

CONTRACTUAL AGREEMENT

CONTRACT NO. PA-010/2021-2022/W/31

BETWEEN

OCEAN ROAD CANCER INSTITUTE, TANZANIA

AND

SALEM CONSTRUCTION LTD, TANZANIA

FOR

PROPOSED REHABILITATION OF THE ICU WARD AT BLOCK
D, AT OCEAN ROAD CANCER INSTITUTE, DAR ES SALAAM,
TANZANIA.

Executive Director,
Ocean Road Cancer Institute
Junction Barack Obama/Luthuli roads,
P.O. Box 3592
Dar es Salaam, Tanzania

DECEMBER 2021

A handwritten signature in black ink, appearing to be 'John'.

Handwritten initials in black ink, possibly 'CE'.

Form of Contract

THIS CONTRACT is made the FRIDAY 24 day of December, 2021; between **OCEAN ROAD CANCER INSTITUTE (ORCI)**; a corporation incorporated under the laws of the United Republic of Tanzania and having its principal place of business at junction of Barack Obama road/Luthuli road P.O Box 3592 Dar es Salaam, Tanzania (hereinafter called "the Employer"), and **SALEM CONSTRUCTION LTD**, a corporation incorporated under the United Republic of Tanzania and having its principal place of P.O. Box 38160, Dar es Salaam, Tanzania. Salem Street, Plot 565 Block D Tanki Bovu, Mbezi Beach, Tanzania (hereinafter called "the Contractor").

WHEREAS the Employer desires to engage the Contractor for the **PROPOSED REHABILITATION OF THE ICU WARD AT BLOCK D**; and the Contractor have agreed to such engagement upon and subject to the terms and conditions hereinafter appearing.

NOW IT IS HEREBY AGREED as follows:

**Article 1.
Contract
Documents**

1.1 Contract Documents (Reference GCC Clause 2)
The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

This Contract Agreement and the Appendixes hereto

- a) This form of Agreement and the Appendixes hereto
- b) Letter of Acceptance
- c) Special Conditions of Contract
- d) General Conditions of Contract
- e) Contractor's Tender
- f) Bill of quantities and Price Schedules
- g) Technical Specifications and Drawings
- h) Procedures (as listed)
- i) Any other documents shall be added here
- j) Procedures (as listed)
 - New negotiation bid price

1.2 Order of Precedence (Reference GCC Clause 2)
In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.



**Article 2.
Contract Price
and Terms of
Payment**

1.3 Definitions (Reference GCC Clause 1)
Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the General Conditions of Contract.

2.1 Contract Price (Reference GCC Clause 11)
The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of TZS 714,649,507.00 (Tanzania Shillings Seven Hundred Fourteen Million, Six Hundred Forty nine Thousand Five Hundred and Seven Only) inclusive of 18% VAT or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 Terms of Payment (Reference GCC Clause 12)
The terms and procedures of payment according to which the Employer will reimburse the Contractor are given in the corresponding Appendix (Terms and Procedures of Payment) hereto.

Payment for construction **THE ICU WARD AT BLOCK D** will be payable as follows:-

- i) The amount of Advance Payment shall be 15% of Contract price excluding Specified Provisional Sums.
- ii) The Contractor will be paid Advance Payment within 7 days after submission of acceptable Advance Payment Bank Guarantee;
- iii) The Advance Payment will be made in installment as follows:
 - The first installment shall not exceed **Ten Percent (10%)** of the Original Contract Price net of Provisional Sums and shall be paid within 7 days after submission of acceptable Advance Payment Bank Guarantee. This amount shall enable the Contractor to meet mobilization of equipment and plant required for the Works and construction of Site Camps; and
 - The second installment shall not exceed **Five Percent (5%)** of the Original Contract Price and shall be paid within 7 days after submission of acceptable Advance Payment Bank Guarantee and upon 80%

mobilization of equipment required for the Works and successful construction of site camps. This amount shall enable the Contractor to commence the works.

Monthly Recovery of Advance Payments: 20% of the amount of monthly Interim Payment Certificates beginning with the First certificate and full recovered at 80% of the certified value of works.

iv) For interim Certificates, the Contractor shall submit to the Project Manager statements of the estimated value of the work executed less the cumulative amount certified previously.

- The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor within Seven (7) days from the receipt of certificate.
- The value of work executed shall be determined by the Project Manager. The Project Manager shall not bound to certify any payment, if the net amount, after all retentions and deductions would be less than TZS 100,000,000.00 of Interim Payment Certificate.

The Advance Payment Security shall be in the form Unconditional Bank Guarantee.

3.1 Effective Date (Reference GCC Clause 1)

The Time of Completion of the Facilities shall be determined from the date when all of the following conditions have been fulfilled:

- (a) This Contract Agreement has been duly executed for and on behalf of the Employer and the Contractor;
- (b) The Contractor has submitted to the Employer the performance security;
- (c) The Employer has paid the Contractor the advance payment;
- (d) The Contractor has been advised that the documentary credit referred to in Article 2.2 above has been issued in its favor.

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

- 3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract notification because of reasons not attributable to the Contractor, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Completion and/or other relevant conditions of the Contract.

**Article 4.
Appendixes**

- 4.1 The Appendixes listed in the attached List of Appendixes shall be deemed to form an integral part of this Contract Agreement.
- 4.2 Reference in the Contract to any Appendix shall mean the Appendixes attached hereto, and the Contract shall be read and construed accordingly.

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IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

SIGNED BY, FOR AND ON BEHALF OF THE OCEAN ROAD CANCER INSTITUTE, TANZANIA:

NAME: DR JULIUS MWAISELAGE

DESIGNATION: EXECUTIVE DIRECTOR

SIGNATURE: 



IN PRESENCE OF:

NAME: ELIDENDO KAZIMOR

DESIGNATION: HEAD OF LEGAL SERVICES

SIGNATURE: 

OFFICIAL STAMP:

SIGNED BY, FOR AND ON BEHALF OF THE SALEM CONSTRUCTION LTD, TANZANIA:

NAME: CHARLES CASMIR

DESIGNATION: PROJECT MANAGER

SIGNATURE: 



IN PRESENCE OF:

NAME: JULIUS S. MBOE

DESIGNATION: SENIOR PROJECTS ENGINEER

SIGNATURE: 

OFFICIAL STAMP:





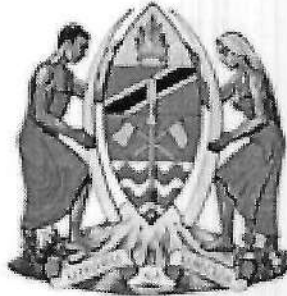
THE UNITED REPUBLIC OF TANZANIA

Ocean Road Cancer Institute

Telephone: +255 22 220002

Fax:

E-mail: info@orci.or.tz



Barrack Obama Road, Lithuli
Road
Dar es Salaam
Ilala
3592, Dar es Salaam
Tanzania, United Republic Of

Date 03/12/2021

In reply please quote

PA-010/2021-22/W/31

Name of awarded PE

OCEAN ROAD CANCER INSTITUTE

RE: Proposed rehabilitation of the ICU ward at Block D
SUB: NOTIFICATION OF CONTRACT AWARD

1. Reference is being made to the bid documents submitted by 20/11/2021 , for the above captioned matter.

2. Kindly be informed that the Ocean Road Cancer Institute Tender Board during its ordinary Meeting held on 21/11/2021 , approved award of the contract to SALEM CONSTRUCTION LTD For Proposed rehabilitation of the ICU ward at Block D at the contract price of TZS 714649506.50 VAT inclusive.

