



**THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF HEALTH, COMMUNITY
DEVELOPMENT, GENDER, ELDERY, CHILDREN
MUHIMBILI NATIONAL HOSPITAL**



**Local Purchase Order for
Procurement of Goods**

Quotation No: PA/009/2021-22/HQ/G/06 LOT 11

SUPPLY OF OXYGEN EQUIPMENTS

**TOL GASES LIMITED
P.O Box 10539
DAR ES SALAAM
TANZANIA**

To: **TOL GASES LIMITED**

Your quotation reference PA/009/2021-22/HQ/G/06 LOT 11 dated 12th November, 2021 is accepted and you are required to supply goods as detailed on the attached Schedule of Requirements and Prices against the terms and conditions contained in this Local Purchase Order (LPO). This order is placed subject to the attached Special Conditions of Contract (SCC) and General Conditions of Contract (GCC) for LPO, except where modified by the terms stated below.

TERMS AND CONDITIONS OF THIS LOCAL PURCHASE ORDER:

1. **Contract Sum:** Tshs 473,843,999.21 (Tanzania Shillings four hundred seventy three million eight hundred forty three thousand nine hundred ninety nine and twenty one cents only) VAT Inclusive

2. **Delivery Period:** The services are to be performed within *two (2)* months from from 01st January, 2022 to 28th February, 2022.

3. **Delivery point:** The goods are to be delivered at Muhimbili National Hospital_Upanga

Contact Person: Notices, enquiries and documentation should be addressed to;
Executive Director,
Muhimbili National Hospital,
P.O Box 65000,
Dar es Salaam

4. **Payment to Supplier:**

Payment will be made within *thirty (30)* days on completion of satisfactory performance of the contract. The following documentation must be supplied for payments to be made:

- a) An original and two copies of an Invoice;
- b) Acceptance certificate signed by a responsible person or committee for certifying satisfactory completion of the order/service];
- c) Electronic Fiscal Device (EFD) receipt; and

5. The following documents form part of this Contract (LPO):

- a) Local Purchase Order (LPO)
- b) Letter of Acceptance
- c) Quotation Submission Form
- d) Special Conditions of Contract for LPO
- e) General Conditions of Contract for LPO

SCHEDULE OF REQUIREMENTS AND PRICES

SN	DESCRIPTION OF GOODS	Unit of Measure	QTY	Unit PRICE	Amount
1	Portable Cylinder with flow meter	Pcs	45	804,745.76	36,213,559.20
2	Facility Based Cylinder with Flow meter	Pcs	200	1,106,745.76	221,349,152.00
3	Flow meter	Pcs	400	360,000.00	144,000,000.00
SUB-TOTAL					401,562,711.20
18% VAT					72,281,288.01
TOTAL AMOUNT					473,843,999.21

For Client:

MUHIMBILI NATIONAL HOSPITAL

Signature: *Lauren*

Name: *Prof L.N. Owen*

Designation: *(Signature)*

Date: *03.12.2021*

For Supplier:

TOL GASES LIMITED

Signature: *lto*

Name: *KASSIM J. VIKWATO*

Designation: *MARKETING OFFICER*

Date: *06/12/2021*



LETTER OF ACCEPTANCE



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF HEALTH, COMMUNITY
DEVELOPMENT, GENDER, ELDERLY, CHILDREN
MUHIMBILI NATIONAL HOSPITAL



In reply please quote:
Ref.No. MNH/CSO/TENDER/VOL III/574/2021

Date: 23/11/2021

MANAGING DIRECTOR,
TOL GASES LIMITED,
P.O Box 10539,
DAR ES SALAAM,
TANZANIA

RE: LETTER OF ACCEPTANCE

Reference is made to the above subject.

This is to notify you that your Tender No PA/009/2021-22/HQ/G/06 LOT 11 for Supply of Oxygen Equipments at a Contract Price of Tshs 473,843,999.21 (Tanzania Shillings four hundred seventy three million eight hundred forty three thousand nine hundred ninety nine and twenty one cents only) VAT Inclusive as corrected and modified in accordance with the instructions to bidders is hereby accepted by us.

You are hereby instructed to proceed with the execution of the said Contract for the Supply of Oxygen Equipments in accordance with the Contract documents.

Please return the attached Contract dully signed

Authorized Signature: _____

Name and Title of Signatory: _____

Laufusen
Prof L. H. Husein - (S)

Name of Client: **MUHIMBILI NATIONAL HOSPITAL**

Attachment: Contract

Copy: Appointing Authority, PPRA, TAU, CAG & Attorney General, Government Asset Management Division, Internal Auditor General and TRA

Note: You are required to submit the Performance Security before Commencement of the contract.

