

**MBEYA UNIVERSITY OF SCIENCE AND TECHNOLOGY**

**(MUST)**



**PA/047/2015/2016/N/03**

**TENDER DOCUMENT FOR THE PROVISION**

**OF**

**CATERING SERVICES**

**June 2015**

## **SECTION I: INVITATION FOR TENDERS**

# MBEYA UNIVERSITY OF SCIENCE AND TECHNOLOGY



## TENDERNO: PA/047/2015/2016/N/03

### TENDER DOCUMENT FOR PROVISION OF CATERING SERVICES

#### Invitation for bids

Date: 1<sup>st</sup> July, 2015

1. This Invitation for Tender follows the General Procurement Notice for this Project which appeared in the **Daily News** paper of **25<sup>th</sup> May, 2015**.
2. The Government of Tanzania has set aside funds for the operation of **Mbeya University of Science and Technology** during the financial year **2015/2016**. It is intended that part of the funds will be applied to cover eligible payments under contract costs for **Catering services**.
3. Mbeya University of Science and Technology now invites sealed tenders from your firm as a registered company with **Government procurement Services Agency Frame work Agreement in Mbeya region** eligible for the provision of **Catering services**.
4. Tendering will be conducted through the Restrictive **Competitive Bidding to Service providers Registered by GPSA-FWC Agreement** as specified in the Public Procurement Regulations, 2013 – Government Notice No. 446.
5. Your firm as eligible Tenderer may obtain further information from and inspect the Tendering Documents at the Office of the **Secretary, Mbeya University of Science and Technology Tender Board, P.O. Box 131 Mbeya**, from 07:30 am to 15:30 pm local time on **Mondays to Fridays** inclusive except on Public Holidays.

6. A complete set of the Tender Documents in **English** and additional sets may be obtained by interested Tenderers on the website no. [www.mist.ac.tz](http://www.mist.ac.tz) of Mbeya University of Science and Technology.
7. All Tenders in one original plus two copies, properly filled in, enclosed in plain envelopes must be accompanied by an original **Tender Securing Declaration in the acceptable format** and properly addressed to the **Secretary, Mbeya University of Science and Technology Tender Board, P.O Box 131, Mbeya**. All tenders must be delivered before the deadline for submission of tenders
8. The deadline for the submission of Tenders is **11:00 am local time** on **Tuesday, 21<sup>st</sup> July, 2015** and Tenders will be opened in public and in the presence of Tenderers' representatives, who choose to attend in Nyerere Hall at Mbeya University of Science and Technology, Iyunga area at **11:30 am local time**, on **Tuesday, 21<sup>st</sup> July, 2015**.
9. Late Tenders, portion of Tenders, electronic Tenders, Tenders not received and not opened and not read out in public at the Tender opening ceremony shall not be accepted for evaluation irrespective of the circumstances.

**VICE CHANCELLOR**  
**MBEYA UNIVERSITY OF SCIENCE AND TECHNOLOGY**  
**P.O Box 131,**  
**MBEYA**

## **SECTION II: INSTRUCTION TO TENDERERS**

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## A. Introduction

1. **Scope of Tender**
  - 1.1 The Procuring Entity indicated in the **Tender Data Sheet** (TDS), invites Tenders for the provision of Services as specified in the **Tender Data Sheet, Section VI - Technical Specifications** and **Section VII - Activity Schedule**.
  - 1.2 The successful Tenderer will be expected to provide the service(s) within the period stated in the **Tender Data Sheet** from the start date specified in the **Tender Data Sheet**.
2. **Source of Funds**
  - 2.1 The Government of the United Republic of Tanzania has set aside sufficient funds for the operations of the Procuring Entity named in the **Tender Data Sheet** during the Financial Year indicated in the **Tender Data Sheet**. It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the provision of services as described in the **Tender Data Sheet**.

**Or**

The Government of the United Republic of Tanzania through the Procuring Entity named in the **Tender Data Sheet** has applied for/received/ intends to apply for a [loan/ credit] grants from the financing institution named in the **Tender Data Sheet** towards the cost of the Project named in the **Tender Data Sheet**. The United Republic of Tanzania intends to apply a part of the proceeds of this loan/credit to payments under the Contract for the provision of services described in the **Tender Data Sheet**.

- 2.2 Payments will be made directly by the Procuring Entity (or by financing institution specified in the **Tender Data Sheet** upon request of the Entity to so pay) and will be subject in all respects to the terms and conditions of the resulting Contract placed by the Procuring Entity.
3. **Eligible Tenderers**
  - 3.1 A Tenderer may be natural persons, companies or firms or public or semi-public agencies of Tanzania and foreign countries, subject to ITT sub-Clause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, all members shall be jointly and severally liable for the execution of the Contract in



accordance with the Contract terms. The joint venture, consortium, or association shall nominate a Lead Member who shall have the authority to conduct all business for and on behalf of any and all the members of the joint venture, consortium, or association during the tendering process and, in the event the joint venture, consortium, or association is awarded the Contract, during contract execution. Unless specified in the **Tender Data Sheet**, there is no limit on the number of members in a joint venture, consortium, or association.

- 3.2 The Lead Member shall at the time of contract award confirm the appointment by submission of a Power of Attorney to the Procuring Entity.
- 3.3 Any Tender from a joint venture, consortium or association shall indicate the part of proposed contract to be performed by each party and each party shall be evaluated or post qualified with respect to its contribution only and the responsibilities of each party and shall not be substantially altered without prior written approval of the Procuring Entity.
- 3.4 The invitation for Tenders is open to all service providers as defined in the Public Procurement Regulations, 2013 – Government Notice No. 446 except as provided hereinafter.
- 3.5 National Tenderers shall satisfy all relevant licensing and/or registration requirements with the appropriate statutory bodies in Tanzania. Foreign Tenderers are exempted from this requirement but where selected as having submitted the lowest evaluated Tender the successful Tenderer shall register with the appropriate statutory body and shall be required to submit evidence of registration as an approved Service Provider in Tanzania before signing the Contract.
- 3.6 A Tenderer shall not have a conflict of interest. All Tenderers found to be in conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this tendering process, if they:
  - a) Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications and other

documents to be used for the procurement of the services to be procured under this Invitation for Tenders.

- b) have controlling shareholders in common; or
- c) receive or have received any direct or indirect subsidy from any of them; or
- d) have the same legal representative for purposes of this Tender; or
- e) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this tendering process; or
- f) submit more than one Tender in this tendering process. However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderers and subcontractors simultaneously; or
- g) participated as a consultant in the preparation of the design or technical specifications of the services that are the subject of the Tender.