We hope you will provide us with best services

Executive Director

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SECTION C: SPECIAL CONDITIONS OF CONTRACT

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Special Conditions of Contract

Instructions for completing the Special Conditions of Contract

The following Special Conditions of Contract shall supplement the General editions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. Schedules and reports to be provided by Employer shall be annexed.

SCC Clause	GCC Clause	Description
1.	1.1	<p>The Employer is: Ocean Road Cancer Institute (ORCI)</p> <p>The Project Manager is : PAMA Architects & Planners Ltd P.O.BOX 33000 Dar es Salaam,</p> <p>In associations with M/S Lomo Consult Ltd (Structural Engineers), P.O.BOX 21729, Dar es Salaam; and M/s Service Consult Ltd (Services Engineer), P.O.BOX 70153, Dar es Salaam ; and M/s Elson Consultancy Limited (Quantity Surveyors) P.O.BOX 35887, Dar es Salaam</p> <p>The name and identification number of the Contract is: PA-010/2021-22/W/31.</p> <p>The Works consist of proposed ICU/HDU fit out in Block D at Ocean Roads Cancer Institute on Plot No. 2248/10/1 Ocean Road, Ilala Municipality, Dar es Salaam.</p> <p>The Commencement Date shall be within three (3) days after Site possession.</p> <p>The Intended Completion Date for the whole of the Works shall be stated by the Contractor.</p> <p>The following documents also form part of the Contract: (a) The Agreement;</p>

		<ul style="list-style-type: none"> (b) Letter of Acceptance; (c) Minutes of Tender Negotiations; (d) Letter of Intent; (e) Contractor's Tender; (f) Special Conditions of Contract; (g) General Condition of Contract; (h) Specifications; (i) Priced Bills of Quantities; (j) The Contract Drawings; and (k) Supplementary Information. <p>The Site is located at Plot No. 2248/10/1 Ocean Road, ilala Municipality, Dar es salaam</p>
		Indicate whether sectional completion is specified: N/A
2.	3.1	<p>The language of the Contract documents is English.</p> <p>The law that applies to the Contract is the Laws of Tanzania</p>
3.	8.1	Other Contractors will be N/A
4.	9.1	<p>Include the Schedule of Key Personnel</p> <ul style="list-style-type: none"> i. Contractor representative/Electrical Engineer ii. Mechanical Engineer, iii. Quantity Surveyor iv. Structural Engineer
5.	13.1	<p>The minimum insurance covers shall be:</p> <ul style="list-style-type: none"> (a) loss of or damage to the Works, Plant, and Materials is Contract price. (b) loss of or damage to Equipment TZS 15,000,000 per occurrence (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract is TZS 15,000,000 per occurrence (d) personal injury or death is TZS 100,000,000.
6.	14.1	Site Investigation Reports available to the Tenderer are: Nil
7.	21.4	<p>The other measures include:</p> <ul style="list-style-type: none"> a. Minimising the number of migrant workers employed on the project and household in the site camp b. Providing access to voluntary counselling and testing (VCT)

		<p>c. Providing psychological support and health care including prevention and treatment of opportunistic infections for workers infected and affected, as well as their families</p> <p>d. Providing condoms (male and female) to workers</p>
8.	23.1	The Site Possession Date shall be within 3 days after receipt by the Employer of an acceptable Performance Security.
9.	27.2	<p>Hourly rate of Fees payable to the Adjudicator is To be known later</p> <p>Types of reimbursable expenses to be paid to the Adjudicator shall be To be known later</p>
10.	27.3	Arbitration will take place at Dar es salaam, Tanzania in accordance with rules and regulations published by Tanzania Institute of Arbitrators
11.	28.1	Appointing Authority for the Adjudicator: To be known later
		B. Time Control
12.	29.1	The Contractor shall Submit a revised Program for the Works within within 3 days of Contract signing.
13.	29.3	<p>The period between Programme updates is as instructed by the Project Manager.</p> <p>The amount to be withheld Project Manager in the case the contractor does not submit an updated programme is: Tanzania Shillings Five Millions (TZS 1,000,000) per each week of delay for the duration of the delay.</p>
14.	37.1	The Defects Liability Period is 365 days after issuance of Practical Completion Certificate.
15.	44.7	Minimum amount of Interim Payment Certificate will be 5% of the Contract price
16.	46.0	The following events shall also be Compensation Events: None
17.	48.0	The currency is Tanzania Shillings (TZS)

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18.	49.1	The contract is not subject to price adjustment in accordance with Clause 49 of the General Conditions of Contract.
19.	50.1	The amount of retention is ten percent 10% of value of works of Interim Payment Certificate'. Limit of retention: 5% of Contract price
20.	51.1	The amount of liquidated damages per day is 0.1 percent of Contract price per day
21.	51.1	The maximum amount of liquidated damages is ten percent 10% of the Contract price.
22.	52.1	The Bonus for early completion is: N/A
23.	53.1) The amount of advance payment shall be 15% of Contract Price excluding specified Provisional sums.) The Contractor will be paid Advance Payment within 7 days after submission of acceptable Bank Guarantee for Advance Payment; Monthly Recovery of Advance Payments: 5% of the amount of monthly Interim Payment Certificates beginning with the second certificate and full recovered at 80% of the certified value of works.
24.	54.0	The Performance Security shall be ten percent (10%) of the agreed Contract Price in the form of Bank Guarantee/Performance Bond The standard form of Performance Security acceptable to the Employer shall be Bank Guarantee/Performance Bond of the type presented in Section X of the Bidding Documents.
25.	60.0	Schedule of Operating and Maintenance Manuals is as listed in the Bills of Quantities and/or Specifications
26.	60.1	The date by which operating and maintenance manuals are required is 30 days after the issuance of Practical Completion Certificate
27.	60.2	The date by which "as built" drawings are required is 30 days after the issuance of Practical Completion Certificate

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		<p>The amount to be withheld for failing to produce "as built" drawings by the date required is 0.02% of the Contract Price per each week of delay for the duration of the delay.</p> <p>The amount to be withheld for failing to produce operating and maintenance manuals by the date required is TZS 50,000,000/-</p>
28.	61.2 (g)	The maximum amount of liquidated damages is ten percent 10% of the of the final Contract price.
29.	62.1	The percentage to apply to the value of the work not completed, representing the Employer's additional cost for completing the Works is twenty percent (20%) of the value of uncompleted works.



SECTION D: GENERAL CONDITIONS OF CONTRACT



A. General

1. Definitions

1.1 Boldface type is used to identify defined terms.

The **Adjudicator** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Clauses 26 and 27 hereunder.

Bill of Quantities -means the priced and completed Bill of Quantities forming part of the Tender.

Compensation Events are those defined in Clause 46 hereunder.

The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with sub-Clause 57.1.

The **Contract** is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contractor** is a person or corporate body whose Tender to carry out the Works has been accepted by the Employer.

The **Contractor's Tender** is the completed Tender document submitted by the Contractor to the Employer.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

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 and includes inter alia, bribery and extortion or coercion which involves threats of injury to person, property or reputation, and

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 Employer,

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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 Employer of the benefits of free and open competition.

