



**MINISTRY OF DEFENSE
BRAZILIAN NAVY
BRAZILIAN NAVAL COMMISSION IN WASHINGTON**

Contract Between the

Brazilian Naval Commission in Washington

and

Valcom Manufacturing Group Inc.

for the

Acquisition of 3 (three) HF broadband whip antenna units for operation between 2 and 30 MHz, NSN 5985-200-01-9925, Reference model VBBA 2-30.

Contract N° 70200/23-06/00

PROCESS N° (NUP): 63150.002124/2023-21

Contract N° 70200/2023-06/00 - Bid Process n° 04/2023

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Contract signed between the Brazilian Naval Commission in Washington and Valcom Manufacturing Group Inc. for the Acquisition of 3 (three) HF broadband whip antenna units for operation between 2 and 30 MHz, NSN 5985-200-01-9925, Reference model VBBA 2-30.

The Brazilian Federal Government, through the Brazilian Naval Commission in Washington (BNCW), Brazilian Navy, located at 5130 MacArthur Blvd., N.W., Washington, DC, 20016, represented herein by his President, **CAPT ALEXANDRE VIZEU DIAS**, appointed by Directive N° 62, 2023, holder of Brazilian Navy Identification Card N° 536541-4, hereinafter referred to as **BUYER**, and the company Valcom Manufacturing Group Inc., represented by their contract manager, **Mrs. CARMEN VLAICU**, with main offices located at 175 Southgate Drive, P.O. Box 603, Guelph, Ontario, Canada N1H 6L3, hereinafter referred to as **SELLER**, in view of what is stated in Process N° 63150.002124/2023-21, in compliance with the provisions of Regulation GM-MD N° 5.175, of December 15, 2021, adapted to local peculiarities, hereby decide to enter into this Contract Agreement, resulting from the Online Reverse Bid Auction N° 04/2023, through the clauses and conditions set out below.

1. CLAUSE - OBJECT:

1.1 The object of this Contract is the acquisition of 3 (three) HF broadband whip antenna units for operation between 2 and 30 MHz, NSN 5985-200-01-9925, Reference model VBBA 2-30, following the requirements established in this Contract and the Term of Reference.

1.2 Object of the Contract:

ITEM	SPECIFICATION	NSN	UNIT OF MEASUREMENT	QUANTITY
1	VBBA 2-30 Antenna	5985-20-001-9925	UN	3

1.3 Bind this Contract, regardless of the transcript:

1.3.1 The Term of Reference;

1.3.2 The Bid Notice;

1.3.4 The **SELLER's** Proposal;

1.3.5 Any attachments to the above documents.

2. CLAUSE - TERM AND EXTENSION

2.1 The Contract's validity period is 12 (twelve) months from the Contract's signature date.

2.2 The term will be automatically extended, regardless of an additional time, when the object is not completed within the established period, with the exception of measures applicable in case of the **SELLER's** fault, as provided for herein.

3. CLAUSE - CONTRACTUAL EXECUTION AND MANAGEMENT

3.1 The contractual execution regime, the management and execution models, and the deadlines and conditions for the object's completion, delivery, monitoring, and receipt are in the Term of Reference attached to this Contract.

3.2 This acquisition must be informed by the environmental sustainability criteria, based on Law n° 12.187/2009, combined with the international commitments assumed by the Brazilian government, so that the **SELLER**, if possible, prioritizes recycled and recyclable products compatible with consumption standards socially and environmentally sustainable.

4. CLAUSE - SUBCONTRACTING

4.1 Subcontracting of the object is not authorized under this Contract.

5. CLAUSE - CONTRACT AMOUNT

5.1 The total amount of this Contract is **US\$ 123,000.00**.

5.2 The amount above includes all direct and indirect ordinary expenses resulting from the execution of the object, including administration fees, freight charges, insurance, and any other charge necessary for full compliance with the object of the contract.

6. CLAUSE - PAYMENT

6.1 The deadline for payment is **30 (thirty) days** after certification of complete delivery and inspection of the items in Rio de Janeiro, Brazil. The End User, after said inspection, will authorize the payment.