3.7 A Tenderer may be ineligible if –

- (a) the Tenderer is declared bankrupt or, in the case of company or firm, insolvent;
- (b) payments in favour of the Tenderer is suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with the national laws, in the total or partial loss of the right to administer and dispose of its property;
- (c) legal proceedings are instituted against such Tenderer involving an order suspending payments and which may result, in accordance with the national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of the property;
- (d) the Tenderer is convicted, by a final judgment, of any

offence involving professional conduct;

- (e) the Tenderer is debarred and blacklisted in accordance with section 62 of the Act or ineligible in accordance with section 84(7) of the Act, from participating in public procurement for corrupt, coercive, collusive, fraudulent or obstructive practices, failure to abide with a Tender Securing Declaration, breach of a procurement contract, making false representation about his qualifications during tender proceeding or other grounds as may be deemed necessary by the Authority company or firm is found guilty of serious misrepresentation with regard to information required for participation in an invitation to tender or to submit proposals.

3.8 Public or Semi-public owned enterprises in the United Republic of Tanzania may participate only if they are legally and financially autonomous, if they operate under commercial law, and if they are not a dependent agency of the Government, registered by the relevant registration Board or Authority.

3.9 Tenderers shall provide to the Procuring Entity evidence of their eligibility, proof of compliance with the necessary legal, technical and financial requirements and their capability and, adequacy of resources to carry out the contract effectively.

3.10 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

3.11 Tenderers shall submit proposals to relating to the nature, conditions and modalities of sub-contracting wherever the sub-contracting of any elements of the contract amounting to the more than ten percent of the tender price is envisaged.

**4. One Tender per Tenderer**

4.1 A firm shall submit only one Tender, in the same tendering process, either individually as a Tenderer or as a partner in a joint venture. No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same tendering process. A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity. A Tenderer who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have

been permitted or requested) will cause all the proposals in which the Tenderer has participated to be disqualified.

**5. Cost of Tendering**

5.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process, except in the circumstances described in Section 97(5) (f) of the Public Procurement Act No. 7 of 2011.

**6. Site Visit and Pre-Tender meeting**

6.1 The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the site on which service(s) are to be provided and obtain for itself all information that may be necessary for preparing the Tender and entering into a Contract for provision of the service(s). The costs of visiting the Site shall be at the Tenderer's own expense.

6.2 The Procuring Entity may conduct a site visit and a pre-tender meeting whose purpose shall be to clarify issues and to answer questions on any matter that may be raised at that stage.

6.3 The Tenderer's designated representative is invited to attend site visit and a pre-Tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.

6.4 The Tenderer is requested as far as possible, to submit any questions in writing or in electronic forms that provide record of the content of communication, to reach the Procuring Entity before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions received late, but questions and responses will be transmitted in accordance with ITT sub-Clause 6.5.

6.5 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within three (3) days to all purchasers of the Tendering Documents. Any modification of the Tendering Documents listed in ITT sub-Clause 23.1 that may become necessary as a result of the pre-tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT Clause 9 and not through the minutes of the pre-Tender meeting.

- 6.6 Non attendance during the site visit or pre-tender meeting will not be a cause for disqualification of a Tenderer.

## B. Tendering Documents

### 7. Content of Tendering Documents

- 7.1 The services to be provided, tendering, procedures and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders the Tendering Documents which should be read in conjunction with any addenda issued in accordance with ITT Clause 9 include:

- Section II. Instructions to Tenderers
- Section III. Tender Data Sheet
- Section IV. General Conditions of Contract (GCC)
- Section V. Special Conditions of Contract (SCC)
- Section VI. Performance Specifications and Drawings (if applicable)
- Section VII. Activity Schedule
- Section VIII. Tender Forms
  - Form of Tender
  - Forms of qualification information
  - Letter of Acceptance
  - Form of Agreement
- Section IX. Form of Security
  - Tender Security
  - Tender Security Declaration
  - Performance Bank Guarantee
  - Bank Guarantee for Advance payment
- Section X. Forms of Integrity

- 7.2 The number of copies to be completed and returned with the Tender is specified in the **Tender Data Sheet**

- 7.3 The Invitation for Tenders (Section I) issued by the Procuring Entity does not form part of the Tendering Documents and is included as reference only. In case of discrepancies between the Invitation for Tender and the Tendering Documents

listed in sub-Clause 7.1 above, said Tendering Documents will take precedence.

7.4 The Procuring Entity is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the Procuring Entity.

7.5 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tendering Documents. Failure to furnish all information required by the Tendering Documents or to submit a Tender not substantially responsive to the Tendering Documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

**8. Clarification of Tendering Documents**

8.1 A prospective Tenderer requiring any clarification of the Tendering Documents may notify the Procuring Entity in writing or in electronic forms that provide record of the content of communication at the Procuring Entity's address indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in sub-Clause 21.1

8.2 The Procuring Entity will, within three (3) working days after receiving the request for clarification respond to any request for clarification received no later than fourteen (14) days prior to the deadline for submission of Tenders and in the case of non-competitive methods, three (3) days prior to the deadline.

8.3 Copies of the Procuring Entity's response will be forwarded to all Purchasers of the Tendering Documents, including a description of the inquiry, but without identifying its source.

8.4 Should the Procuring Entity deem it necessary to amend the Tendering Documents as a result of a clarification, it shall do so following the procedure under ITT Clause 9.

**9. Amendment of Tendering Documents**

9.1 Before the deadline for submission of Tenders, the Procuring Entity for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may modify the Tendering Documents by issuing addenda.

9.2 Any addendum including the notice of any extension of the deadline shall be part of the Tendering Documents pursuant to sub-Clause 7.1 and shall be communicated in writing or in electronic forms that provide record of the content of

communication to all who have obtained the Tendering Documents directly from the Procuring Entity. Prospective Tenderers shall acknowledge receipt of each addendum in writing or in electronic forms that provide record of the content of communication.

- 9.3 In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity at its discretion may extend the deadline for submission of Tenders, in accordance with sub-Clause 21.2.

### C. Preparation of Tenders

10. **Language of Tender** 10.1 The Tender, prepared by the Tenderer as well as all correspondence and documents related to the Tender exchanged by the Tenderer and the Procuring Entity, shall be written in the Tender language stipulated in the **Tender Data Sheet** and **Special Conditions of Contract**. Supporting documents and printed literature furnished by the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the **Tender Data Sheet**, in which case, for purposes of interpretation of the Tender, the translation shall govern.
11. **Documents Constituting the Tender** 11.1 The Tender prepared by the Tenderer shall constitute the following components:
- a) The Form of Tender (in the format provided in Section VIII);
  - b) Information requested by sub-Clauses 12.3; 12.4 and 12.5;
  - c) Tender security or Tender securing declaration in accordance with ITT Clause 17;
  - d) Priced Activity Schedule;
  - e) Forms of Qualification Information (in the format provided in Section VIII) and Documents;
  - f) Alternative offers where invited in accordance with ITT Clause 18;

- g) Written Power of Attorney authorizing the signatory of the Tender to commit the Tenderer in accordance with ITT Clause 19.
- h) any other document required in the **Tender Data Sheet**.