QUOTATION SUBMISSION FORM

1. QUOTATION SUBMISSION FORM

12.11.2021

To: [Muhimbili National Hospital;

P.O Box 65000
Dar es Salaam

We agree to supply the goods specified in the Schedule of Requirement and prices of the QUOTATION NO. PA/009/2021-22/ HQ/G/06 LOT 11 in accordance with the Conditions of Contract accompanying this Tender for the Contract Price of 473,843,999.21, FOUR HUNDRED SEVENTY-THREE MILLION EIGHT HUNDRED FORTY-THREE THOUSAND NINE HUNDRED NINETY-NINE in Tanzanian Shillings.

We also offer to delivery the said goods within the period of days/weeks / months as specified in the LPO, Special Conditions of Contract and General Conditions of Contract.


This quotation and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any quotation you receive.

We agree to abide by this Tender for the Tender Validity Period specified in ITT 6, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

We are not participating, as Tenderers, in more than one Tender in this tendering process, other than alternative offers in accordance with the Tendering Documents.

We declares that our quoted price did not involve agreement with other tenderers for the purpose of tender suppression.

We hereby confirm that this quotation complies with the conditions required by the invitation for quotations.

Authorized Signature: 

Name and Title of Signatory: KASSIM VIKWATO, MARKETING OFFICER.

Date: 12.11.2021



Name of Tenderer: TOL GASES LIMITED

Address: PO BOX 911 DAR ES SALAAM



Handwritten signature

Prices

A. MUHIMBILI NATIONAL REFERRAL HOSPITAL

SN	DESCRIPTION	UOM	QTY	PRICE	AMOUNT
1	PORTABLE CYLINDER WITH FLOWMETER	PCS	45	804,745.76	36,213,559.20
2	FACILITY BASED CLYLINDER WITH FLOWMETER	PCS	200	1,106,745.76	221,349,152.00
3	FLOWMETER	PCS	400	360,000.00	144,000,000.00

SUB
TOTAL 401,562,711.20
VAT 72,281,288.01

TOTAL 473,843,999.21

Total Amount in TZS.(in words)	<i>[insert Total Amount for Supply of Goods, excluding VAT]</i>
FOUR HUNDRED SEVENTY-THREE MILLION EIGHT HUNDRED FORTY-THREE THOUSAND NINE HUNDRED NINETY-NINE	473,843,999.21
The delivery period offered is:	days/weeks/months from date of LPO

Authorized Signatory *[Signature]*

Name of Signatory KASSIM VIKWATO

Date 12/11/2021



SPECIAL CONDITIONS OF CONTRACT FOR LPO

Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the GCC for LPO. 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: Muhimbili National Hospital; P.O Box 65000 Dar es Salaam
2.	1.1	The Supplier is: TOL GASES LIMITED, P.O Box 10539
3.	1.1	The Project is: <i>Supply of Oxygen Equipments</i>
Performance Security (GCC 6)		
4.	6.1	The amount of performance security, as a percentage of the Contract Price, shall be: <i>ten (10) of the Contract Price</i>
5.	6.4	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 14.1.
Packing (GCC 8)		
6.	8.2	The Goods shall be packed properly in accordance with standard packing specified by the PE in the Technical Specification.
Delivery and Documents (GCC 9)		
7.	9.1	<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 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> <p style="margin-left: 40px;">(i) One original plus four copies of the Supplier's invoice</p>

		<p>showing Goods' description, quantity, unit price, and total amount;</p> <p>(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;</p> <p>(iii.) One original plus four copies of the packing list identifying contents of each package;</p> <p>(iv.) insurance certificate;</p> <p>(v.) Manufacturer's or Supplier's warranty certificate;</p> <p>(vi.) inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and</p> <p>(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> <p>The above documents shall be received by the PE 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>
8.	9.1	<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 PE and mail the following documents to the PE:</p> <p>(i.) one original plus four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;</p> <p>(ii.) delivery note;</p>
		Insurance (GCC 10)
9.	10.1	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.
		Warranty (GCC 14)
11.	14.1	<p>The warranty period shall be 3 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>(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</p>