Days are calendar days; months are calendar months.

Dayworks are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.

The **Defects Liability Period** is the period named in the **Special Conditions of Contract** and calculated from the Completion Date.

Drawings include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

The **Employer** is the party who employs the Contractor to carry out the Works.

Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed in the Employer's Letter of Acceptance.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the **Special Conditions of Contract**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

The **Intended Commencement Date** is the date on which it is intended that the Contractor shall start the Works. The Intended Commencement date is specified in the **Special Conditions of Contract**. The Intended commencement Date may be revised only by the Project Manager by issuing an extension of time.

Materials are all supplies, including consumables, used by the Contractor for incorporation in the Works.

Plant is any integral part of the Works that shall have a mechanical electrical, chemical, or biological function.

The **Project Manager** is the person named in the **Special Conditions of Contract** (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.

The **Site** is the area defined as such in the **Special Conditions of Contract**.

Site Investigation Reports are those that were included in the Tendering documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.

The **Start Date** is given in the Special Conditions of Contract. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.

Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Project Manager which varies the Works.

"Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the **Special Conditions of Contract**.

2. Interpretation

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2 If sectional completion is specified in the Special Conditions of Contract, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
- (1) Form of Agreement,
 - (2) Letter of Acceptance,
 - (3) Contractor's Tender,
 - (4) Special Conditions of Contract,
 - (5) Conditions of Contract,
 - (6) Specifications,
 - (7) Drawings,
 - (8) Bill of Quantities, and

- (9) Any other document listed in the Special Conditions of Contract as forming part of the Contract.
3. **Language and Law** 3.1 The language of the Contract and the law governing the Contract are stated in the **Special Conditions of Contract**.
4. **Project Manager's Decisions** 4.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.
5. **Delegation** 5.1 The Project Manager may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.
6. **Communications** 6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.
7. **Subcontracting** 7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.
8. **Other Contractors** 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as referred to in the **Special Conditions of Contract**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.
9. **Personnel** 9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the **Special Conditions of Contract**, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are

substantially equal to or better than those of the personnel listed in the Schedule.

9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

10. Employers and Contractor's Risks

10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks

11. Employers Risks

11.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks:

(a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:

(i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or

(i) Negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.

(b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

11.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to:

(a) a Defect which existed on the Completion Date,

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(b) an event occurring before the Completion Date, which was not itself an Employer's risk, or

(c) The activities of the Contractor on the Site after the Completion Date.

12. Contractor's Risks

12.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.

13. Insurance

13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the **Special Conditions of Contract** for the following events which are due to the Contractor's risks:

(a) loss of or damage to the Works, Plant, and Materials;

(b) loss of or damage to Equipment;

(c) loss of or damage to property (except the Works, plant, Materials, and Equipment) in connection with the Contract; and

(d) Personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

- 13.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.
14. **Site Investigation Reports**
- 14.1 The Contractor, in preparing the Tender, shall rely on any Site Investigation Reports referred to in the **Special Conditions of Contract**, supplemented by any information available to the Tenderer.
15. **Queries about the Special Conditions of Contract**
- 15.1 The Project Manager will clarify queries on the **Special Conditions of Contract**.
16. **Contractor to Construct the Works**
- 16.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
17. **Commencement and Completion of Works**
- 17.1 The Contractor may commence execution of the Works by the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.
18. **Approval by the Project Manager**
- 18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.
- 18.2 The Contractor shall be responsible for design of Temporary Works.
- 18.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are

subject to prior approval by the Project Manager before this use.

19. **Protection of the environment**
- 19.1 The Contractor shall take all reasonable steps to protect the environment and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.
- 19.2 The Contractor shall ensure that emissions, surface discharges and effluent from his activities shall not exceed values prescribed in relevant environmental laws.
20. **Labour Laws**
- 20.1 The Contractor shall comply with all the relevant labour laws applicable in the Country, including laws relating to workers employment, working hours, health, safety, welfare, immigration and shall allow them all their legal rights.
- 20.2 The Contractor shall require his employees to obey all applicable laws, including those concerning safety at work.
21. **Health and Safety**
- 21.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of his personnel.
- 21.2 The Contractor shall ensure that first aid facilities are available at all times at the site and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics
- 21.3 The Contractor shall notify the Employer details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety, and welfare of persons, and damage to the property, as the Employer may reasonably require.
- 21.4 The Contractor shall conduct an HIV-Aids awareness programme, and shall take other such measures as specified in the SCC to reduce the risk of transfer of HIV virus between and among Contractor's personnel, the Employers Staff and the surrounding community.

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- 22 **Discoveries** 22.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
- 23 **Possession of the Site** 23.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the **Special Conditions of Contract**, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event
- 24 **Access to the Site** 24.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
- 25 **Instructions, inspections and audits** 25.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 25.2 The Contractor shall permit the Government, of the United Republic of Tanzania to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Government of the United Republic of Tanzania if so required by the Government of the United Republic of Tanzania.
26. **Disputes** 26.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager's decision.
27. **Procedure for Disputes** 27.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.
- 27.2 The Adjudicator shall be paid by the hour at the rate specified in the Tender Data Sheet and **Special Conditions of Contract**, together with reimbursable expenses of the types specified in the **Special Conditions of Contract**,

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and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

27.3 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the **Special Conditions of Contract**.

28 Replacement of Adjudicator

28.1 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the **Special Conditions of Contract** at the request of either party, within 14 days of receipt of such request.

B. Time Control

29 Program

29.1 Within the time stated in the **Special Conditions of Contract**, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.

29.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.

29.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the **Special Conditions of Contract**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the **Special Conditions**

of Contract from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.

29.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

30. Extension of the Intended Completion Date

30.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.

30.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

31. Acceleration

31.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.

31.2 If the Contractor's priced proposals for acceleration are accepted by the Employer, they shall be incorporated in the Contract Price and treated as a Variation.

32. **Delays Ordered by the Project Manager** 32.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.
33. **Management Meetings** 33.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 33.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.
34. **Early Warning** 34.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 34.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

35. **Identifying Defects** 35.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's



responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

36. **Tests** 36.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.
37. **Correction of Defects** 37.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the **Special Conditions of Contract**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 37.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
38. **Uncorrected Defects** 38.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.
- D. Cost Control**
39. **Bill of Quantities** 39.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 39.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor shall be paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
40. **Changes in the Quantities** 40.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds



1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.

40.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.

40.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

41. Variations

41.1 All Variations shall be included in updated Programs produced by the Contractor.

42. Payments for Variations

42.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

42.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in sub-Clause 38.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.

42.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

42.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

42.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

43. Cash Flow Forecasts

43.1 When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

44. Payment Certificates

44.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

44.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor within twenty eight (28) days from the receipt of certificate.

44.3 The value of work executed shall be determined by the Project Manager.

44.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.

44.5 The value of work executed shall include the valuation of Variations, Compensation Events and Variation of Price.

44.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.



44.7 The Project Manager shall not bound to certify any payment, if the net amount, after all retentions and deductions would be less than minimum amount of Interim Payment Certificate stated in the **Special Condition of Contract**.

45. Payments

45.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Employer makes a late payment the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

45.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

45.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.