**12. Documents Establishing Eligibility and Qualifications of the Tenderer**

- 12.1 Pursuant to ITT Clause 11, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.
- 12.2 If the Procuring Entity has not undertaken pre-qualification of potential Tenderers, all Tenderers shall submit information and documents with their Tenders in **Section VIII – Tender Forms – Form of Qualification Information**.
- 12.3 To qualify for award of the Contract, Tenderers shall meet the qualifying criteria stated in **Section VIII – Forms of Tender - Form of Qualification Information**.
- 12.4 The figures for each of the partners of a joint venture shall be added together to determine the Tenderer's compliance with the minimum qualifying criteria however, for a joint venture to qualify, its partners must meet at least 25 percentages of minimum criteria on Average Annual Turnover, Experience and Financial Capability (liquid assets, unencumbered real assets, line of credits and other financial means) for an individual Tenderer and the partner in charge at least 40 percent to those minimum criteria. Failure to comply with this requirement will result in rejection of the joint venture's Tender. Subcontractors' experience and resources will not be taken into account in determining the Tenderer's compliance with the qualifying criteria.
- 12.5 Domestic Tenderers and joint ventures of domestic and foreign Tenderers applying for eligibility for a margin of preference in Tender evaluation shall supply all information to satisfy the criteria for eligibility as described in ITT Clause 32.
- 12.6 When bidding for more than one Contract under the slice and package arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the slices or lots being applied



for in regard to:-

- a) average annual turnover;
- b) experience;
- c) financial capabilities, etc;
- d) personnel capabilities; and
- e) equipment capabilities.

In case the Tenderer fails to fully meet any of these criteria, it may be qualified only for those slices for which the Tenderer meets the above requirement.

- 13. Form of Tender**      13.1      The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.
- 14. Tender Prices**      14.1      The Contract shall be for the service(s), as described in sub-Clause 1.1, based on the priced Activity Schedule submitted by the Tenderer.
- 14.2      The Tenderer shall fill in rates and prices for all items of the Service(s) described in **Section VI - Performance Specifications** and listed in **Section VII - Activity Schedule**. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Activity Schedule. On the other hand, if the Tenderer introduces new Activity Schedule items not specified in the Tendering Documents, the new items, corresponding quantities and prices shall not be accepted and the Tender may be disqualified as being substantially non responsive.
- 14.3      All duties, taxes, and other levies payable by the service provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the rates, prices, and total Tender price submitted by the Tenderer.
- 14.4      The rates and price quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the **Tender Data Sheet** and the provisions

of Clause 38 of the General Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the **Tender Data Sheet** and Clause 38 of the General Conditions of Contract.

- 15. Tender Currencies**
- 15.1 The price shall be quoted by the Tenderer separately in the following currencies:
- a) for those inputs to the Services which the Tenderer expects to provide from within Tanzania, the prices shall be quoted in the Tanzania Shillings, unless otherwise specified in the **Tender Data Sheet**; and
  - b) for those inputs to the Services which the Tenderer expects to provide from outside Tanzania, the prices shall be quoted in up to any three currencies of any eligible country.
- 15.2 The rates of exchange to be used by the Tenderer in arriving at the local currency equivalent and the proportions mentioned in ITT sub-Clause 15.1 shall be the selling rates for similar transactions established by the authority specified in the **Tender Data Sheet** prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. If the Tenderer uses other rates of exchange, the provisions of ITT sub-Clause 30.1 shall apply. In any case, payments will be computed using the rates quoted in the Tender.
- 15.3 Tenderers shall indicate details of their expected foreign currency requirements in the Tender.
- 15.4 Tenderers may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in Lump Sum and in the Special Conditions of Contract are reasonable and responsive to ITT sub-Clause 15.1.
- 16. Tender Validity Period**
- 16.1 Tenders shall remain valid for the period specified in the **Tender Data Sheet** after the deadline for Tender submission specified in ITT Clause 21. A tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
- 16.2 In exceptional circumstances, prior to expiry of the original

Tender validity period, the Procuring Entity may request that the Tenderers to extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or in electronic forms that provide record of the content of communication. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing Declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of its Tender Security or Tender Securing Declaration for the period of the extension, and in compliance with ITT Clause 21 in all respects.

16.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation shall be based on the Tender price without taking into consideration on the above correction.

**17. Tender Security or Tender Securing Declaration**

17.1 Pursuant to ITT Clause 11, unless otherwise specified in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet** or Tender Securing Declaration as specified in the **Tender Data Sheet** and in the format provided in **Section IX**.

17.2 The Tender Security or Tender Securing Declaration is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to sub-Clause 17.9.

17.3 The Tender security or Tender Securing declaration shall be denominated in the currency of the Tender or in another freely convertible currency, and shall be in one of the following forms:

- a) a bank guarantee, an irrevocable letter of credit issued by a reputable bank, or an insurance bond issued by a reputable insurance firm or their choice located in any eligible country in the form provided in the Tendering Documents or another form acceptable to the Procuring Entity and valid for twenty-eight (28) days beyond the end of the validity of the Tender. This shall also apply if the period for Tender validity

is extended. In either case, the form must include the complete name of the Tenderer; or,

- b) a cashier's or certified cheque;
- c) another security if indicated in the **Tender Data Sheet**.

- 17.4 The Tender security or Tender securing declaration shall be in accordance with the Form of the Tender security or securing declaration included in Section IX or another form approved by the Procuring Entity prior to the Tender submission.
- 17.5 The Tender Security or Tender Securing Declaration shall be payable promptly upon written demand by the Procuring Entity in case any of the conditions listed in sub-Clause 17.9 are invoked.
- 17.6 Any Tender not accompanied by a Tender Security or Tender Securing Declaration in accordance with sub-Clauses 17.1 and 17.3 shall be rejected by the Procuring Entity as non-responsive, pursuant to ITT Clause 27.
- 17.7 Unsuccessful Tenderers' Tender Security or Tender Securing Declaration will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of Tender validity prescribed by the Procuring Entity pursuant to ITT Clause 16.
- 17.8 The successful Tenderer's Tender Security or Tender Securing Declaration will be discharged upon the Tenderer signing the contract or pursuant to ITT Clause 40, and furnishing the Performance Security, pursuant to ITT Clause 41.
- 17.9 The Tender Security may be forfeited or the Tender Securing Declaration executed:
  - a) if the Tenderer :
    - i) withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender except as provided for in ITT sub-Clause 16.2; or
    - ii) does not accept the correction of its Tender price, pursuant to ITT Clause 29; or
  - b) in the case of a successful Tenderer, if the Tenderer

fails within the specified time limit to:-

- i) sign the Contract in accordance with ITT Clause 40; or
- ii) to furnish Performance Security in accordance with ITT Clause 41.