		<p>further performance tests in accordance with SCC 4,</p> <p>or</p> <p>(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>
12.	14.3	Warranties shall remain valid for period of three years after final acceptance of the Goods by the Purchaser.
13.	14.6	The period for correction of defects in the warranty period is: 7 days
Payment (GCC 15)		
14.	15.1	The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:
		<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: 20 percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the Tendering Documents or another form acceptable to the PE.</p> <p>(ii) On Delivery: __ percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC 9.</p> <p>(iii) On Acceptance: The remaining 80 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>
15.	15.3	Rate to be used for paying the Supplier's interest on the late payment made by PE shall be; NA

		Spare Parts (GCC 17)
16.	13.1	Additional spare parts requirements are: N/A 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 for goods from abroad.
		Liquidated Damages (GCC 22)
17.	22.1	Applicable rate: 0.1 Maximum deduction: is equal to the performance security.
		Procedure for Dispute Resolution (GCC 27)
18.	27.1	Appointing Authority for the Adjudicator shall be TANZANIA INSTITUTE OF ARBITRATORS Arbitration institution shall be TANZANIA INSTITUTE OF ARBITRATORS
19.	27.2	If either Party is dissatisfied with the Adjudicator's decision may, within 30 days refer the dispute for arbitration. If either party within 30 days has not referred the matter for arbitration the decision shall become final and binding to the Parties.
		Governing Language (GCC 29)
20.	29.1	The Governing Language shall be: English
		Applicable Law (GCC 30)
21.	30.1	The Applicable Law shall be: Laws of Tanzania
		Notices (GCC 31)
22.	31.1	i) PE's address for notice purposes: Executive Director, Muhimbili National Hospital, P.O Box 65000, Dar es Salaam ii) Supplier's address for notice purposes: Managing Director, Tol Gases Limited, P.O Box 10539,

		Dar Es Salaam, Tanzania
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**GENERAL CONDITIONS OF CONTRACT FOR
LOCAL PURCHASE ORDER**

1.0 Definitions

1.1 "The Contract" means the agreement entered into between the Purchaser and the Supplier, including all specifications, plans, drawings or other documents and conditions which may be referred to in the Contract.

"The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.

"The Goods" means raw materials, products, equipment and other physical objects of every kind and description, whether in solid, liquid or gaseous form, electricity, intangible asset and intellectual property, as well as services incidental to the supply of the goods provided that the value of services does not exceed the value of the goods themselves.

"The Incidental Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.

"The Purchaser" means the Government Entity purchasing the Goods, as named in the SCC.

"The Supplier" means company, corporation, organization, partnership or individual person supplying goods or services, hiring equipment or providing transport services and who is, according to the contract, a potential party or the party to procurement contract with the PE.

2.0 Eligibility

- 2.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 2.2 All Goods, Works and Services supplied under the Contract shall have their origin in eligible countries and territories. Eligible countries shall include all member states of the United Nations.
- 2.3 For purposes of this GCC, "origin" means the place where the Goods were mined, grown, or produced, or from which the Works or Services are supplied. Goods are produced when, through manufacturing,

processing, or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

2.4 The origin of Goods is distinct from the nationality of the Supplier.

3.0 Standards

3.1 The Goods supplied under the Contract shall conform to all standards and requirements mentioned in the technical specifications, plans, drawings, terms of reference or other documentation forming part of the Contract.

4.0 Use of Contract Documents and Information

4.1 The Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

4.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information specified in GCC 4.1, except for purposes of performing the Contract.

4.3 All documents enumerated in GCC 4.1, other than the Contract itself, shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier's performance under the Contract, if so required by the Purchaser.

5.0 Patent Rights

5.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods, output of the services, performance of the works, or any part thereof in the United Republic of Tanzania.

6.0 Performance Security

6.1 If a Performance Security is specified in the invitation for quotations, within fourteen (14) days of receipt of the notification of Contract

- award, the successful Supplier shall furnish to the Purchaser the performance security in the amount specified in the SCC.
- 6.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 6.3 The performance security shall be denominated in Tanzania and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the United Republic of Tanzania or abroad, acceptable to the Purchaser, in the format provided in the invitation for quotations or another form acceptable to the Purchaser; or
 - (b) a cashier's or certified check.
- 6.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations as specified in the SCC.

7.0 Inspections and Tests

- 7.1 The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract at no extra cost to the Purchaser. The Contract shall specify any inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing or in electronic forms that provide record of the content of communication of the identity of any representatives retained for these purposes.
- 7.2 Inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the project site. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 7.3 Should any inspected or tested goods fail to conform to the Specifications, the Purchaser may reject the Goods and the Supplier shall either replace or make alterations necessary to meet specification requirements free of cost to the Purchaser.
- 7.4 The Purchaser's right to inspect, test and, where necessary, reject the Goods, Works or Services shall in no way be limited or waived by reason of having previously been inspected, tested, and passed by the Purchaser or its representative prior to shipment, installation or other performance in the United Republic of Tanzania.

