

KILIMANJARO CHRISTIAN MEDICAL CENTER

P. O. BOX 3010

MOSHI

CONTRACT BETWEEN KILIMANJARO CHRISTIAN
MEDICAL CENTER AND BAYLEM LTD

FOR

SUPPLY INSTALLATION, TESTING
COMMISSIONING AND TRAINING OF NEW
MEDICAL EQUIPMENT

NOVEMBER 2021

Form of Contract

THIS AGREEMENT made the ____ day of November 2021 between the Kilimanjaro Christian Medical Center of P. O. Box 3010 Moshi of Tanzania (hereinafter called "the Procurement Entity") of the one part and Balyem Ltd of P. O. Box 12258-00400 Nairobi Kenya of (hereinafter called "the Supplier") of the other part:

WHEREAS the PE invited Tenders for certain goods and ancillary services, viz., Supply installation commissioning testing and training of new medical equipment Tender No; PA/101/2021 -2022/KCMC/G/21 Lot 5 and has accepted a Tender by the Supplier for the supply of those goods and services in the sum of Tanzanian Shillings Six hundred sixty eight million two hundred thirty two thousand five hundred only (TZS: 668,232,500/=) (hereinafter called "the Contract Price").

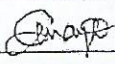
NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, In the event of any ambiguity or conflict between the Contract Documents listed below, the order of precedence shall be the order in which the Contract Documents are listed below:-
 - (a) This form of agreement;
 - (b) The Form of Tender and the Price Schedule submitted by the Tenderer;
 - (c) The Schedule of Requirements;
 - (d) The Technical Specifications;
 - (e) The Special Conditions of Contract;
 - (f) the GCC;
 - (g) The Purchaser's Letter of Acceptance; and
 - (h) Minutes of negotiation.
3. In consideration of the payments to be made by the PE to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the PE to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procurement Entity hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become

All correspondences should be addressed to the Executive Director.


IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Sealed with the common seal of the said The Kilimanjaro Christian Medical Center and delivered before us this day of November 2021.

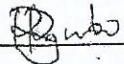
Name: PROF. GILLARD G. MASENGA
Signature: 
Designation: LEGAL OFFICER
Postal Address: 3010 MASHI

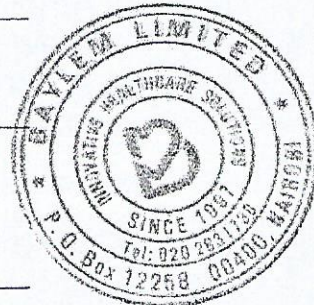
EXECUTIVE DIRECTOR
K. C. M. C. - MASHI

In the presence of:

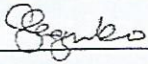
Name: RACHELY R. MBOYA
Signature: 
Designation: LEGAL OFFICER
Postal Address: 3010 MASHI

Sealed with the common seal of the said M/s BAYLEM LTD
and delivered before us this Day of November, 2021.

Name: ROSE PASAKA OGUMBO
Signature: 
Designation: DIRECTOR
Postal Address: 12258 - 00400 NAIROBI



In the presence of:

Name: JANE ESTHER OGUMBO
Signature: 
Designation: DIRECTOR
Postal Address: 12258 - 00400 NAIROBI

Special Conditions of Contract (SCC)

The following **Special Conditions of Contract (SCC)** shall supplement the GCC. Whenever **there is** a conflict, the provisions herein shall prevail over those in the GCC. **The corresponding clause number of the GCC is indicated in parentheses.**

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
		Definitions (GCC 1)
1.	1.1	The Purchaser is: Kilimanjaro Christian Medical Centre Off Sokoine Road, P.O. Box 3010, Moshi, Tanzania.
	1.1 (d)	Commencement date: 20th November 2021
	1.1 (e)	Completion date: 20th March 2022
	1.1 (m)	Intended delivery Date: Within (4) months after signing the contract
2.	1.1 (j)	The Supplier is: Balyem Ltd, P.O.Box 1225800400, Nairobi, Kenya.
3.	1.1 (q)	The Project is: Tender for supply installation testing commissioning and training of new medical equipment. Tender No. PA/101/2021-2022/KCMC/G/21 lot 5
		Governing Language (GCC 4)
4.	4.1	The Governing Language shall be: English
		Applicable Law (GCC 5)
5.	5.1	The Applicable Law shall be: Laws of the United Republic of Tanzania

