qualifications and in a professional and workmanlike manner. Sciens is not required to conduct safety or other tests, install new devices or equipment or make modifications to any Equipment beyond the scope set forth in this Agreement.

Third Party Services. Sciens may from time to time engage other people, entities or organizations in the performance of Sciens' duties hereunder without the prior written consent of the Customer for the benefit of the Customer. Sciens shall be responsible for any portion of the Services performed by any subcontractor of Sciens; provided that, Sciens shall not have any responsibility, duty or authority to direct, supervise or oversee any contractors of Customer or their work or to provide the means, methods or sequence of their work or to stop their work. Sciens' work or presence at a Site shall not relieve others of their responsibility to Customer or to others. Sciens shall not be liable for the failure of Customer's contractors or others to fulfill their responsibilities.

Reliance on Customer Information. In order to perform Sciens' obligations hereunder it is necessary for Customer to furnish certain documentation and supporting data ("Customer Information"). In performing Sciens' obligations hereunder, Sciens may rely on the accuracy and completeness of the Customer Information; in doing so, Sciens does not represent that: (a) Sciens has made a detailed examination, audit or arithmetic verification of the Customer Information; or (b) Sciens has made an exhaustive or continuous on-site inspection related to the Customer Information.

Work on a Fire and Life Safety System. To the extent that Work on a Fire and Life Safety ("FLS") system is included as Equipment, the entire FLS system will be tested and inspected as set forth in the National Fire Protection Association ("NFPA") guidelines 72 2013 edition (or most current edition), Chapter 14 (hereby incorporated by reference), or as otherwise may be required pursuant to the law of the applicable jurisdiction. All testing of any FLS system will be performed at the time and place and in the manner deemed appropriate by Sciens, in accordance with applicable law and the requirements of NFPA and other relevant standards. Customer will be solely responsible for any liability arising from the Customer's specification of any testing schedule other than in accordance with NFPA guidelines or other applicable standards.

Facilities Data. In the event that a data backup or data collection product or service is part of the Service, or Deliverable and Sciens is to store the data, Sciens will take commercially reasonable steps to protect the security of all Facilities Data stored offsite.

Responsibilities of Customer and Use Restrictions

Customer Responsibilities. Customer shall, at Customer's sole expense: (a) Designate a contact person with authority to make decisions for Customer regarding the Services and Deliverables and provide Sciens with information sufficient to contact such person in an emergency. If such representative cannot be reached, any request for Services or Deliverables received from a person located at the Site will be deemed authorized by Customer, and Sciens will, in its reasonable



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discretion, act accordingly; (b) cooperate with Sciens in all matters relating to the Services and provide office accommodation and other facilities as may reasonably be requested by Sciens, for the purposes of performing the Services; (c) provide or arrange for reasonable access and make all provisions for Sciens to enter any site where Services are to be performed; (d) permit Sciens to control or operate all facility controls, systems, apparatus, equipment and machinery necessary to perform the Services; (e) furnish Sciens with all available information pertinent to the Services including but not limited to, and within ten (10) days of receipt of a written request, all required reviews and approvals (or other appropriate action) with respect to a reasonable request for information, samples, estimates, schedules, shop drawings, drawings, specifications, purchase orders, contracts, and other items submitted or proposed by Sciens; (f) obtain and furnish Sciens with all approvals, permits and consents from government authorities and others as may be required for performance of the Services except for those Sciens has expressly agreed in writing to obtain; (g) notify Sciens promptly of any Site conditions requiring special care, and provide Sciens with any available documents describing the quantity, nature, location and extent of such conditions; (h) comply with all laws and provide any notices required to be given to any government authorities in connection with the Services, except such notices Sciens has expressly agreed in writing to give; (i) provide Sciens with Material Safety Data Sheets ("MSDS") conforming to OSHA requirements related to all Hazardous Materials at the Site which may impact the Services, Deliverables; (j) furnish to Sciens any contingency plans related to the Site; and (k) furnish the specified operating environment, including without limitation, suitable, clean, stable, properly conditioned electrical power to all Equipment; telephone lines, capacity and connectivity as required by such Equipment; and heat, light, air conditioning and other utilities in accordance with the specifications for the Equipment;