45.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

46. Compensation Events

46.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Special Conditions of Contract.

- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the Employer's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.



(l) Other Compensation Events described in the Contract or determined by the Project Manager shall apply.

46.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by, how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

46.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.

46.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

47. Taxes

47.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of Tenders for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 49.

48. Currencies

48.1 Where payments are made in currencies other than the Tanzania Shillings, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Tender.



49. Price Adjustment

- 49.1 The amounts payable to the Contractor, in various currencies pursuant to sub-Clause 44.1, shall be adjusted in respect of the rise or fall in the cost of labor, Contractor's Equipment, Plant, materials, and other inputs to the Works, by applying to such amounts the formulae prescribed in this clause.
- 49.2 To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.
- 49.3 The adjustment to be applied to amount payable to the Contractor as certified in Payment Certificates shall be determined formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be as follows;

$$P_n = a + b \frac{L_n - L_o}{L_o} + c \frac{M_n - M_o}{M_o} + d \frac{E_n - E_o}{E_o} + etc.$$

where;

P_n is a price adjustment factor to be applied to the amount in each specific currency for the payment of the work carried out in the subject month, where such variations and daywork are not otherwise subject to adjustment;

a is a constant, specified in the **Appendix to Tender**, representing the nonadjustable portion in contractual payments;

b, c, d, etc., are weightings or coefficients representing the estimated proportion of each cost element (labor, materials, equipment usage, etc.) in the Works or sections thereof, net of Provisional Sums, as specified in the **Appendix to Tender**; the sum of **a, b, c, d, etc.**, shall be one;

Ln, Mn, En, etc., are the current cost indices or reference prices of the cost elements in the specific currency of origin for month "**n**," determined pursuant to Sub-Clause 49.5, applicable to each cost element; and

Lo, Mo, Eo, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 49.5

The value of net work done, certified by the Project Manager, in any monthly Interim or Final Certificate as payable by the Employer to the Contractor before deduction of any retention money shall be increased or decreased by an amount of '**F**'.

$$F = PnxPc$$

where;

The effective value P_c of work done which is to be subjected to increase or decrease shall be the difference between:

- (i) the amount which, in the opinion of the Project Manager, is due to the Contractor under Clause 44 (before deduction of retention money and before deducting sums previously paid on account) less:
 - any amount for payment or repayment of any advance payment;
 - any amount for materials on site (if any);
 - any amounts for nominated sub-contractors (if any)
 - any amounts for any other items based on actual cost or current prices; or
 - any sums for increase or decreases in the Contract Price paid under this Sub-Clauseand
- (ii) the amount calculated in accordance with (i) above of this Sub-clause and included in the last preceding statement.

49.4 The sources of indices shall be those listed in the **Appendix to Tender**, as approved by the Engineer. Indices shall be appropriate for their purpose and shall relate to the Contractor's proposed source of supply of inputs on the basis of which his Contract Price and expected foreign currency requirements shall have been computed. As the proposed basis for price adjustment, the Contractor shall have submitted with his Tender the tabulation of Weightings and Source of Indices in the **Appendix to Tender**, which shall be subject to approval by the Engineer.

49.5 The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of Tenders. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular Interim Payment Certificate is related. If at any time the current indices

are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available

49.6 If the Contractor fails to complete the Works within the time for completion prescribed under Clause 57 adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favourable to the Employer, provided that if an extension of time is granted pursuant to Clause 28, the above provision shall apply only to adjustments made after the expiry of such extension of time.

49.7 The weightings for each of the factors of cost given in the **Appendix to Tender** shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced, or inapplicable as a result of varied or additional work already executed or instructed under Clause 42 or for any other reason.

50. Retention

50.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the **Special Conditions of Contract** until Completion of the whole of the Works.

50.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and the other half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

50.3 On completion of the whole Works, the Contractor may substitute retention money with an 'on demand' Bank guarantee.

51. **Liquidated Damages**

51.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the **Special Conditions of Contract** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the Special Conditions of Contract. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.


51.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub- Clause 43.1.

52. **Bonus**

52.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day stated in the **Special Conditions of Contract** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.

53. **Advance Payment**

53.1 The Employer shall make advance payment to the Contractor of the amounts stated in the **Special Conditions of Contract** by the date stated in the Special Conditions of Contract, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.



53.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.

53.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

54. Performance Securities

54.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable as specified in the SCC. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond

54.2 Where circumstances necessitate the amendment of the contract after signature, and such amendment is effected, the Employer shall require the Contractor to provide additional Performance Security to cover any cumulative increase of more than ten percent of the Initial Contract Price.

55. Dayworks

55.1 If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

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55.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.

55.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

56. Cost of Repairs

56.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

57. Completion Certificate

57.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon deciding that the work is completed.

58. Taking Over

58.1 The Employer shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

59. Final Account

59.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

60. Operating and Maintenance Manuals

60.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **Special Conditions of Contract**.

60.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the **Special Conditions of Contract**, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the **Special Conditions of Contract** from payments due to the Contractor.

61. Termination

61.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

61.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
- b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 days of the date of the Project Manager's certificate;
- e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;

- f) the Contractor does not maintain a Security, which is required; and
- g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the **Special Conditions of Contract**.
- h) If the Contractor, in the judgment of the Employer, has engaged in corrupt, coercive, collusive, obstructive or fraudulent practices in competing for or in executing the Contract.

For the purpose of this paragraph:

"corrupt practice means the offering, giving receiving or soliciting of anything of value to influence the action of a public officer in the procurement process or contract execution;

"coercive practice" means impairing or harming, or threatening to impair or harm directly or indirectly, any party or the property of the party for the purpose of influencing improperly the action or that party in connection with public procurement or in furtherance of corrupt practice or fraudulent practice;

collusive practices" means impairing or harming, or threatening to impair or harm directly or indirectly, any part or the property of the Party for the purpose of influencing improperly the action or a part or in connection with public procurement or government contracting or in furtherance of a corrupt practice or a Fraudulent Practice

"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 Government or a public body and includes collusive practices among tenderers, prior to

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or after submission designed to establish tender prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;

"obstructive practice" means acts intended to materially impede access to required information in exercising a duty under this Act;

61.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under sub-Clause 61.2 above, the Project Manager shall decide whether the breach is fundamental or not.

61.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

61.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

62. Payment upon Termination of Contract

62.1 If the Contract is terminated because of a fundamental breach by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the **Special Conditions of Contract**. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.

62.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of

Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

63. Property

63.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default.

63.2 The contractor shall identify each piece of his owned equipment, other than hand tools, by means of an identification number plainly stencilled or stamped on the equipment on conspicuous location, and shall furnish to the Engineer a list giving the description of each piece of equipment and its identification number.

Equipment brought to site should not be under collateral arrangement with any party.

64. Release from Performance

64.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

65. Suspension of Financing

65.1 In the event that the source of financing is suspended to the Employer, from which part of the payments to the Contractor are being made:

(a) The Employer is obligated to notify the Contractor of such suspension within 7 days of having received the financing agency's suspension notice.

(b) If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 45.1, the Contractor may immediately issue a 14-day termination notice.