	Country of Origin (GCC 6)	
6.	6.1	Country of Origin is: N/A
	Performance Security (GCC 10)	
7.	10.1	The amount of performance security, as a percentage of the Contract Price, shall be: Ten percent (10%) of the Contract Price in the form of Unconditional Bank Guarantee
8.	10.4	After delivery and acceptance of the Goods, the performance security shall be reduced to two (2) percent of the Contract Price to cover the Supplier's warranty obligations in accordance with GCC 18.2.
	Inspections and Tests (GCC 11)	
9.	11.1	<p>Inspection and tests prior to shipment of Goods and at final acceptance are as follows:</p> <p>Quality and quantity inspection shall be carried out prior to shipment of Goods by the manufacturer(s) at the supplier's own expense and responsibility in terms of the items specified in the specifications. The supplier shall submit the inspection certificate issued by himself which should be attached with the certificate(s) of the manufacturer(s) to the PE in order to ensure that the goods are manufactured in compliance with the contract.</p>
	Packing (GCC 12)	
10.	12.2	<p>The following SCC shall supplement GCC 12.2:</p> <p>The Goods shall be packed properly in accordance with standard export packing specified by the PE in the Technical Specification.</p>
	Delivery and Documents (GCC 13)	
11.	13.1	<p>For Goods supplied from abroad:</p> <p>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by cable the full details of</p>

		<p>the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:</p> <ul style="list-style-type: none"> (i.) One original plus four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount; (ii.) Original and four copies of the negotiable, clean, on-board bill of lading marked "freight prepaid" and four copies of nonnegotiable bill of lading; (iii.) One original plus four copies of the packing list identifying contents of each package; (iv.) Insurance certificate; (v.) Manufacturer's or Supplier's warranty certificate; (vi.) Inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and (vii.) Certificate of country of origin issued by the chamber of commerce and industry or equivalent authority in the country of origin in duplicate.. <p>The above documents shall be received by the Procurement Entity at least one week before arrival of the Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.</p>
12.	13.3	<p>For Goods from within the United Republic of Tanzania:</p> <p>Upon delivery of the Goods to the transporter, the Supplier shall notify the Procurement Entity and mail the following documents to the Procurement Entity:</p> <ul style="list-style-type: none"> (i.) One original plus four copies of the Supplier's

		<p>invoice showing Goods' description, quantity, unit price, and total amount;</p> <p>(ii.) Delivery note, railway receipt, or truck receipt;</p> <p>(iii.) Manufacturer's or Supplier's warranty certificate;</p> <p>(iv.) Inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and</p> <p>(v.) Certificate of country of origin issued by the Tanzania Chamber of Commerce, Industry and Agriculture or equivalent authority in the country of origin in duplicate.</p> <p>The above documents shall be received by the Procurement Entity before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p>
Insurance (GCC 14)		
13.	14.1	The Insurance shall be in an amount equal to 110 percent of the CIF or CIP value of the Goods from "warehouse" to "warehouse" on "All Risks" basis, including War Risks and Strikes.
Incidental Services (GCC 16)		
14.	16.1	Incidental services to be provided are: Not Applicable
Spare Parts (GCC 17)		
15.	17.1	<p>Additional spare parts requirements are: Not Applicable</p> <p>Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the Goods. Other spare parts and components shall be supplied as promptly as possible, but in any case within six (6) months of placing the order and opening the letter of credit.</p>

Warranty (GCC 18)		
16.	18.2	<p>GCC 17.2—In partial modification of the provisions, the warranty period shall be twelve (12) months from date of acceptance of the Goods. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either:</p> <p style="padding-left: 40px;">(a) make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with SCC 4,</p> <p style="text-align: center;">or</p> <p style="padding-left: 40px;">(b) Pay liquidated damages to the PE with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be 0.20 per cent per day of undelivered materials/goods value up to the sum equivalent to the amount of ten percent of the contract value.</p>
17.	18.4 & 18.5	The period for correction of defects in the warranty period is: Fourteen (14) days from the date of notification received from the purchaser
Payment (GCC 19)		
18.	19.1	<p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>Payment for Goods supplied from abroad:</p> <p>Payment of foreign currency portion shall be made in: Not Applicable</p> <p style="padding-left: 40px;">(i) Advance Payment: percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for</p>