17.10 The Tender Securing or the Tender Security Declaration of a joint venture must be in the name of the joint venture submitting the Tender.

17.11 A Tenderer shall be suspended from being eligible for tendering in any contract with the Procuring Entity for the period of time indicated in the Tender Securing Declaration:

- (a) if the Tenderer withdraws its Tender, except as provided in sub-Clauses 16.2 or
- (b) in the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:
  - (i) sign the contract; or
  - (ii) furnish the required performance security.

**18. Alternative Tenders by Tenderers**

18.1 Tenderers shall submit offers that comply with the requirements of the Tendering Documents, as indicated in **Section VI – Performance Specifications** and **Section VII - Activity Schedule**. Alternatives will not be considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, sub-Clause 18.2 and 18.3 shall govern.

18.2 When alternative terms for provision of services are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** as will the method of evaluating different terms for completion.

18.3 If so allowed in the **Tender Data Sheet**, Tenderers wishing to offer technical alternatives to the requirements of the Tendering Documents must also submit a Tender that complies with the requirements of the Tendering Documents, including the scope, basic technical data, graphical documents and specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including design calculations, technical specifications, breakdown of prices,

proposed work methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Procuring Entity. Alternatives to the specified performance levels shall not be accepted.

**19. Format and Signing of Tender**

- 19.1 The Tenderer shall prepare one original of the documents constituting the Tender as described in ITT Clause 11, bound with the volume containing the Form of Tender, and clearly marked "ORIGINAL". In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **Tender Data Sheet**, and clearly marked as "COPIES." In the event of discrepancy between them, the original shall prevail.
- 19.2 The original and the copy or copies of the Tender shall be typed or written in indelible ink and shall be signed by the Tenderer or a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialed by the person or persons signing the Tender.
- 19.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.
- 19.4 The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to Contract execution if the Tenderer is awarded the Contract.

**D. Submission of Tenders**

**20. Sealing and Marking of Tenders**

- 20.1 The Tenderer shall seal the original and each copy of the Tender, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single plain envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.

- 20.2 The inner and outer envelopes shall
- a) be addressed to the Procuring Entity at the address provided in the **Tender Data Sheet**;
  - b) bear the Project name indicated in the **Tender Data Sheet**, the Invitation for Tenders (IFT) title and number indicated in the **Tender Data Sheet**, and a statement: "DO NOT OPEN BEFORE," to be completed with the time and the date specified in the **Tender Data Sheet**, pursuant to sub-Clause 21.1
- 20.3 In addition to the identification required in sub-Clause 20.2, the inner envelopes shall indicate the name and address of the Tenderer to enable the Tender to be returned unopened in case it is declared late, pursuant to ITT Clause 22, and for matching purposes under ITT Clause 23.
- 20.3 If all envelopes are not sealed and marked as required by sub-Clause 20.2, the Procuring Entity shall assume no responsibility for the misplacement or premature opening of the Tender.
- 20.4 If the outer envelope discloses the Tenderer's identity, the Procuring Entity will not guarantee the anonymity of the Tender submission, but this shall not constitute grounds for rejection of the Tender.
- 21. Deadline for Sub-mission of Tenders**
- 21.1 Tenders shall be received by the Procuring Entity at the address specified in sub-Clause 20.2 (a) no later than the date and time specified in the **Tender Data Sheet**.
- 21.2 The Procuring Entity may, in exceptional circumstances and at its discretion, extend the deadline for submission of Tenders by issuing an amending the Tendering Documents in accordance with ITT Clause 9, in which case all rights and obligations of the Procuring Entity and the Tenderers previously subject to the original deadline will thereafter be subject to the new deadline.
- 22. Late Tenders**
- 22.1 The Procuring Entity shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 21.
- 22.2 Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late,

rejected, and returned unopened to the Tenderer.

**23. Modification, Substitution and Withdrawal of Tenders**

- 23.1 A Tenderer may modify, substitute or withdraw its Tender after submission provided that written notice of the modification, substitution or withdrawal is received by the Procuring Entity prior to the deadline for submission.
- 23.2 The Tenderer's modification, substitution, and withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with ITT Clauses 20 and 21, with the outer and inner envelopes additionally marked "MODIFICATION", "SUBSTITUTION, or "WITHDRAWAL," as appropriate. The notice may also be sent in writing or in electronic forms that provide record of the content of communication but followed by a signed confirmation copy postmarked not later than the deadline for submission of Tenders.
- 23.3 Tenders may only be modified by withdrawal of the original Tender and submission of a replacement Tender in accordance with sub-Clause 23.1. Modifications submitted in any other way shall not be taken into account in the evaluation of Tenders.
- 23.4 Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause, or included in the original Tender submission.
- 23.5 No Tender may be withdrawn, replaced or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tender on the Form of Tender. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of the Tender Securing Declaration , pursuant to the ITT Clause 17.9.

**E. Opening and Evaluation of Tenders**

**24. Opening of Tenders**

- 24.1 The Procuring Entity will open all Tenders, including modifications, substitutions or withdrawal notices made pursuant to ITT Clause 23, in public, in the presence of Tenderers or their representatives who choose to attend, and other parties with a legitimate interest in the Tender proceedings, at the place, on the date and at the time



- specified in the **Tender Data Sheet**. Tenderers' representatives present shall sign a register as proof of their attendance.
- 24.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 23 shall not be opened but returned to Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature of a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked "MODIFICATION" shall be opened and the submissions therein read out in appropriate detail. Thereafter, all envelopes marked "SUBSTITUTION" shall be opened and the submissions therein read out in appropriate detail.
- 24.3 All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender Security or Tender Securing Declaration, and such other details as specified in the **Tender Data Sheet**, will be announced by the Secretary of Tender Board or his delegate at the opening. One of the Tenderer's representative shall be nominated to verify the information read out.
- 24.4 Tenders or modifications that are not opened and not read out at the Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at bid opening shall not be considered further.
- 24.5 Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any unread information by the sent Tenderer's representative shall indemnify the Procuring Entity against any claim or failure to read out the correct information contained in the Tenderers Tender.
- 24.6 No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the

Tenderer, pursuant to ITT Clause 22.

24.7 The Procuring Entity shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security or Tender Securing Declaration.

24.8 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record. A copy of the record shall be distributed to all the Tenderers.

24.9 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record. A copy of the record shall be distributed to all the Tenderers.

24.1 A copy of the minutes of the Tender opening shall be furnished to the individual Tenderers upon request.

**25. Confidentiality**

25.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.