Customer Site. Customer acknowledges that it is now and shall be at all times in control of the Site. Sciens shall not have any responsibility, duty or authority to direct, supervise or oversee any employees or contractors of Customer or their work or to provide the means, methods or sequence of their work or to stop their work. Sciens' presence at a Site shall not relieve others of their responsibility to Customer or to others. Except as expressly provided herein, Sciens is not responsible for the adequacy of the health, safety or security programs or precautions related to Customer's or its other contractors' activities or operations; the work of any other person or entity; or Customer's Site conditions. Sciens is not responsible for inspecting, observing, reporting or correcting health or safety conditions or deficiencies of Customer or others at Customer's Site. So as not to discourage Sciens from voluntarily addressing such issues, in the event Sciens does make observations, reports, suggestions or otherwise regarding such issues, Sciens shall not be liable or responsible for same. Customer is solely responsible for any removal, replacement or refinishing of the building structure or finishes that may be required to gain access to the Services or Deliverables.

Personally, Identifiable Information. Except as explicitly provided herein, Customer represents and warrants that it will not: (a) except for the name and employee badge access credentials, use workstations or field panels that constitute parts of its automation control for electronic storage of any Personally Identifiable Information; or (b) provide any Personally Identifiable Information in connection with this Agreement. SCIENS HEREBY DISCLAIMS ANY AND ALL LIABILITY FOR DAMAGES, INJURY OR LOSS ARISING OUT OF DISCLOSURE OR DISSEMINATION OF PERSONALLY IDENTIFIABLE INFORMATION THAT WAS STORED IN VIOLATION OF THIS ARTICLE 7.

Compensation

General. Except as set forth in the applicable Proposal, Sciens shall be compensated for the Services and Deliverables at its prevailing rates and reimbursed for costs and expenses (plus reasonable profit and overhead) incurred in its performance of the Services, or provision of Deliverables. All other work, including but not limited to the following, shall be separately billed or surcharged on a time and materials basis: (a) emergency work performed at Customer's request, if inspection does not reveal any deficiency covered by the Agreement; (b) work performed other than during Sciens' normal working hours; and (c) work performed on equipment not covered by the Agreement. Unless expressly set forth in a Proposal, all payment and fees will be governed according to the provisions of this Article 8.

Invoice. Sciens may invoice Customer on a monthly or other progress billing basis. Invoices are due and payable upon receipt by Customer. If any payment is not received when due, Sciens may deem Customer to be in breach of this Agreement and may enforce any remedies available to it hereunder or at law, including without limitation, acceleration of payments and suspension or termination of the Services, including delivery of any Deliverable. If such breach occurs, Sciens shall be entitled to compensation for the Services previously performed, Deliverable (including materials and time spent for such Deliverables completion) and for costs reasonably incurred in connection with the suspension or termination.



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In the event any payment due hereunder is not made when due, (i) the Customer agrees to pay, on demand, a late payment of either one and one-half percent (1.5%) or the maximum amount permitted by law, the amount of the payment per month, of each overdue amount (including accelerated balances) under the Agreement, and (ii) Sciens may suspend performance for all Services until payment has been made in full. Customer shall reimburse Sciens for Sciens' costs and expenses (including reasonable attorneys' and witnesses' fees) incurred for collection under this Agreement. In the event of a dispute by Customer regarding any portion or all of an invoiced amount, Customer shall notify Sciens in writing of the amount in dispute and a detailed description of the rationale for the dispute within twenty-one (21) days of receipt of the invoice; provided, that the undisputed portion shall be paid when due, and interest on the disputed, unpaid portion shall accrue as aforesaid, from the date due until the date of payment, to the extent that such amounts are finally determined to be payable to Sciens.

Taxes. Except to the extent expressly agreed in writing, Sciens' fees do not include any taxes, excises, fees, duties or other government charges related to the Services, or Deliverables, and Customer shall pay such amounts or reimburse Sciens for any amounts it pays. If Customer claims a tax exemption or direct payment permit, it shall provide Sciens with a valid exemption certificate or permit, and indemnify, defend and hold Sciens harmless from any taxes, costs, and penalties arising out of the same.