		<p>equivalent amount valid until the Goods are delivered and in the form provided in the Tendering Documents or another form acceptable to the Procurement Entity.</p> <p>(ii) On Shipment: ----- percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC 10.</p> <p>(iii) On Acceptance... Percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the PE.</p> <p>Payment of local currency portion shall be made in <i>:[insert the currency]</i> within thirty (30) days of presentation of claim supported by a certificate from the PE declaring that the Goods have been delivered and that all other contracted Services have been performed.</p>
		<p>Payment for Goods and Services supplied from within the United Republic of Tanzania:</p> <p>Payment for Goods and Services supplied from within the United Republic of Tanzania shall be made in Tanzanian Shillings, as follows:</p> <p>(i) Advance Payment: 50% will be paid within 28 days down payment after contract signing</p> <p>(iii) On Acceptance: 50 percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the PE.</p>
19.	19.3	Rate to be used for paying the Supplier's interest on the late payment made by PE shall be: Not Applicable

	Prices (GCC 20)	
20.	20.1	Prices shall be adjusted in accordance with provisions in the Attachment to SCC; Not Applicable
	Liquidated Damages (GCC 26)	
21.	25.1	Applicable rate: 0.1% of the contract sum per day of undelivered materials' value. Maximum deduction: is equal to the performance security.
	Procedure for Dispute Resolution (GCC 32)	
23.	32.3	Arbitration institution shall be; Institute of Arbitrators Place for carrying out Arbitration: Moshi, Tanzania
24.	33.1	Appointing Authority for the Adjudicator: Tanzania Institute of Arbitrators
	Notices (GCC 35)	
26.	35.1	PE's address for notice purposes Executive Director Kilimanjaro Christian Medical Centre P.O. Box 3010 Moshi Tanzania Supplier's address for notice purposes: Director, Baylem Ltd, P.O. Box 1225800400, Nairobi, Kenya.

LOT No.5 SUPPLY OF HAMILTON VENTILATOR

POINT OF DELIVERY - KCMC

S/N	ITEM DESCRIPTION	NEGOTIATED PRICE	QTY	VALUE
1	Ventilator machine (Humilliton)	66,823,250.00	2	133,646,500.00

POINT OF DELIVERY -MT. MERU RRH

S/N	ITEM DESCRIPTION	NEGOTIATED PRICE	QTY	VALUE
1	Ventilator machine (Humilliton)	66,823,250.00	2	133,646,500.00

POINT OF DELIVERY - KILIMANJARO RRH (MAWENZI)

S/N	ITEM DESCRIPTION	NEGOTIATED PRICE	QTY	VALUE
1	Ventilator machine (Humilliton)	66,823,250.00	2	133,646,500.00

POINT OF DELIVERY - MANYARA RRH

S/N	ITEM DESCRIPTION	NEGOTIATED PRICE	QTY	VALUE
1	Ventilator machine (Humilliton)	66,823,250.00	2	133,646,500.00

POINT OF DELIVERY - TANGA RRH (BOMBO)

S/N	ITEM DESCRIPTION	NEGOTIATED PRICE	QTY	VALUE
1	Ventilator machine (Humilliton)	66,823,250.00	2	133,646,500.00

GRAND TOTAL

668,232,500.00

KILIMANJARO CHRISTIAN MEDICAL CENTER (KCMC)
P.O. BOX 3010, MOSHI

MINUTES OF THE NEGOTIATION MEETING HELD ON 16.11.2021

2021/1.0 Tender ID No.: PA/101/2021-2022/KCMC/G/21

2021/1.1 Subject of Procurement: SUPPLY, INSTALLATION, TESTING COMMISSIONING AND TRAINING OF MEDICAL EQUIPMENT

2021/2.0 PRESENT MEMBERS

Negotiation was done through telephone conversation with MR. J.F Ogumbo, Managing DIRECTOR, BAYLEM LT on 17.11.2021

2021/3.0 NEGOTIATION AREAS

S/No	NEGOTIATION AREAS	OBJECTIVES	NEGOTIATION PARAMETERS
1	Price of both equipment and service	To ensure the quoted price reflect market price of particular equipment and service	Basing on estimated value, variation of price should not exceed 20%
2	Mode of payment	To know the percentage of payment before and after delivery	To a tolerable and affordable mode of payment
3	Training on both operating and servicing	To ensure on time servicing and troubleshooting of equipment through local staff	Supplier to offer affordable and on time support to client on management of particular equipment
4	Delivery period	To set enough and considerable time for preparation of installation area and personnel who will operate the equipment	Within 12 weeks after contract signing
5	Service and maintenance of equipment	To know the schedule of service per prescribed item and mode of replacement and availability of spare parts.	Service should be done as per service manual of the machine.