25.2 Any effort by a Tenderer to influence the Procuring Entity's processing of Tenders or award decisions may result in the rejection of its Tender.

25.3 Notwithstanding ITT sub-Clause 25.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the tendering process, it should do so in writing or in electronic forms that provides record of the content of communication.

**26. Clarification of Tenders**

26.1 To assist in the examination, evaluation, and comparison of Tenders, and post-qualification of Tenderers, the Procuring Entity may, at its discretion, ask any Tenderer

for clarification of its Tender, including breakdowns of prices in the Activity Schedule. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered.

26.2 The request for clarification and the response shall be in writing or in electronic forms that provide record of the content of communication, but no change in the price or substance of the Tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the evaluation committee in the evaluation of the Tenders in accordance with ITT Clause 29.

26.3 From the time of Tender opening to the time of contract award if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tender it should do so in writing or in electronic forms that provide record of the content of communication.

**27. Preliminary Examination of Tenders**

27.1 Prior to the detailed evaluation of Tenders, the Procuring Entity will determine whether each Tender

- a) meets the eligibility criteria defined in ITT Clause 3;
- b) has been properly signed;
- c) is accompanied by the required securities; and
- d) is substantially responsive to the requirements of the Tendering Documents.

The Procuring Entity's determination of a Tender's responsiveness will be based on the contents of the Tender itself.

27.2 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering Documents, without material deviation or reservation. A material deviation or reservation is one that:-

- a) affects in any substantial way the scope, quality, or performance of the Service(s);
- b) limits in any substantial way, inconsistent with the

Tendering Documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or

- c) if rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

27.3 The Procuring Entity will confirm that the documents and information specified under ITT Clause 11 and ITT Clause 12 have been provided in the Tender. If any of these documents or information is missing, or is not provided in accordance with the Instructions to Tenderers, the Tender shall be rejected.

27.4 The Procuring Entity may waive any minor informality, nonconformity or irregularity in a Tender that does not constitute a material deviation, and that does not prejudice or affect the relative ranking of any Tenderer as a result of the technical or commercial evaluation pursuant to ITT Clause 28 and 31.

27.5 If a Tender is not substantially responsive, it will be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

**28. Examination of Terms and Conditions; Technical Evaluation**

28.1 The Procuring Entity shall examine the Tender to confirm that all terms and conditions specified in the General Conditions of Contract and the Special Conditions of Contract have been accepted by the Tenderer without any material deviation or reservation.

28.2 The Procuring Entity shall evaluate the technical aspects of the Tender submitted to confirm that all requirements specified in **Section VII – Performance Specifications and Drawings** of the Tendering Documents have been met without material deviation or reservation.

28.3 If after the examination of the terms and conditions and the technical evaluation, the Procuring Entity determines that the Tender is not substantially responsive in accordance with ITT Clause 27, it shall reject the Tender.

- 29. Correction of Errors**
- 29.1 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected by the evaluation committee as follows:-
- a) if there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected, unless in the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which the total price as quoted shall govern and the unit price shall be corrected;
  - b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
  - c) where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.
- 29.2 The amount stated in the Tender will be adjusted in accordance with the above procedure for the correction of errors and, with the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender security may be forfeited or the Tender securing declaration may be executed in accordance with sub-Clause 17.9.
- 30. Conversion to Single Currency**
- 30.1 To facilitate evaluation and comparison, the Procuring Entity will convert all Tender prices expressed in the various currencies in which they are payable to either:
- a) the Tanzania Shilling at the selling exchange rate established for similar transactions by the Bank of Tanzania or a commercial bank in the United Republic of Tanzania specified in the **Tender Data Sheet**.
- OR**
- b) a currency widely used in international trade, such as U.S. dollars, at the selling rate of exchange published in the international press for the amount payable in foreign currency; and at the selling exchange rate established for similar transactions by the Bank of Tanzania for the amount payable in

Tanzania Shillings.

30.2 The currency selected for converting Tender prices to a common base for the purpose of evaluation, along with the source and date of the exchange rate, shall be specified in the **Tender Data Sheet**.

**31. Commercial Evaluation of Tenders**

31.1 The Procuring Entity shall evaluate and compare only the Tenders determined to be substantially responsive pursuant to ITT Clause 27 and the proposals of which have been determined to be adequate in accordance with ITT sub-Clause 28.2 or 28.3.

31.2 In evaluating the Tenders, the evaluation committee will determine for each Tender the evaluated Tender Price by adjusting the Tender Price as follows:-

- a) making any correction for errors pursuant to ITT Clause 29;
- b) excluding provisional sums and the provision, if any, for contingencies in the Activity Schedule, but including Daywork, when requested in the Performance Specifications;
- c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with ITT Clause 18;
- d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with ITT sub-Clause 23.4; and
- e) applying any discounts offered by the Tenderer for the award of more than one Contract, if tendering for this Contract is being done concurrently with other Contracts.

31.3 The Procuring Entity reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tendering Documents or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.

- 31.4 The estimated effect of any price adjustment conditions under Clause 38 of the Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in Tender evaluation.
- 31.5 In the case of several Lots, pursuant to ITT sub-clause 12.6 the Procuring Entity will determine the application of discounts so as to minimize the combined cost of all the Lots.
- 32. National Preference**
- 32.1 If so indicated in the **Tender Data Sheet**, Domestic Tenderer may receive a margin of preference in Tender evaluation, for which this Clause shall apply.
- 32.2 Domestic Tenderers shall provide all evidence necessary to prove that they meet the following criteria to be eligible for the margin of preference in the comparison of their Tenders with those of Tenderers who do not qualify for the preference. They should;
- a) Be registered by relevant statutory bodies within the United Republic of Tanzania;
  - b) Be registered with the Public Procurement Regulatory Authority for purposes of preference schemes;
  - c) Have at least fifty per cent of the authorized capital of the company is owned either by the Government or citizens of Tanzania;
  - d) Not subcontract more than ten (10) percent of the Contract price, excluding provisional sums to foreign service providers; and
  - e) Have no arrangement whereby any major part of the net profits or other tangible benefits of the domestic company will accrue or be paid to persons not citizens of the United Republic of Tanzania or to companies which would not be eligible under this Clause.
- 32.3 The Procuring Entity shall, in granting margin preference, use the Authority's register of Tenderers to determine whether or not Tenderers are qualified for exclusive preference.