7.5 Nothing in GCC 7 shall in any way release the Supplier from any warranty or other obligations under this Contract.

8.0 Packing

8.1 The Supplier shall provide such packing of Goods as is required to prevent damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the final destination and the absence of heavy handling facilities at all points in transit.

8.2 Packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements specified in the SCC and through any subsequent instructions issued by the Purchaser.

9.0 Delivery and Documents

9.1 Delivery of Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements and Prices. The details of shipping and/or other documents to be furnished by the Supplier are specified in the SCC and LPO.

9.2 For purposes of the Contract, "EXW," "CIF," "CIP," and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of Incoterms published by the International Chamber of Commerce, Paris.

9.3 Documents to be submitted by the Supplier are specified in the SCC and LPO and shall include certificates issued by the Purchaser confirming acceptance of the Goods supplied by the Supplier.

10.0 Insurance

10.1 Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the SCC.

10.2 Where delivery of Goods is required by the Purchaser on a CIF or CIP basis, the Supplier shall arrange and pay for cargo insurance, naming the Purchaser as beneficiary. The insurance shall be for 110 percent of

the CIF or CIP value on a "warehouse to warehouse". All risks basis including War Risks and Strikes.

11.0 Transportation

11.1 Transportation of Goods shall be in accordance with the general provisions of the Incoterm selected as for GCC 9.2. No restriction shall be placed on the choice of carrier.

11.2 Where the Supplier is required under the Contract to transport Goods to a specified place of destination within the United Republic of Tanzania, defined as the Project Site, transport, including insurance and storage, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.

12.0 Incidental Services

12.1 A Supplier may be required to provide any additional services as specified within the LPO.

13.0 Spare Parts

13.1 If specified in the SCC, the Supplier may be required to provide materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier including:

- (a) such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
- (b) in the event of termination of production of the spare parts:
 - (i) advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the Purchaser, blueprints, drawings, and specifications of the spare parts, if requested.

14.0 Warranty

14.1 The Supplier warrants that goods and materials supplied under the Contract are new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the SCC and LPO. The Supplier further warrants that all Goods supplied under this Contract shall have no

defect, arising from design, materials, or workmanship or from any act or omission of the Supplier, which may develop under normal use of the supplied goods in the conditions prevailing in the United Republic of Tanzania.

- 14.2 The Supplier warrants that all Works and Services performed under the contract shall be of the highest professional and technical standards.
- 14.3 Warranties shall remain valid for period specified in the SCC and LPO after final acceptance of the Goods by the Purchaser.
- 14.4 The Purchaser shall promptly notify the Supplier in writing or in electronic forms that provide record of the content of communication of any claims arising under this warranty.
- 14.5 Upon receipt of such notice, the Supplier shall, with all reasonable speed, repair or replace the defective goods, or parts thereof, without costs to the Purchaser.
- 14.6 If the Supplier, having been notified, fails to remedy any defect within the period specified in the SCC and LPO, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

15.0 Payment

- 15.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the SCC and LPO.
- 15.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing or in electronic forms that provide record of the content of communication, accompanied by an invoice describing, as appropriate, the goods delivered, works completed or services performed, and by documents submitted pursuant to GCC 9, and upon fulfillment of other obligations stipulated in the Contract.
- 15.3 Payments shall be made promptly by the Purchaser, but in no case number of days specified in the SCC and LPO after submission of an invoice or claim by the Supplier.
- 15.4 Payments shall be made Tanzania Shillings unless otherwise stated in the SCC and LPO.

16.0 Prices

- 16.1 Prices charged by the Supplier for goods delivered under the Contract shall not vary from the prices quoted by the Supplier in its tender except for any price adjustments authorized in the Contract.

17.0 Change Orders

- 17.1 The Purchaser may at any time, by a written order given to the Supplier pursuant to GCC 31, make changes within the general scope of the Contract in any one or more of the following:
- (a) Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
 - (b) methods of shipment, packing, construction or performance;
 - (c) the place of delivery; and/or
 - (d) incidental services to be provided by the Supplier.
- 17.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this GCC must be asserted within thirty (30) days from the date of the Supplier's receipt of the Purchaser's change order.

18.0 Contract Amendments

- 18.1 Subject to GCC 17, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

19.0 Assignment

- 19.1 The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the prior written consent of the Purchaser.