Limited Warranty; Disclaimers

Limited Warranty. (a) For up to one (1) year from either the date the Equipment is installed or the date of first beneficial use, whichever first occurs, all Equipment supplied by Sciens or bearing its nameplate will be free from material defects in material and workmanship arising from normal use and service and (b) Labor for all Services under this Agreement is warranted to be free from material defects for ninety (90) days after the earlier of the date the Services are substantially completed or the date of first beneficial use. Customer's sole and exclusive remedy for Equipment or Service not conforming to this limited warranty is limited to, at Sciens' option, (i) repair or replacement of defective components of covered Equipment, or (ii) reperformance of the defective portion of the Services. To the extent that Software is a Deliverable as part of the Service for use in the Equipment or in a computer owned by the Customer, Customer agrees to take delivery of any such Software subject to (x) any applicable Sciens or third party end-user license agreement ("EULA") accompanying such Software, or (y) if no EULA accompanies such Software, the EULA posted at www.usa.SciensBuildingSolutions.com/btcpseula (Sciens' EULA web site) for such Software used in or with the Equipment identified by product model or part number on the Sciens EULA web site. Such Software shall be warranted in accordance with its applicable EULA unless an exception is explicitly identified in this Agreement. For all other Equipment, Sciens hereby assigns to Customer, without recourse, any and all assignable warranties available from any manufacturer or supplier of such Equipment and such Software and will assist Customer in enforcement of such assigned warranties.

Exclusions. The limited warranties set forth in Article 9.1 will be void as to, and shall not apply to, any Service, Equipment or Software (a) repaired, altered or improperly installed by any person other than Sciens or its authorized representative; (b) Equipment subjected to unreasonable or improper use or storage, used beyond rated conditions, operated other than per Sciens or the manufacturer's instructions, or otherwise subjected to improper maintenance, negligence or accident; (c) damaged because of any use of the Equipment or after Customer has, or should have, knowledge of any defect in the Equipment; or (d) Equipment not manufactured, fabricated and assembled by Sciens or not bearing Sciens' nameplate. However, Sciens assigns to Customer, without recourse, any and all assignable warranties available from any manufacturer, supplier, or subcontractor of such Equipment and will assist Customer in enforcement of such assigned warranties. Any claim under the limited warranty granted above must be made in writing to Sciens within thirty (30) days after discovery of the claimed defect or the likelihood that the discovery of the claimed defect should have reasonably been made, unless discovered directly by Sciens. Such limited warranty only extends to Customer and not to any subsequent owner of the Equipment. Sciens shall not be required to repair or replace more than the component(s) of the Equipment actually found to be defective. Sciens' warranty liability shall not exceed the purchase price of such component(s) repaired or replaced. Equipment will be warranted hereunder only for the remaining portion of the original warranty period. THIS ARTICLE REPRESENTS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS, LOSSES OR EXPENSES ARISING FROM, RELATED TO, OR CAUSED BY, DEFECTIVE OR NON-CONFORMING EQUIPMENT OR SERVICES (INCLUDING ANY FLS SYSTEMS) INSTALLED OR PERFORMED BY SCIENS IN CONNECTION WITH THIS AGREEMENT. EXCEPT FOR THE LIMITED WARRANTY ABOVE, THE SERVICES AND PROVISION OF THE DELIVERABLES ARE PROVIDED "AS IS" AND "WHERE IS." THE LIMITED WARRANTIES ABOVE ARE IN LIEU OF



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AND SCIENS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, QUALITY, CAPACITY OR WORKMANSHIP, ALL EXPRESS OR IMPLIED WARRANTIES AGAINST THIRD PARTY INTELLECTUAL PROPERTY INFRINGEMENTS (INCLUDING PATENT, COPYRIGHT AND OTHER REGISTERED OR UNREGISTERED THIRD PARTY IP RIGHTS) OR DEFECTS, WHETHER HIDDEN OR APPARENT, AND EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO COMPLIANCE OF THE EQUIPMENT AND DELIVERABLES WITH THE REQUIREMENTS OF ANY LAW, REGULATION, SPECIFICATION OR CONTRACT RELATIVE THERETO.