- 32.4 A joint venture, consortium or an association between a foreign and local firm in which the contribution of the local firm in that joint venture or association is greater than sixty per cent, shall also be eligible to participate in the exclusive preference scheme.
- 32.5 The following procedure will be used to apply the margin of preference:
- a) Responsive Tenders will be classified into the following groups:
    - i) Group A: Tenders offered by domestic Service Providers eligible for the preference;
    - ii) Group B: Tenders offered by associations between domestic Service Providers and foreign Service Providers eligible for the preference; or
    - iii) Group C: Tenders offered by Foreign Service Providers.
  - b) For the purpose of further evaluation and comparison of Tenders only, an amount equal to the percentage shown in the **Tender Data Sheet**, of the evaluated Tender Prices determined in accordance with sub-Clause 31.2(a), (b), and (d), will be added to all Tenders classified in Groups B and C.
- 32.6 Alternative offers, where solicited or permitted, will be evaluated separately, in accordance with the provisions of ITT Clause 18, and shall be subject to the margin of preference in accordance with sub-Clause 32.5.
- 33. Determination of the Lowest Evaluated Tender**
- 33.1 The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.
- 34. Post-qualification of Tenderer**
- 34.1 If pre-qualification was not undertaken, post-qualification shall be performed.
- 34.2 Where the tender price of the lowest evaluate Tenderer is considered to be abnormally low, the Procuring Entity shall perform price analysis as part of the post-qualification. The following process shall apply:



- (a) The Procuring Entity may reject a tender if the Procuring Entity has determined that the price in combination with other constituent elements of the tender is abnormally low in relation to the subject matter of the procurement (scope of works or services) and raise concerns with the Procuring Entity as to the ability of the Tenderer that presented that tender to perform the contract.
- (b) Before rejecting an abnormally low tender, the Procuring Entity shall request the Tenderer an explanation of the tender or of those parts which it considers contribute to the tender being abnormally low; take account of the evidence provided in response to a request in writing or in electronic forms that provide record of the content of communication; and subsequently verify the tender or parts of the tender being abnormal;
- (c) The decision of the Procuring Entity to reject a tender and reasons for the decision shall be recorded in the procurement proceedings and promptly communicated to the tenderer concerned;
- (d) The Accounting Officer (Procuring Entity) shall seek the approval of the Authority prior to rejecting a tender;
- (e) Neither the Authority nor the Procuring Entity shall incur liability solely by rejecting abnormally tender; and

An abnormally low tender means, in the light of the Procuring Entity's estimate and of all the tenders submitted, the tender appears to be abnormally low by not providing a margin for normal levels of profit.

- 34.3 The Procuring Entity will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive Tender is qualified to perform the contract satisfactorily, in accordance with the criteria listed in ITT sub-Clause 12.3.
- 34.4 The determination will take into account the Tenderer's financial, technical, and managerial capabilities. It will be based upon an examination of the documentary evidence

of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT sub-Clause 12.3, as well as such other information as the Procuring Entity deems necessary and appropriate. Factors not included in these Tendering Documents shall not be used in the evaluation of the Tenderers' qualifications.

- 34.5 A Procuring Entity may seek independent references of a tenderer and the results of reference checks may be used in determining award of contract.
- 34.6 In case of a foreign company, a Procuring Entity shall seek independent reference of legal existence of a tenderer from Tanzania diplomatic missions abroad or from any other reliable source.
- 34.6 An affirmative determination will be a prerequisite for award of the Contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Procuring Entity will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

## **F. Award of Contract**

### **35. Criteria of Award**

- 35.1 Subject to ITT Clause 34 and 36, the Procuring Entity will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tendering Documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:
  - a) eligible in accordance with the provisions of ITT Clause 3;
  - b) qualified to perform the Contract satisfactorily; and
  - c) successful negotiations have been concluded, if any.
- 35.2 If, pursuant to ITT sub-Clause 12.6, this Contract is being let on a "slice and package" basis, the lowest evaluated Tender price will be determined when evaluating this

Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderers for award of more than one Contract.

## **36. Negotiations**

36.1 Negotiations may be undertaken with the lowest evaluated Tender relating to the following areas:

- a) a minor alteration to the technical details of the statement of requirements;
- b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the solicitation documents;
- c) a minor amendment to the special conditions of Contract;
- d) finalizing payment arrangements;
- e) mobilization arrangements;
- f) agreeing final delivery or work schedule to accommodate any changes required by the procuring entity;
- g) the methodology or staffing; or
- h) clarifying details that were not apparent or could not be finalized at the time of tendering.

36.2 Where single source method was used or a competitive procurement method was used but only a single tender was received, negotiations may relate to other areas of the tender including the price tendered provided that the negotiation shall not increase price or affect the quality of the works.

36.3 Where negotiation fails to result into an agreement, the Procuring Entity may invite the next ranked Tenderer for negotiations. Where negotiations are commenced with the next ranked Tenderer, the Procuring Entity shall not reopen earlier negotiations.

- 37. Procuring Entity's Right to Accept any Tender and to Reject any or all Tenders**
- 37.1 Notwithstanding ITT Clause 35, the Procuring Entity reserves the right to accept or reject any Tender, and to cancel the tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers.
- 37.2 Notice of the rejection of all Tenders shall be given promptly to all service providers that have submitted Tenders.
- 37.3 The Procuring Entity shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.
- 38. Procuring Entity's Right to Vary Quantities at the Time of Award**
- 38.1 The Procuring Entity reserves the right at the time of Contract award to increase or decrease the scope of services originally specified in these Tendering Documents provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tendering Documents.
- 39. Notification of Award**
- 39.1 Prior to awarding of the contract, the Procuring Entity shall issue a notice of intention to award the contract to all Tenderers who participated in the tender in question giving them fourteen (14) days within which to submit complaints to the Procuring Entity thereof, if any.
- 39.2 Where no complaints have been lodged, the Tenderer whose Tender has been accepted will be notified of the award by the Procuring Entity prior to expiration of the Tender validity period in writing or in electronic forms that provide record of the content of communication. The Letter of Acceptance will state the sum that the Procuring Entity will pay the successful Tenderer in consideration for the execution of the scope of works as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price).
- 39.3 The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with ITT Clause 40 and signing the Contract in accordance with ITT sub-Clause 40.2.

39.4 Upon the successful Tenderer's furnishing of the Performance Security pursuant to ITT Clause 41, the Procuring Entity will promptly notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security or Tender Securing Declaration of the unsuccessful Tenderers pursuant to ITT Clause 17.

39.5 If, after notification of award, a Tenderer wishes to ascertain the grounds on which its Tender was not selected, it should address its request to the Procuring Entity. The Procuring Entity will promptly respond in writing or in electronic forms that provide record of the content of communication to the unsuccessful Tenderer.

**40. Signing of Contract**

40.1 Promptly after notification, Procuring Entity shall send the successful Tenderer the Agreement and Special Conditions of Contract, incorporating all agreements between the parties obtained as a result of Contract negotiations.

40.2 Within twenty eight (28) days of receipt of the Contract Agreement, the successful Tenderer shall sign and date the Contract and return it to the Procuring Entity.