2021/3.1 NEGOTIATION FOR THE REDUCTION OF EXPENSES FOR ESSENTIAL MEDICAL EQUIPMENT

Representative of BAYLEM LT, supplier of Hamilton medical equipment presented an agreement to supply of essential Hamilton ventilators for ICU and EMD. Among other things they will be responsible for delivery, installation, training of users and local engineers and maintenance of the prescribed items. It was observed that the quoted price (TSH. 90,475,000) was too high from the estimated price (TSH. 56,000,000), and the negotiated price were still very high not to fit into the allocated budget. The supplier argued that the quoted price was for a C3

2021/3.2 NEGOTIATION FOR THE MODE OF PAYMENT

After negotiation it was proposed that payment will be made in two installments as follows:

- i. 50% as down payment after signing the contract,
- ii. 50% payment on delivery, installation, testing and commissioning.

2021/3.3 NEGOTIATION FOR TRAINING ON BOTH OPERATING AND SERVICING

BAYLEM LT agreed to be responsible for training of users and local engineers on both operating and servicing of prescribed items. It was agreed that training will be on-site upon delivery and installation of the equipment.

2021/3.4 NEGOTIATION FOR DELIVERY PERIOD

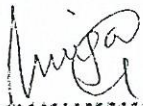
A maximum of 12 weeks was proposed after signing of the contract, which will be until the end of February, 2022. Either, the items may be delivered anytime within the prescribed maximum period.

2021/3.5 NEGOTIATION FOR SERVICE AND MAINTENANCE OF EQUIPMENT

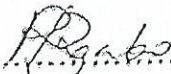
It was agreed that BAYLEM LT will be responsible for servicing and maintenance of the prescribe items within the manufacturer's warranty period. It was also agreed that, the supplier will be responsible for five years comprehensive servicing and maintenance plan of the prescribed item as prescribed in the tender document. The five years comprehensive servicing and maintenance plan will commence at the end of manufacturer's warranty period. Furthermore, it was agreed that maintenance and servicing will be done according to the schedule prescribed in the manufacturer's service manual.

2021/4.0 CLOSING REMARKS


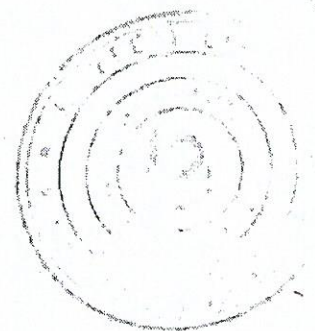
The chairman thanked and registered best regards to BAYLEM LTD for the engagement ahead, hoping its success will improve the quality of services offered at the hospital and strengthen partnership between the parties.



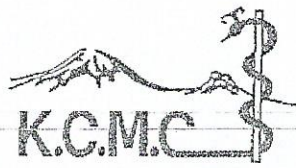
.....
Dr. Fredson Mwigira
CHAIRMAN



.....
Pasaka Ogumbo
DIRECTOR Baylem Limited



.....
Mr. Kenedy Mwakalindile
RECORDER



KILIMANJARO CHRISTIAN MEDICAL CENTRE

An institution of the Good Samaritan Foundation

P. O. Box 3010, Moshi, Tanzania

Tel: 255-027-2754377/ 80 Fax: 255-027-2754381

Email: kcmadmin@kcmc.ac.tz Website: <http://www.kcmc.ac.tz>

19th November 2021

Letter of Acceptance

To: Director,
Balyem Ltd,
P O. Box 12258-00400,
Nairobi - Kenya.

This is to notify you that your Tender dated 12th November 2021 for execution of the Supply installation commissioning test and training contract No, PA/101/2021 -2022/KCMC/G/21 lot 5 for the Contract Price of the equivalent of Tanzanian Shillings Six hundred sixty eight million two hundred thirty two thousand five hundred only (TZS: 668,232,500/=), as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

We hereby confirm Tanzania Institute of Arbitrators to be the Appointing Authority, to appoint the adjudicator in case of any arisen disputes in accordance with SCC 33.1

You are hereby informed that after you have read and return the attached draft Contract the parties to the contract shall sign the vetted contract within two (2) working days.

Authorized Signature: _____

Name and Title of Signatory: **Executive Director**

Name of the Institution: **Kilimanjaro Christian Medical Center**

**EXECUTIVE DIRECTOR
K. C. M. C. — MOSHI**

Attachments: Contract

Copy: Appointing Authority,
PPRA,
TAU,
CAG &
Attorney General

All correspondences should be addressed to the Executive Director.