66 **Force Majeure** 66.1 Notwithstanding the provisions of GCC Clauses 30 and 51, the Contractor shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

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Form of Tender

25th November 2021

To:
The Executive Director,
Ocean Road Cancer Institute,
P.O. Box 3592,
Dar es Salaam

We offer to execute the Proposed ICU/HDU fit out in Block D at Ocean Roads Cancer Institute on Plot No. 2248/10/1 Ocean Road, Ilala Municipality, Dar es Salaam – Tender No. PA-010/202122/W/31 in accordance with the Conditions of Contract Accompanying this Tender for the Contract Price of Tshs. **714,649,506.50 [Tanzanian Shillings Seven Hundred Fourteen Million Six Hundred Forty Nine Thousand Five Hundred Six and Cents Fifty Only including VAT].**

The Contract shall be paid in the following currencies:

Tanzanian Shillings

The advance payment required is:-

15% of Contract Sum

Amount	Currency
(a) 107,197,425.98	Tanzanian Shillings

We declare that our tendering price did not involve agreements with other tenderers for the purpose of tender suppression.

We hereby confirm National Construction Council, to be the Appointing Authority, to appoint the adjudicator in case of any arisen disputes in accordance with ITT 4.2.1 [Adjudicator]

We are not participating, as tenderers, in more than one Tender in this tendering process other than alternative tenders in accordance with the tendering documents.

We declare that, as tenderer(s) we do not have conflict of interest with reference to ITT 3.7 [Eligibility of Tenderers]

With reference to ITT 3.11 [Eligibility of Tenderers], it is our intention to subcontract approximately 0% percentage of the Tender/Contract Price, details of which are provided herein.

Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the contract has not been declared ineligible by the Government of the United Republic of Tanzania under Tanzania's laws or official regulations or by an act of compliance with a decision of the United Nations Security Council.



The following commissions or gratuities of fees have been paid or are to be paid by us to agents relating to this tender, and to contract execution if we are awarded the contract:-

None

This tender 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 Tender you receive.

We hereby confirm that this tender complies with the tender validity and Tender Security required by the tendering documents and specified in the Tender Data Sheet.

Authorized Signature:



Name and Title of Signatory:

Abuzer Salem – Managing Director

Name of Tenderer:

Salem Construction Limited

Address:

P.O. BOX 38160, Dar es Salaam, Tanzania



SECTION E: SCHEDULE OF REQUIREMENTS





Qualification Letter

25th November 2021

To:
The Executive Director,
Ocean Road Cancer Institute,
P.O. Box 3592,
Dar es Salaam

Tender: Proposed ICU/HDU fit out in Block D at Ocean Roads Cancer Institute on Plot No. 2248/10/1 Ocean Road, Ilala Municipality, Dar es Salaam – Tender No. PA-010/202122/W/31

Subject: Contract Price negotiations

The above captioned matter refers.

Pursuant to the negotiations held at your offices on 24th November 2021 please find our revised our final offer for the works amounting to **Tshs. 714,649,506.50 (including VAT), Seven Hundred Fourteen Million Six Hundred Forty Nine Thousand Five Hundred Six and Cents Fifty Only including VAT**].

In the offer, we have also included a list of Prime and Provisional Sums (PC and PS) as an item. However, the corresponding works shall be included in our scope upon your approval as Client based on site requirements as allowed by the Contract. The total Value of Provisional Sums and Prime Cost items PS&PC amounts to **TShs. 110,000,000 excluding VAT**.

Subject to your confirmation of this final offer, a formal contract is therefore required before commensurate of the works. In addition, we request 15% of Contract Price as the Advance payment amounting to **Tshs 107,197,425.98 (including VAT)**.

Yours faithfully,



Abuzer Salem,
Managing Director.



SECTION F: BILL OF QUANTITIES AND PRICE SCHEDULES



ITEM	DESCRIPTION	AMOUNT TSHS
	GENERAL SUMMARIES	
	PRELIMINARIES	68,500,000.00
	ELEMENT 1: DEMOLITIONS	30,915,500.00
	ELEMENT 1 : WALLING AND PARTITIONING	7,365,750.00
	ELEMENT 2 : DOORS	73,209,800.00
	ELEMENT 3 : WINDOWS	38,356,500.00
	ELEMENT 4 : FINISHING	71,896,500.00
	ELEMENT 5 : PAINTING AND DECORATION	44,805,500.00
	ELEMENT 6 : AIR CONDINTIONING	91,388,950.00
	ELEMENT 7 : PLUMBING WORKS	45,595,000.00
	Sub Total 1	472,033,500.00
	ELEMENT 7 : PROVISIONAL SUM	110,000,000.00
	ADD: CONTIGIENCIES (5% of Sub-total 1)	23,601,675.00
	Sub Total 2	605,635,175.00
	Add: 18% VAT	109,014,331.50
	TO GENERAL SUMMARY	714,649,506.50

Demolition:

ITEM	DESCRIPTION	UNIT	QTY	RATE (TSHS)	AMOUNT (TSHS)
	ELEMENT 1 - DEMOLITIONS AND ALTERATIONS				
	DEMOLITIONS GENERALLY				
	Pulling down walls or the like to Floor slab level				
A	150mm thick concrete block wall, plastered on both sides and including making good all disturbed work.	m2	190	12,500	2,375,000.00
	Removing existing floor finishing				
B	Taking up existing floor finishes, clean thoroughly remove all dusty particles desposal it away and prepare surface to receive a new finish epox finish (M/S)	sm	769	12,000	9,228,000.00
	Removing existing bedding for tiles				
C	Taking up existing 30mm Thick floor bedding for receiving floor tiles, clean thoroughly remove all dusty particles desposal it away and prepare surface to receive a new bedding for receiving epoxy (M/S)	sm	769	3,500	2,691,500.00
	Wirebrush, sand and clean existing painted plastered surface; prepare the surface to receive new paint of the approved colour (Measured separately)				
D	Wall, overall	sm	2371	2,000	4,742,000.00
	Take down existing window and make good there after				
E	leave all masonry openings good to receive new window frames or concrete blockwork; make good all surfaces disturbed	No	23	80,000	1,840,000.00
	Remove out existing timber doors, frames and architraves, glass and ironmongery, and leave all masonry openings good to receive new door frames or concrete blockwork; make good all surfaces disturbed and hand over to Client.				
F	Double doors 1000 x 2200mm high	No	4	75,000	300,000.00
G	Singlele doors 900 x 2200mm high including grills	No	29	75,000	2,175,000.00



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Doors

ITEM	DESCRIPTION	UNIT	QTY	RATE (TSHS)	AMOUNT (TSHS)
	ELEMENT NO 2: DOORS				
	Semi- Solid flush door				
	40mm thick solid core flush door comprising of 45 x 125mm stiles, covered by the marine plywood including 200 x 200 two in numbers glass with 100mm high aluminium kick plates; as per Architect specifications				
A	Double swing size 1800 x 2200mm high (D1)	No	8	1,950,000.00	15,600,000.00
B	size 1000 x 2100mm high (D2)	No	11	750,000.00	8,250,000.00
C	size 1100 x 2100mm high (D3)	No	3	910,000.00	2,730,000.00
	size 1000 x 2550mm high (D3a)	No	7	975,000.00	6,825,000.00
	Frames				
D	50 x 150 mm, one labour	m	210.6	44,500.00	9,371,700.00
	Transome				
E	50 x 150 mm, two labour	m	37	44,500.00	1,646,500.00
	Glazing beads				
F	15 x 125 mm; fixing with screw, one labour	m	186	18,000.00	3,348,000.00
	Architraves				
G	25 x 100 mm	m	210	23,500.00	4,935,000.00
	Grounds				
H	15 x 100 mm	m	127	9,000.00	1,143,000.00
	Ironmongery, Supply and fix as per "UNION" catalogue or other equal and approved BY by the Architect				
J	102 x 76 x 3mm stainless steel butt hinges, CAT. NO. 926.90.203	No	81	33,000.00	2,673,000.00
K	Floor mounted door stopper	No	26	17,500.00	455,000.00
L	Three lever mortice lock set with escucheon	No	26	125,000.00	3,250,000.00
N	Aluminium flush bolts 150mm long	No	72	22,750.00	1,638,000.00