**41. Performance Security**

41.1 Within twenty eight (28) days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Procuring Entity a Performance Security in the amount and in the form stipulated in the **Tender Data Sheet and the Special Conditions of Contract**, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

41.2 If the Performance Security is provided by the successful Tenderer, it shall be in any of the following forms:

- (a) cash, certified cheque, cashier's or manager's cheque, or bank draft;
- (b) irrevocable letter of credit issued by a reputable commercial bank or in the case of an irrevocable letter of credit issued by a foreign bank, the letter shall be confirmed or authenticated by a reputable local bank;
- (c) bank guarantee confirmed by a reputable local bank or, in the case of a successful foreign Tenderer, bonded by a foreign bank; or
- (d) surety bond callable upon demand issued by any

reputable surety or insurance company.

Any Performance Security submitted shall be enforceable in the United Republic of Tanzania.

- 41.3 Failure of the successful Tenderer to comply with the requirements of ITT sub-Clause 41.2 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender Security or execution of the Tender Securing Declaration and any other remedy the Procuring Entity may take under the Contract and the Procuring Entity may resort to awarding the Contract to the next ranked Tenderer.
- 42. Advance Payment**
- 42.1 The Procuring Entity will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the **Tender Data Sheet**.
- 42.2 The advance payment should be accompanied by Advance Payment Security (Guarantee) in the format provided in Section IX. For the purpose of receiving the Advance Payment, the Tender shall make and estimate of, and include in its Tender, the expense that will be incurred in order to commence the service. These expenses will relate to the purchase of equipment, machinery, materials and on the engagement of labour during the first month beginning with the date of the Procuring Entity's "Notice to commence as specified in the special conditions of contract.
- 43. Adjudicator**
- 43.1 The Procuring Entity proposes the person named in the **Tender Data Sheet** to be appointed as Adjudicator under the Contract, at an hourly fee specified in the **Tender Data Sheet**, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in the Tender. If, in the Letter of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the **Special Conditions of Contract** at the request of either party.
- 44. Fraud  
Corruption,  
Coercion,  
Collusion,  
Fraudulent and**
- 44.1 The Government of the United Republic of Tanzania requires that procuring entities (including beneficiaries of public funds) as well as Tenderers under public - financed Contracts observe the highest standard of ethics during the procurement and execution of such Contracts. In

## **Obstruction Practices**

pursuance of this policy, the Government of the United Republic of Tanzania:-

- a) defines, for the purposes of this provision, the terms set forth below as follows:-
  - i) "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;
  - ii) "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;
  - iii) "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
  - iv) "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 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;
  - v) "obstructive practice" means acts intended to materially impede access to required information in exercising a duty under this Act;
- b) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt fraudulent, coercive, collusive or obstructive practices in competing for the contract.
- c) In pursuant of the policy defined in ITT sub-clause 44.1(a) the Government will cancel the portion of the funds allocated to the contract for goods, work or

services if it at any time determines that corrupt fraudulent, coercive, collusive or obstructive practices were engaged in by representatives of the procuring entity or approving authority or of a beneficiary of the funds during the procurement or the executions of that contract.

- d) will declare a firm to be ineligible, for a period of ten years, to be awarded a public - financed Contract in the United Republic of Tanzania if it, at any time, determines that the Tenderer has engaged in corrupt, fraudulent, coercive, collusive or obstructive practices in competing for or in executing a public – financed Contract.

44.2 The Government of the United Republic of Tanzania reserves the right, where a firm has been found by a foreign country, international organization or other foreign organization to have engaged in corrupt, fraudulent, coercive, collusive or obstructive practices, to declare that such a firm is ineligible, for a period of ten years to be awarded a public financed Contract in the United Republic of Tanzania.

44.3 Any communication between the Tenderer and the Procuring Entity related to matters of alleged fraud or corruption must be made in writing or in electronic forms that provide record of the content of communication.

## **G. Review of Procurement Decisions**

**45. Right to Review** 45.1 A Tenderer who claims to have suffered or that may suffer any loss or injury as a result of breach of a duty imposed on a Procuring Entity or an approving authority in the course of these procurement proceedings may seek a review in accordance with the procedure set out under this Section.

**46. Time Limit on Review** 456.1 The Tenderer shall submit an application for review within twenty eight (28) days of him becoming or should have become aware of the circumstances giving rise to the complaint or dispute.

**47. Submission of Applications for Review** 47.1 Any application for administrative review shall be submitted in writing or in electronic forms that provide record of the content of communication to the Accounting Officer of a Procuring Entity and a copy shall be served to



the Public Procurement Regulatory Authority (PPRA) at the address shown in the **Tender Data Sheet**.

- 47.2 The application for administrative review shall include:
- a) details of the procurement or disposal requirements to which the complaint relates;
  - b) details of the provisions of the Act, Regulation or provision that has been breached or omitted;
  - c) an explanation of how the provisions of the Act, Regulation or provision has been breached or omitted, including the dates and name of the responsible public officer, where known;
  - d) documentary or other evidence supporting the complaint where available;
  - e) Remedies sought; and
  - f) any other information relevant to the complaint.

47.3 The head of a Procuring Entity shall not entertain a complaint or dispute or continue to do so after the procurement Contract has entered into force.

**48. Decision by the Head of Procuring Entity**

- 48.1 The head of a Procuring Entity shall, within fourteen (14) days after receipt of the complaint or dispute, deliver a written decision which shall indicate:
- a) whether the application is upheld in whole, in part or rejected;
  - b) the reasons for the decision; and
  - c) any corrective measures to be taken.

48.2 Where the head of a Procuring Entity does not issue a decision within the time specified in ITT sub-Clause 48.1, the Tenderer submitting the complaint or dispute or the Procuring Entity shall be entitled immediately thereafter to institute proceedings under ITT sub-Clause 49.1 within fourteen (14) days after such specified time and upon instituting such proceedings, the competence of the head of a Procuring Entity to entertain the complaint or dispute

shall cease.

**49. Review by the  
Public  
Procurement  
Appeals  
Authority**

- 49.1 Complaints or disputes which:
- a) are not settled within the specified period under ITT sub-Clause 48.1;
  - b) are not amicably settled by the Accounting Officer;
  - c) arise after the procurement contract has entered into force, shall be referred to the Appeals Authority within fourteen days from the date when the tenderer received the decision of the accounting officer or;
  - d) in case no decision is issued after the expiry of the time stipulated under ITT sub-Clause 48.1 or when the tender become aware or ought to have become aware of the circumstances giving rise to the complaint or dispute;
  - (e) arise out of provision of Section 62(6) of the Act
- 49.2 The Public Procurement Appeals Authority (PPAA) may be contacted at the address shown in the **Tender Data Sheet**.