20.0 Sub-contracts

- 20.1 The Supplier shall notify the Purchaser in writing or in electronic forms that provide record of the content of communication of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the Supplier from any liability or obligation under the Contract. Subcontracts must comply with the provisions of GCC 2.

21.0 Delays in the Supplier's Performance

- 21.1 Delivery of goods shall be made by the Supplier in accordance with the time schedule prescribed by the Purchaser in the SCC.
- 21.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods or performance of the Works or Services, the Supplier shall promptly notify the Purchaser in writing or in electronic forms that provide record of the content of communication of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.
- 21.3 Except as provided under GCC 24, a delay by the Supplier in the performance of contractual obligations may render the Supplier liable to the imposition of liquidated damages pursuant to GCC 22, unless an extension of time is agreed upon pursuant to GCC 21.2 without the application of liquidated damages.

22.0 Liquidated Damages

- 22.1 Subject to GCC 24 and if stated in the SCC if the Supplier fails to deliver any or all of the goods within the period(s) specified in the Contract, the Purchaser may, without prejudice to all its other remedies under the contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached the Purchaser may terminate the contract pursuant to GCC 23.

23.0 Termination for Default

- 23.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:
 - (a) if the Supplier fails to deliver any or all of the goods or to perform the works or services within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC 21; or
 - (b) if the Supplier fails to perform any other obligation(s) under the Contract.

- (c) if the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this GCC:

“corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Purchaser, and includes collusive practice among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Purchaser of the benefits of free and open competition.

- 23.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC 23.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar goods, works or services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

24.0 Force Majeure

- 24.1 Notwithstanding the provisions of GCC 21, 22, and 23, the Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 24.2 For purposes of this GCC, “Force Majeure” means an event beyond the control of the Supplier and not involving the Supplier’s fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 24.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing or in electronic forms that provide record of the content of communication of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing or in electronic forms that provide record of the content of communication, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

25.0 Termination for Insolvency

25.1 The Purchaser may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.

26.0 Termination for Convenience

- 26.1 The Purchaser, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- 26.2 Goods that are complete and ready for shipment within thirty (30) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining goods, the Purchaser may elect:
- (a) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed goods, works and services and for materials and parts previously procured by the Supplier.
- 26.3 For Works contracts, the Purchaser shall issue a payment certificate for the value of work done, materials ordered, the reasonable costs of removal of equipment and securing the site, and relocation of Supplier's personnel.
- 26.4 For Services contracts, the Purchaser shall pay all time-based fees and reimbursable expenses incurred up to the date of termination and for all stage payments due in addition to reasonable costs of removal of equipment and relocation of Supplier's personnel.

27.0 Settlement of Disputes

27.1 In the event of any dispute arising out of this contract, either party shall issue a notice of dispute to settle the dispute amicably. The parties hereto shall, within twenty eight (28) days from the notice date, use their best efforts to settle the dispute amicably through mutual consultations and negotiation. Any unsolved dispute may be referred

by either party to an adjudicator nominated by the appointing Authority specified in SCC.

- 27.2 If either Party is dissatisfied with the Adjudicator's decision may, within days specified in the SCC refer the dispute for arbitration. If either party within the period mentioned in the SCC has not referred the matter for arbitration the decision shall become final and binding to the Parties.
- 27.3 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this GCC shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the goods or performance of the works or services under the Contract.
- 27.4 Arbitration proceedings shall be conducted in accordance with the rules of procedure of an authorized arbitration service within the United Republic of Tanzania.
- 27.5 Notwithstanding any reference to arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
 - (b) the Purchaser shall pay the Supplier any monies due the Supplier.

28.0 Limitation of Liability

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to GCC 5,
- (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
 - (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29.0 Governing Language

- 29.1 The Governing Language of the Contract shall be specified in the SCC.

30.0 Applicable Law

30.1 The Contract shall be interpreted in accordance with the laws of the United Republic of Tanzania as specified in the SCC.

31.0 Notices

- 31.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or in electronic forms that provide record of the content of communication and confirmed in writing or in electronic forms that provide record of the content of communication to the other party's address specified in the SCC.
- 31.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

32.0 Taxes and Duties

- 32.1 A foreign Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed both inside and outside of the United Republic of Tanzania.
- 32.2 A local Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the Purchaser or performance of the works or services.

33.0 Change of Laws and Regulations

- 33.1 If after the date invitation to quotations, any law or regulation changed in United Republic of Tanzania (which shall be deemed to include any change in interpretation or application by competent authorities) that subsequently affects the delivery date and/or the contract price, then such delivery date and/or contract price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the contract.