6.2 In case of partial delivery, invoices will be paid individually.

6.3 Payment will be made by wire transfer to the account provided by the **SELLER**.

6.4 The **BUYER** will not be responsible for any fees charged by the **SELLER's** financial institution.

6.5 Invoices issued by the **SELLER** must strictly comply with this Contract and must present the following information:

- a) Addressed to the Brazilian Naval Commission in Washington;
- b) Price in dollars;
- c) Contract number;
- d) Address of destination;
- e) Delivery term: CIF - Rio de Janeiro, Brazil;
- f) Description of the item, PN, and NSN;
- g) Quantities and unit prices, as presented in the price proposal; and
- h) Banking information for payment.

6.6 The final Invoice must be sent to the **BUYER** by email to cnbw.shipment@marinha.mil.br.

6.7 Invoices not containing all the information required in clause 6.5 will not be accepted, and a revised Invoice will be requested. In this case, the payment deadline may be affected, and **BUYER** will not bear any late payment costs.

6.8 Payment is subject to discounts resulting from administrative penalties due to non-compliance with contractual performance.

6.9 The **BUYER** is exempt from taxes nationwide on purchases over **USD 500.00**. A copy of the tax exemption card can be provided upon request.

7. CLAUSE - READJUSTMENT

7.1 Within the validity of this Contract, the total amount cannot be readjusted.

8. CLAUSE - BUYER'S OBLIGATIONS

8.1 The **BUYER's** obligations are:

8.1.1 Require the fulfillment of all obligations assumed by the **SELLER**, following the Contract and its attachments;

8.1.2 Receiving the object in the period and conditions established in this Contract;

8.1.3 Reject, in whole or in part, the contracted object when in disagreement with the specifications contained in the Contract;

8.1.4 Notify the **SELLER**, in writing, about vices, defects, or inaccuracies found in the supplied object so that it may be replaced, repaired, or corrected, in whole or in part, at its expense, according to the conditions established in this Contract;

8.1.5 Monitor and inspect the performance of the Contract and the **SELLER's** compliance with its obligations;

8.1.6 Pay the **SELLER** the amount corresponding to the supply of the object in the period, form, and conditions established in this Contract;

8.1.7 Apply sanctions to the **SELLER** in accordance with the law and this Contract;

8.1.8 Issue a decision on all requests and complaints related to the execution of this Contract, except manifestly impertinent requests, merely delaying or devoid of interest for the proper execution of this agreement;

8.1.9 The Administration will have a period of 1 month, counting from the date of the request protocol, to decide, allowing for a motivated extension, for an equal period;

8.1.10 Notify the **SELLER** in writing of the occurrence of any imperfections, failures, or irregularities found during the execution of the services, setting a deadline for their correction, making sure that the solutions proposed by it are the most appropriate;

8.1.11 The Administration will not be liable for any commitments undertaken by the **SELLER** with third parties, even if linked to the execution of the Contract, as well as for any damage caused to third parties as a result of an act of the **SELLER**, its employees, agents or subordinates.

9. CLAUSE - SELLER'S OBLIGATIONS

9.1 The **SELLER** shall comply with all obligations contained in this Contract and in the Term of Reference, assuming as exclusively its risks and expenses resulting from the good and perfect execution of the object, observing, also, the obligations set forth below:

9.1.1 Comply with the regular requests issued by the contract supervisor or higher authority and provide any clarification or information requested by them;

9.1.2 Be responsible for defects and damages resulting from the execution of the object and any damage caused to the Administration or third parties. This responsibility does not reduce the supervision or monitoring of the contractual execution by the BUYER, who will be authorized to deduct from the payments due or of the warranty, if required in the Bid Notice, the amount corresponding to the damages suffered;

9.1.3 Be responsible for complying with all labor, social security, tax, commercial and other obligations provided for in specific legislation, whose default does not transfer the responsibility to the **BUYER** and may not encumber the object of the Contract;

9.1.4 Keep during the whole validity of the Contract, in compatibility with the obligations assumed, all the conditions required for qualification in the bid process;

9.1.5 Keep confidential all information obtained as a result of the Contract;

9.1.6 Assume responsibility for any discrepancies in the proposed price, including any variable costs due to unforeseen future factors, making necessary adjustments if the initial estimate in the proposal does not adequately serve the Contract's purpose, except to re-establish the initial financial balance of the Contract in case of force majeure, unforeseeable circumstances, governmental actions, or events, predictable or not, with unforeseen outcomes that hinder the Contract's agreed-upon execution;

9.1.7 - Notify the **BUYER** of any impediments that may result in delays or suspension of the delivery of the contracted object;

9.1.8 - Assume responsibility for tax expenses arising from the award of this Bid Process (Electronic Auction);

9.1.9 - Assume responsibility for property damage or any losses arising from this Contract when caused by the direct or indirect action, omission of its employees, or subcontractors acting on its behalf.