Indemnification. Customer shall, at its sole cost and sole expense, indemnify, defend and hold free and harmless Sciens, its officers, directors, shareholders, employees, affiliates, successors, and assigns from all liability, losses, costs, expenses, judgments, and damages (including all reasonable attorneys' fees) incurred in connection with, as a result of, or arising from: (a) Customer's negligence or willful misconduct, (b) Customer's breach of any provision of this Agreement; (c) violation of applicable law (including data security and privacy laws); or (d) bodily injury or death to any person, or damage to any tangible property, to the extent that such injury, death, or damage is alleged to be caused by the acts or omissions of the Customer, Customer employee, agent, subcontractor, or affiliate. Sciens may conduct the defense of such claims at Sciens' expense, or participate in the defense of such claims with its own counsel at its own expense, and approve any settlement, prior to Customer agreeing thereto, that assigns liability or fault to Sciens or binds or purports to bind Sciens.

Limitation of Liability. IN NO EVENT SHALL SCIENS BE LIABLE FOR ANY LOSS OF USE, REVENUE, ANTICIPATED PROFITS, OR FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN ANY WAY RELATING TO THIS AGREEMENT (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOST BUSINESS OPPORTUNITIES) WHETHER ARISING IN WARRANTY, TORT, CONTRACT, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, WHETHER, FOR WARRANTY, LATE OR NON-DELIVERY OF ANY SERVICES, AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SCIENS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SCIENS' AGGREGATE, CUMULATIVE LIABILITY IN ANY WAY RELATING TO THIS AGREEMENT EXCEED THE LESSER OF: (A) THE AMOUNT OF FEES RECEIVED BY SCIENS FROM THE CUSTOMER UNDER THIS AGREEMENT OR (B) ONE MILLION DOLLARS (\$1,000,000).

Article 12: Insurance and Risk of Loss

12.1 Insurance. Sciens shall maintain insurance coverage in amounts and insures against such losses and risks that are commensurate with industry standards in connection with the Services provided hereunder, as determined by Sciens in its sole discretion.

12.2 Risk of Loss. Risk of loss of materials to any Deliverables furnished by Sciens shall pass to Customer upon delivery to Customer's premises, and Customer shall be responsible for protecting and insuring them against theft and damage.

12.3 Proof of Insurance. Sciens shall, upon prior request from the customer, provide proof of insurance with mutually agreed upon insurance requirement.

Article 13: Hazardous Materials Provisions

13.1 Hazardous Materials. The Services does not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal or treatment of oil or Hazardous Materials. Except as disclosed pursuant to Article Error! Reference source not found., Customer represents that there is no asbestos or any other hazardous or toxic materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the regulations promulgated thereunder, and other applicable federal, state or local law ("Hazardous Materials"), present at Customer's locations where the Services are performed. Sciens will notify Customer immediately if it discovers or suspects the presence of any Hazardous Material. All Services and Deliverables has been priced and agreed to by Sciens in reliance on Customer's representations as set forth in this Article 13.1. The presence of Hazardous Materials constitutes a material change in the Agreement equivalent to a Change Order whose terms must be agreed to by Sciens; Sciens may suspend its obligations hereunder until such terms are agreed upon.

13.2 Testing. Customer shall be solely responsible for testing, abating, encapsulating, removing, remedying or neutralizing such Hazardous Materials, and for the costs thereof. Even if an appropriate change order has been entered into pursuant to Article 13.1 above, Sciens will continue to have the right to stop the Services until the Site is free from



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Hazardous Materials. In such event, Sciens will receive an equitable extension of time to complete the Services, and compensation for delays caused by Hazardous Materials remediation. In no event shall Sciens be required or construed to take title, ownership or responsibility for such oil or Hazardous Materials. Customer shall sign any required waste manifests in conformance with all government regulations, listing Customer as the generator of the waste.