P	150mm high aluminium kick plates	No	72	41,800.00	3,009,600.00
Q	Heavy duty BRITON door closer	No	26	295,000.00	7,670,000.00
	Glass in openings; Clear sheet glass				
R	6mm thick; 0.10 - 0.50 sq.m	m2	7	95,000.00	665,000.00
	TO COLLECTION				73,209,800.00



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Finishing

ITEM	DESCRIPTION	UNIT	QTY	RATE (TSHS)	AMOUNT (TSHS)
	ELEMENT NO 4 - FINISHING				
	Floor finish				
	Beds screeded; to floors; level or to falls; to concrete base				
A	40 mm thick; to receive epoxy paint	m2	769	9,500	7,305,500.00
	Wall finish				
	Plaster work; two coats steel troweled smooth cement and sand (1:4)				
B	15mm thick; to Block/concrete work/wall	m2	310	9,100	2,821,000.00
	Rendering work; two coats steel troweled smooth cement and sand (1:4); internal				
C	15mm thick; to Block/concrete work/wall	m2	89	9,100	809,900.00
	Epoxy floor finish as per Architects instruction				
D	Supply and apply three coats of epoxy paint as specified	m2	769	75,000	57,675,000.00
	Backing, floated; to skirting; to blockwork base				
E	12mm thick; 150mm wide	m	361	9,100	3,285,100.00
	TO COLLECTION				71,896,500.00



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Painting & Decorations

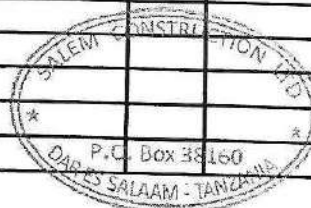
ITEM	DESCRIPTION	UNIT	QTY	RATE (TSHS)	AMOUNT (TSHS)
	ELEMENT NO 5- PAINTING AND DECORATIONS				
	Painting; Internal work; Prepare and Apply One Universal Undercoat and Two Finishing Coat of Emulsion Paint; Plastered Surface.				
A	Walls or the like	m2	1937	12,500	24,212,500.00
B	Ceiling or the like	m2	889	12,500	11,112,500.00
	Painting; External work; Prepare and Apply One Undercoat and Two Finishing Coat of Weather Guard Paint with Approved Colours				
C	Walls or the Like	m2	602	12,500	7,525,000.00
	Painting; Internal work; Prepare and Apply One coat of wood primer; two finishing coats of clear matt varnish; wood surfaces				
D	Wooden hardwood door surfaces	m2	101	12,500	1,262,500.00
G	Frames, linings and associated mouldings	m	126	5,500	693,000.00
	TO COLLECTION				44,805,500.00



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PLUMBING INSTALLATION

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	WATER SUPPLY				
	Connection				
A	Allow for water connection supply system from the existing system water main to the new system	1	item	3,000,000.0	3,000,000.00
	Pipe Works				
B	Allow sum for all pipe works to the extended building part of various sizes and specifications to its full installations to approval	1	sum	5,000,000.0	5,000,000.00
	Sanitary Appliances as per specifications and schedule of sanitary fitting. However other manufacturer approved equal will be accepted.				
C	Supply and Install floor standing WC type, complete with seat cover, s/p-trap and all other accessories	6	Nr	850,000.0	5,100,000.00
D	Supply and install standard disable WC suites in white glazed vitreous china to BS 3402, complete with plan 6litre flushing cistern with a valveless fitting and heavy-duty plastic seat cover and other accessories.	1	Nr	1,750,000.0	2,250,000.00
E	Supply and Install wash hand basin (WHB) type, complete with coated chromium trap, semi pedestal and any other associated accessories the colours to be white	10	Nr	495,000.0	4,950,000.00
F	Supply and Install top soap dispenser	10	Nr	225,000.0	2,250,000.00
G	Supply and install floor drain complete with heavy plastic duty cover. The colour to be approved on s	10	Nr	82,500.0	825,000.00
H	Supply and Install WHB mixer complete with associated accessories.	10	Nr	375,000.0	3,750,000.00
J	Supply and install douche spray.	10	Nr	125,000.0	1,250,000.00
	FIRE FIGHTING INSTALLATIONS				
	PORTABLE FIRE EXTINGUISHER				
	Supply and install the following portable fire extinguisher bottles complete with wall mounting brackets				



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K	CO ₂ , 9ltrs bottle as manufactured by NAFFCO or equal approved.	12	Nr	485,000.0	5,820,000.00
L	Dry powder, 5kg bottle as manufactured by NAFFCO or equal approved.	12	Nr	325,000.0	3,900,000.00
BUILDER'S WORKS					
M	Allow for builder's works in connection with plumbing installations	1	item	7,500,000.0	7,500,000.00
TO SUMMARY				T.SHS	45,595,000.00



Tom

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	Single split Air conditioner with wall mounted indoor unit)				
	Supply, install test and commission single split air conditioner of LG Brand or Equal and approved Equivalent. Each shall be completed with outdoor air cooled condensing unit indoor wall mounted fan coil unit complete with wired controller/ wireless remote control type of refrigerant should be R410A/R407C				
A	Cooling Capacity 24,000 Btu/hr	15	Nr	4,250,000.00	63,750,000.00
B	Cooling Capacity 18,000 Btu/hr	5	Nr	3,150,000	15,750,000.00
C	Allow sum for supply, install, test and commission refrigerant pipe and fittings to BS 2871, complete with associated fittings like elbow etc. and all supports.	167	lm	32,750.00	5,469,250.00
D	Allow sum for supply, install, test and commission condensate drainage pipes (20mm diameter), complete with associated fittings i.e tees, elbows, reducers etc. so as to make the system work perfectly	97	lm	6,600.00	640,200.00
E	Allow sum for supply, install, test and commission control and power cables between units and DP switch located near the Door position.	18	Nr	42,750.00	769,500.00
F	Supply, install, test and commission over/under voltage protection devices (automatic voltage switcher AVS) to match with the capacity of the AC unit.	18	Nr	195,000.00	3,510,000.00
BUILDER'S WORKS					
G	Allow for builder's works in connection with Airconditioning Installations	1	item	1,500,000.00	1,500,000.00
TO SUMMARY					91,388,950.00