10. CLAUSE – HIRING GUARANTEE

10.1 There will be no requirement for a Contract guarantee.

11. CLAUSE – ADMINISTRATIVE INFRACTIONS AND SANCTIONS

11.1 For the total or partial non-execution of the Contract, the **BUYER** can, guaranteeing a previous defense, apply to the **SELLER** the following sanctions:

a) Warning.

b) The unjustified delay in the execution of the Contract, starting from the first day of the postponement of the service, will subject the **SELLER** to the fine of 0.1% (0.1 percent) for a day of delay, limited to 30 days (thirty) days. Reaching this limit, the fine will be converted into a compensatory fine.

c) Compensatory fine, in a percentage of 10 (%), levied on the value of the unfulfilled portion of the Contract;

d) Temporary suspension from participation in bids and impediment to Contract with this Naval Commission for a period not exceeding two (2) years;

e) Declaration of ineligibility to bid or Contract with the Brazilian Public Administration while the reasons that determined the punishment last or until rehabilitation is promoted before the authority that applied the penalty, which will be granted whenever the **SELLER** reimburses the **BUYER** for the resulting damages and after the period of the sanction used based on the item "c" elapses.

11.2 The penalties provided in item 11.1, paragraphs "a," "d," and "e" may be applied together with one of the paragraphs "a" and "b," being allowed the previous defense of the **SELLER**, in the respective process, within 5 (five) working days.

11.3 The sanction established in paragraph "e" of item 11.1 is of the exclusive competence of the Minister of Defense, the defense of the **SELLER** being allowed in the respective process within 10 (ten) days of the opening of the case, and the rehabilitation can be requested after 2 (two) years of its application.

12. CLAUSE - CONTRACT TERMINATION

12.1 The Contract will be terminated when the obligations of both parties are fulfilled, even if this occurs before the stipulated deadline.

12.2 If the obligations are not met within the stipulated time, the term will be extended until the completion of the object, in which case the Administration shall provide the readjustment of the schedule set for the Contract.

12.3 When the non-conclusion of the Contract referred to in the previous item results from the **SELLER's** fault:

12.3.1 It will be constituted in default, being applicable to the respective administrative sanctions;

12.3.2 The Administration may choose to terminate the Contract and, in this case, will adopt the measures allowed by law for the continuity of Contract enforcement.

12.4 The total or partial non-performance of the Contract gives rise to its termination, with the appropriate contractual, legal, and regulatory consequences.

12.5 The **BUYER** reserves the right to terminate the referred Contract in case of contractual non-performance through written notice addressed to the **SELLER**, which may lead to the establishment of an Administrative Liability Process, ensuring the adversary and the entire defense if:

a) The **SELLER** fails to fulfill any contractual obligations or irregularly fulfills the contractual clauses, specifications, projects, and terms and does not take measures to remedy such defaults after receiving formal notification;

b) If there is slowness in compliance, leading the **BUYER** to prove the impossibility of completing the delivery within the stipulated deadlines;

c) The **SELLER** becomes insolvent, goes into voluntary or compulsory liquidation, except for merger;

d) The unjustifiable delay in the delivery of the object by the **SELLER**;

e) The interruption of supply without just cause and prior communication to the Administration;

- f) Total or partial subcontracting of the object, the association of the **SELLER** with others, the total or partial assignment or transfer, as well as the merger, split, or incorporation, not admitted in the contract;
- g) Failure to comply with the regular determinations of the designated authority to monitor and supervise its execution, as well as those of its superiors;
- h) Declaration of bankruptcy or the institution of civil insolvency;
- i) Dissolution of the company or the death of the **SELLER** (if applicable);
- j) Corporate alteration or change in the finality or structure of the Contract, which impairs the performance of the Contract;
- k) Suppression of services, resulting in a modification of the initial Contract value beyond the permitted limit of 25% (twenty-five percent) of the initial updated contract value.