13.3 Warranty and Hazardous Materials. Customer represents and warrants that, prior to the execution of the Agreement, it has notified Sciens in writing of any and all Hazardous Materials present, potentially present or likely to become present at Customer's locations and has provided a copy of any jobsite safety policies, including but not limited to lock-out and tag procedures, laboratory procedures, chemical hygiene plan, material safety data sheets or other items covered or required to be disclosed or maintained by federal, state, or local laws, regulations or ordinances.

Article 14: Import / Export

Customer acknowledges that Sciens is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the Equipment or Services provided under this Agreement, including any export license requirements. Customer agrees that such Services or Equipment or Software shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Sciens of its obligations hereunder that compliance with such export laws and regulations be maintained at all times.

Article 15: Small Business Concern

Sciens shall adhere to FAR 52.219-8 regarding the "Utilization of Small Business Concerns", as part of its Commercial Small Business Subcontracting Agreement with the federal government. Sciens' policy is to offer small business concerns, including small disadvantaged businesses, women owned small-businesses, HUBZone small businesses, veteran owned small businesses and service-disabled veteran owned small businesses, the "maximum practical opportunity" to participate in performing contracts let by any commercial entity, local government or federal agency, including subcontracts for subsystems, assemblies, components, and related services for major systems.

Article 16: Miscellaneous

16.1 Assignment. Neither Party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other Party, which shall not be unreasonably withheld, conditioned, or delayed; provided, that either Party may assign this Agreement to its affiliates; further, provided, that Sciens may assign the assign proceeds of this Agreement. Any purported assignment in violation of this Article 16.1 shall be null and void.

16.2 Entire Agreement; Amendment; Modification and Waiver. When approved in writing by an authorized representative of each Party, this Agreement and its appendices set forth the entire agreement between the Parties concerning the matters set forth in this Agreement and supersedes all other prior oral or written understandings, promises, representations or agreements and this Agreement shall prevail over any of Customer's general terms and conditions. No amendment or modification to this Agreement is effective unless it is in writing and signed by an authorized representative of each Party and any differing or additional terms and conditions in any purchase order or other document are of no force and effect unless specifically accepted in writing by the Parties. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, remedy, power, or privilege. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party has authority to contract for or bind the other Party in any manner whatsoever.

No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any third party any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

Applicable Terms. Certain terms and conditions contained herein may not apply to the Services to be provided hereunder.



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It is the intent of the Parties, however, that the interpretation to be given to the terms and conditions is to apply all terms and conditions unless clearly inapplicable given the type of Services included.

Governing Law; Waiver of Jury Trial. This Agreement shall be governed by and enforced in accordance with the laws of the State of Delaware. Any litigation arising under this Agreement shall be brought in the State or Commonwealth in which the Services are provided to Customer. TO THE EXTENT PERMITTED BY LAW, THE PARTIES WAIVE ANY RIGHT TO A JURY TRIAL ON MATTERS ARISING OUT OF THIS AGREEMENT.

Non- Solicit. If, during or within ninety (90) days after the Term of this Agreement, Customer engages any Sciens employee who has performed work under this or any other agreement between Customer and Sciens, Customer shall pay Sciens an amount equal to the employee's latest annual salary.

Force Majeure. Sciens shall not be responsible for loss, delay, injury, damage or failure of performance that may be caused by circumstances beyond its control, including but not limited to acts or omissions by Customer or its employees, agents or contractors, Acts of God, war, terrorism, civil commotion, acts or omissions of government authorities, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, computer viruses, program or system hackers, strikes, lockouts, differences with workmen, riots, explosions, quarantine restrictions, delays in transportation, or shortage of vehicles, fuel, labor or materials. In the event of any such circumstances, Sciens shall be excused from performance of the Services and the time for performance shall be extended by a period equal to the time lost plus a reasonable recovery period and the compensation equitably adjusted to compensate for additional costs Sciens incurs due to such circumstances.

Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect the enforceability of any other term or provision of this Agreement, or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Survival. Any provision of the Agreement that contemplates or governs performance of observance subsequent to its termination or expiration, or which is necessary for the proper interpretation, administration or enforcement of this Agreement, will survive the expiration or termination of this Agreement for any reason, including without limitation, the following provisions: Articles 3.4, 5.1, 10, 11, and 16.