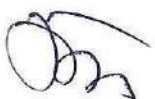


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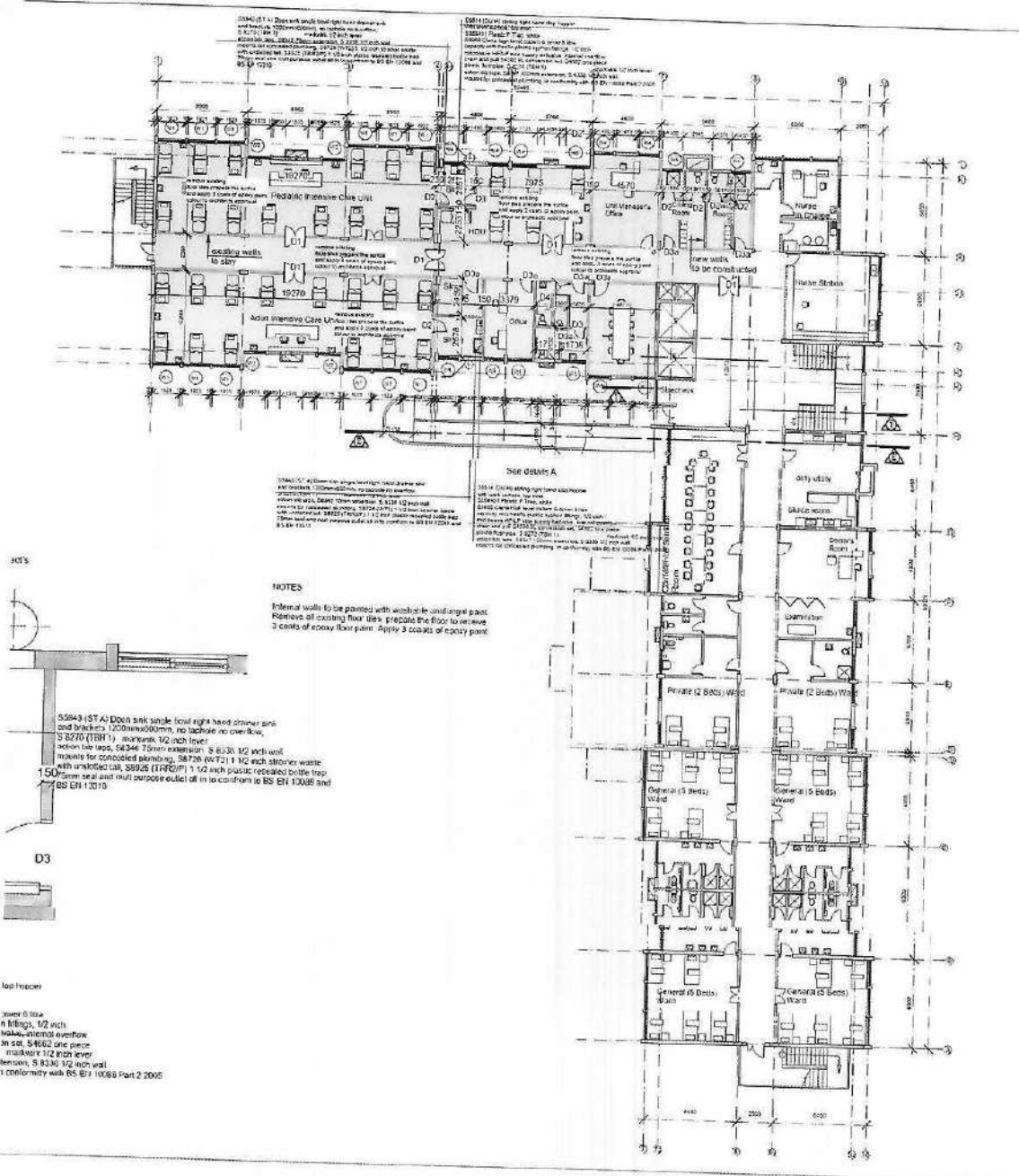
ITEM	DESCRIPTION	UNIT	QTY	RATE (TSHS)	AMOUNT (TSHS)
	PRIME COST SUMS AND PROVISIONAL SUMS				
A	Electrical installation	SUM	1	40,000,000.00	40,000,000.00
B	Security and Structured Cabling installation	SUM	1	10,000,000.00	10,000,000.00
C	Additional services works	SUM	1	10,000,000.00	10,000,000.00
D	Allow for the sum of the installation of the Oxygen system at the ICU rooms	Sum	1	50,000,000.00	50,000,000.00
	TOTAL CARRIED TO GENERAL SUMMARY				110,000,000.00

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SECTION G: TECHNICAL SPECIFICATIONS AND DRAWINGS



DRAWINGS



NEGOTIATION MEETING

Venue: Executive Director Board Room

Date: 24/11/2021

Quotation no: **PA-010/2021-22/W/31**

for Rehabilitation of ICU ward at Block D

Attendance:

1. Gabriel Sungi	Chairman	ORCI
2. Daud Maneno	Member	ORCI
3. Reginald Matola	Member	ORCI
4. Asafu Munema	Member	ORCI
5. Chausiku Chapuchapu	Member	ORCI
6. Hamis Malima	Member	ORCI
7. Mohamed Mbwana	Secretary	ORCI
8. Alfred Adams	Member	SALEM
9. Charles Casmir	Member	SALEM
10. Jesca Kawegere	Member	ORCI

Agenda:

1. Opening of the meeting
2. Adoption of the Agenda
3. Discussion on areas for technical and financial negotiation
4. AOB
5. Closing of the meeting

1. Opening of the meeting:

The meeting was opened by the chairman of negotiation team at 02:49 PM, the chairman welcomed all members including the representative from SALEM CONSTRUCTION LTD to introduce and familiarize with one another, which they all



complied. The chairman went on to explain the purpose of the meeting and proceeded to Agenda number 2.

2. Adoption of the Agenda

All agenda were read out and confirmed

3. Discussion on areas for technical and financial negotiation

The chairman Requested discussion to follow the format of itemized items for price breakdown to facilitate the negotiation exercise by looking on item by item, which was complied. Then discussion focused on the price reduction offer given by SALEM.

The reduction of price was given from element 6 with 91,388,950 to 50,000,000 and item with 25,000,000 to 15,000,000

With the Budget of TZS **800,000,000**, the total costs of 796,249,506.5 for the rehabilitation of the ICU ward at Block D with the detailed specifications was found to be likely acceptable, however, the negotiation team requested M/S Salem to look over other technical issues and give further reduction, to which he responded to be given a day to think of and give back the actual acceptable bid price.

4. AOB


It was agreed that, the submitted review of price be attached with the minutes of the negotiation meeting and submitted to Tender Board for approval

5. Closing of the meeting

The meeting was concluded at 03:45 PM.



Prepared by:




.....

Mohamed Mbwana


Secretary
Ocean Road Cancer Institute

Approved by:



.....

CPA Gabriel Sungi
Chairman
Ocean Road Cancer Institute



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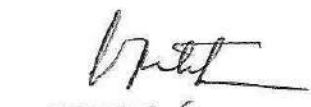




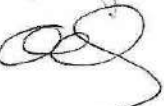

Alfred Adam
Representative
Salem Construction LTD



Negotiation Meeting.