12.6 The following also constitute grounds for termination of the Contract:

- a) The delay of more than 90 (ninety) days of the payments due by the **SELLER** arising from services, or parts of them, already received or executed, except in case of public calamity, serious disturbance of the internal order or war, assured to the contractor the right to opt for the suspension of the fulfillment of its obligations until the situation is normalized;
- b) Failure to comply with the regular determinations of the designated authority to monitor and supervise its execution, as well as those of its superiors;
- c) The occurrence of fortuitous case or force majeure, regularly proven, impeding the execution of the Contract ;

13. CLAUSE – BUDGET ALLOCATION

13.1 Expenses to attend this bidding process are programmed in a specific budget allocation, foreseen in the Union budget for the 2023 fiscal year, in the classification below:

Management/Unit:	00001
UGR/UGE:	52131/70200
PTRES:	195267
INTERNAL ACTION:	Y.3E5.01.0.0.1.OW
Nature of Expense:	449052

14. CLAUSE - OMITTED CASES

14.1 The **BUYER** will decide the omitted cases according to the provisions of the Regulation GM-MD N° 5.175, of December 15, 2021 and other Brazilian norms.

15. CLAUSE - MODIFICATIONS

15.1 The **SELLER** is required to accept, under the same contractual conditions, the additions or deletions that may be necessary up to the limit of 25% (twenty-five percent) of the updated initial value of the Contract.

15.2 Registrations that do not characterize alteration of the Contract may be done by simple notification, dispensing the celebration of an amendment.

16. CLAUSE - PUBLICATION.

16.1 BNCW undertakes to publicize all information related to this bid process.

17. CLAUSE - FORUM

17.1 If the **PARTIES** cannot resolve any disputes arising from or relating to this Contract amicably, such claims shall be determined by arbitration following the International Arbitration Rules of the American Arbitration Association.

17.2 The place of arbitration will be in Washington, DC, the number of arbitrators will be three, and the arbitrator's decision will be final and binding on the **PARTIES**. Each party shall select one arbitrator within thirty (30) days after the commencement of the, be arbitration, and both arbitrators shall select a third. If either party fails to appoint an arbitrator within this period, the arbitrator chosen by the other party will be the sole arbitrator. Suppose the two arbitrators do not agree on the selection of a third arbitrator within 45 (forty-five) days after the commencement of the arbitration, the American Arbitration Association will select the third arbitrator.

17.3 The arbitration must be conducted in English, and all documentation must also be in English. The arbitration award shall be the sole and exclusive remedy between the parties concerning claims, counterclaims, issues, or bills presented or pleaded to the arbitrators. The award must be paid in US Dollars, net of any tax, deduction, or offset. Any costs, fees and, expenses incurred in enforcing the judgment will be charged against the party resisting such enforcement.

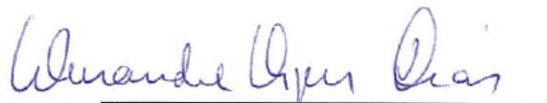
17.4 All notices relating to the arbitration shall be in English and writing.

17.5 The dispute or claim arising out of or relating to the Contract will be determined following the Maritime and Commercial Laws applicable to this type of trade, and the parties will submit to the jurisdiction of the federal courts located in the District of Columbia. They will waive the right to claim a lack of personal jurisdiction in any legal process.

18. CLAUSE - COPIES

18.1 To secure and validate what has been agreed upon, this Contract has been drawn up in two **COPIES** of equal content, which the contracting **PARTIES** have signed after having been read and found to be in order.

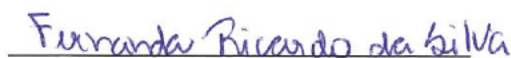
Washington DC, November 14th, 2023.



ALEXANDRE VIZEU DIAS

CAPT - President

Witness:



FERNANDA RICARDO DA SILVA

CDR - Head of the Purchasing Department



CARMEN VLAICU

Contracts Manager



JASON SOPER

Chief Engineer