PA - 010/2021 - 22/W/31

24/11/2021

<u>S/N</u>	<u>Name</u>	<u>Institution</u>	<u>Signature</u>
1.	Gabriel Singsi	ORCI	
2.	Mohammed Mlowane	ORCI	
3.	Eng. Mapole Reginald	ORCI	
4.	Dr. Asefa Mwanza	ORCI	
5.	Chausitwa Chopuchap	ORCI	
6.	Alfred Adams	SALEM	
7.	CHARLES CASMIR	SALEM	
8.	JESCA KAWEGERE	ORCI	



STANDARD POWER OF ATTORNEY

TO ALL IT MAY CONCERN

THAT BY THIS POWER OF ATTORNEY given on the 18th Day of November 2021, by **WE, SALEM CONSTRUCTION LIMITED** (hereinafter called the "Company") of P.O. Box 3398 **MOMBASA, ZANZIBAR, HEREBY Appoint, Ordain and Nominate ABUZER SALEM** of P.O. Box 3398 **MOMBASA, ZANZIBAR** to be our true and lawful Attorney and Agent, with full power and authority, for us and in our names, and or our accounts and benefits, to do any, or all of the following acts, in the execution of tender No. PA-010/2021-22/W/31 that is to say;

To act for the company and do any other thing or things incidental for PA-010/2021-22/W/31 of Proposed ICU/HDU Fitout in Block D at Ocean Road Cancer Institute on Plot No. 2448/10/1 Ocean Road, Ilala Municipality, Dar es Salaam

AND provided always that this Power of Attorney shall not revoke or in any manner affect any future power of attorney given to any other person and affect as if this deed has not been executed.

AND we hereby undertake to ratify everything, which our Attorney or any substitute or substitutes or agent or agents appointed by him under this power on his behalf before contained shall do or purport to do in virtue of this Power of Attorney.

SEALED with the common seal of the said **SALEM CONSTRUCTION LIMITED** and delivered in the presence of us this 18th Day of November 2021.

IN WITNESS whereof we have signed this deed on this 18th Day of November 2021 at Dar es Salaam for and on behalf of **SALEM CONSTRUCTION LIMITED**.

SEALED and DELIVERED by the **COMMON SEAL** of the said **SALEM CONSTRUCTION LIMITED** before us this 18th Day of November, 2021.

}

.....
DONOR



ACKNOWLEDGEMENT

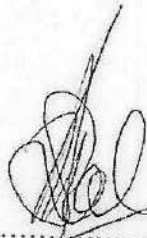
I Abuzer Salem doth hereby acknowledge and accept to be Attorney of the said Salem Construction Limited under the terms and conditions contained in this POWER OF ATTORNEY and I promise to perform and discharge my duties as the lawfully appointed Attorney faithfully and honestly.

SIGNED AND DELIVERED by the said Abuzer Salem Identified to me

By

The latter known to me personally

This day of 2021


.....
DONEE

BEFORE ME:



.....
COMMISSIONER FOR OATHS.





TENDER – SECURING DECLARATION

20th November 2021
Bid No. PA-010/2021-22/W/31

To: The Executive Director,
Ocean Road Cancer Institute,
P.O. Box 3592,
Dar es Salaam

We, the undersigned, declare that:

We understand that, according to your conditions, Tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for tendering in any contract with the PE for the period of time determined by the authority, if we are in breach of our obligations(s) under the Tender conditions, because we:

- a) have withdrawn or modified our Tender during the period of tender validity specified in the Form of Tender;
- (b) Disagree to arithmetical correction made to the tender price; or
- (c) have been notified of the acceptance of our Tender by the Procuring Entity during the period of tender validity, (i) fail or refuse to execute the Contract, if required, failure to sign the contract if required by Procuring Entity to do so or (ii) fail or refuse to furnish the Performance Security or to comply with any other condition precedent to signing the contract specified in the tendering documents., in accordance with the ITB. We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Tenderer; or (ii) twenty-eight days after the expiration of our Tender.





Signed:

.....
Eng. Abuzer Salem

In the capacity of:

Managing Director

Name:

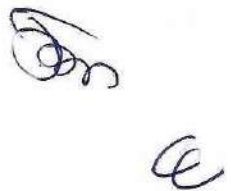
ABUZER SALEM

Duly authorized to sign the bid and on behalf of: **SALEM CONSTRUCTION LIMITED**

Dated on

20th day of November, 2021

Corporate Seal:

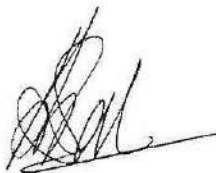


ANTIBRIBERY COMMITMENT

This company **SALEM Construction Limited** places importance on competitive tendering taking place on a basis that is free, fair, competitive and not open to abuse. It is pleased to confirm that it will not offer to facilitate, directly or indirectly, any improper inducement or reward to any public officer their relations or business associates, in connections with its tender, or in the subsequent performance of the contract if it is successful.

This company has an Anti- Bribery Policy/Code of Conduct and Compliance Program which includes all reasonable steps necessary to assure that the No Bribery commitment given in this statement will be complied with by its managers and employees as well as by all third parties working with this company on the public sector projects, or contract including agents, consultants, consortium partners, sub contractors and suppliers. Copies of our Anti Bribery Policy/ Code of Conduct and Compliance Programme are attached”

Authorized Signature:



Name and Title of Signatory:

Abuzer Salem
(Managing Director)

Name of the Firm:

Salem Construction Ltd

Address:

P.O Box 38160 Dar es Salaam



SALEM CONSTRUCTION LIMITED

COMPANY POLICY AGAINST BRIBERY AND GRAFT

**Made under direction of the company's Board Directors meeting
minute number 5.0 of Board meeting No 3 held on 04th July 2006 at
the Company Offices**

1. The company directors shall in all undertakings ensure that they do not involve themselves in any acts that amount to bribery, graft, solicitation, as the case may be; or enticement of any company member to do so, for or in connection with any work or work opportunities for the company, its associates or business partners.
2. The directors shall not act as go betweens or couriers for the company or any other company or persons real or corporate, in any activities that are defined by the law of the country as acts of bribery or corruption
3. The company shall not induce or solicit its clients, servants of the Government of the United Republic of Tanzania or its business and /or financing partners, agents and representatives, or members of the general public, as the case may be; to engage themselves in bribery and similar acts for or in connection with any tenders, work opportunities, business activities secured or being sought or promised to be offered by any of the above or their representatives.
4. Directors of the company shall ensure that all employees of the company dully represent and stand for this policy on behalf of the company, and any member of staff contravening this policy in its current form, its amendments and directions issued and dully stated as



being issued under this policy shall upon being proved liable for the said breach be subjected to summary dismissal without warning.

5. Any director or shareholder of this company found to engage himself in, or soliciting any company employee, or any other person to contravene the anti bribery provisions of the law and this policy shall be asked to step down from all posts and responsibilities vested to him by virtue of his being company director, and shall thereby be required to temporarily resign from the company pending legal proceedings against him or her. If found guilty, he/she shall be deemed to have relinquished his/her directorship and shareholding in the company, subject to the provisions in the Companies Act currently in force, and the company's rules for divestiture of shares applicable at the time.
6. Any gifts or purported gifts, donations and offers made to charitable institutions shall be given under direction of the Board, and proper records of such undertakings shall be made in appropriate files. Where gifts are received from anonymous sources, they shall be reported to the Managing Director, valued by two directors and one staff member who is in senior position, and shall be surrendered to government ethics authorities or the police as the case may merit.

This policy shall be amended from time to time as need be, and all directors, employees and shareholders shall be notified of any amendments so made.