**SECTION III: TENDER DATA SHEET**

### Tender Data Sheet (TDS)

TDS Clause Number	ITT Clause Number	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
<b>A. Introduction</b>		
1.	1.1	<p>Name of Procuring Entity: <b>Mbeya University of Science and Technology.</b></p> <p>The subject of procurement: <b>Provision of Catering Services at: Mbeya University of Science and Technology</b> for a period of: <b>Twelve (12) Months.</b></p> <p>Name and identification number of the Contract: <b>Provision of Catering Services, Contract no. PA/047/2015/2016/N/03</b></p> <p>Name, description and identification number of lots comprising this Contract: <b>Not Applicable.</b></p> <p>The proportion of each Lot that a Tenderer may Tender for: <b>Not Applicable.</b></p>
2.	1.2	<p>Expected period to provide the service (s): <b>Twelve (12) Months.</b></p> <p>Commencement date: <b>01/09/2015.</b></p>
3.	2.1	<p>Name of Project: <b>Provision of Catering Services.</b></p>
		<p>Name of procuring entity/ institution: <b>Mbeya University of Science and Technology.</b></p>
		<p>Financial Year: <b>2015/2016.</b></p>
		<p>Name of Project: <b>Provision of Catering Services.</b></p>
		<p>The loan/ credit number: <b>Not Applicable.</b></p>
4.	2.2	<p>Name of financing institution: <b>The Government of the United Republic of Tanzania.</b></p>
5.	3.1	<p>Maximum number of members in the joint venture, consortium or association: <b>Two (2).</b></p>

6.	6.3	The site visit and pre-Tender meeting shall be held on: <b>08/07/2015 at 9:00 am in Nyerere Hall at Mbeya University of Science and Technology.</b>
<b>B. Tendering Documents</b>		
7.	7.2	The number of copies to be returned: <b>Three (3), One original with two copies.</b>
8.	8.1	The address for clarification of Tendering Documents: <b>The Secretary, Mbeya University of Science and Technology Tender Board, P. o. Box 131, Mbeya.</b>
<b>C. Preparation of Tenders</b>		
9.	10.1	The language of all correspondences and documents related to the Tender: <b>English.</b>
10.	11.1(h)	In addition to the documents stated in ITT Clause 11, the following documents must be included with the Tender: <b>None.</b>
11.	14.4	Rates and price quoted by the Tenderer subject to adjustment during the performance of the contract: <b>Not Applicable.</b> Information required to be submitted by the Tenderer: <b>Not Applicable</b>
12.	15.1	For inputs to the services which the Tenderer expects to provide within Tanzania, prices shall be quoted in: <b>Tanzania Shillings.</b>
13.	15.2	The rates of exchange to be used by the Tenderer shall be those established by the Bank of Tanzania prevailing on: <b>01/07/2015.</b>
14.	16.1	The Tender Validity Period shall be <b>Ninety (90)</b> days after the deadline for Tender submission specified in the Tender Data Sheet.
15.	17.1	A <b>Tender Securing Declaration form</b> shall be filled by the Tenderer.
	17.3	Another Form of Tender Security: <b>None</b>

16.	18.1, 18.2, 18.3	Alternative tenders to the requirements of the Tendering Documents <b>will not</b> be permitted.
17.	19.1	The number of copies of the Tender to be completed and returned shall be: <b>Three (3), One original with two copies.</b>
	19.2	Written form of authorization of the signatory of tender shall be: <b>Power of attorney</b>
<b>D. Submission of Tenders</b>		
18.	20.2	Tenders shall be submitted at: Street address: <b>The Secretary of Mbeya University of Science and Technology Tender Board, P.O.Box 131, Mbeya Building/Plot No. MBYTC/BLD/4D</b> Room : <b>Procurement Management Unit (PMU) office</b> City/Town: <b>Mbeya –Iyunga area</b> Country: <b>Tanzania</b>
19.	21.1	The deadline for submission of tenders shall be Date: <b>21<sup>st</sup> July, 2015</b> Time: <b>11:00 am.</b>
<b>E. Opening and Evaluation of Tenders</b>		
20.	24.1	The Tender opening shall take place at: Street address: <b>Mbeya University of Science and Technology, P.O.Box 131, Mbeya</b> Floor/Room: <b>Ground floor in Nyerere Hall</b> City/Town: <b>Mbeya –Iyunga area</b> Country: <b>Tanzania</b> Date: <b>21<sup>st</sup> July, 2015</b> Time : <b>11:30 am</b>
21.	24.3	Other details to be announced during Tender opening are:  a) <b>Name of the Services</b> b) <b>Name of the Bidder</b> c) <b>Bidding price</b> d) <b>Any discounts</b> e) <b>Bid/Tender Securing Declaration</b> f) <b>Written Power of Attorney</b> g) <b>Bid Validity period</b>
22.	28.3	Criteria for Tender evaluation shall be :

		<ul style="list-style-type: none"> <li>a) <b>Name of the Services</b></li> <li>b) <b>Name of the Bidder and their address</b></li> <li>c) <b>Bidding price</b></li> <li>d) <b>Any discounts</b></li> <li>e) <b>Bid/Tender Securing Declaration</b></li> <li>f) <b>Written Power of Attorney</b></li> <li>g) <b>Bid Validity period</b></li> <li>h) <b>Experience of the firm</b></li> <li>i) <b>Understanding statement of requirements and submission of all documents required.</b></li> <li>j) <b>Adequacy of work plan and technology/methodology</b></li> <li>k) <b>Adequacy of capability and capacity of the firm to proposed equipment, tools, financial position and supplies to be used in the assignment</b></li> <li>l) <b>Adequacy and competency of the proposed key staff for the assignment.</b></li> <li>m) <b>Declaration on Litigation history</b></li> <li>n) <b>Registration Certificate</b></li> <li>o) <b>Valid Business License</b></li> <li>p) <b>All requirements in the Instruction To Tenderers (ITT) Clause 3</b></li> <li>q) <b>All requirements in the Instruction To Tenderers (ITT) Clause 27.</b></li> <li>r) <b>All requirements in the Instruction To Tenderers (ITT) Clause 11 and Clause 12.</b></li> <li>s) <b>VAT and TIN Certificate</b></li> <li>t) <b>All requirement mentioned in Section VIII of this document.</b></li> <li>u) <b>Past performance of the firm</b></li> </ul>
23.	30.1	<p>The currency that shall be used for Tender evaluation and comparison purposes to convert all Tender prices expressed in various currencies: <b>Tanzania Shillings</b></p> <p>The source of exchange rate shall be: <b>Bank Of Tanzania</b></p>
	30.2	The date of exchange rate shall be: <b>01/07/2015</b>
24.	32.1	Domestic service providers <b>may</b> receive a margin of preference in Tender evaluation.
	32.5	The margin of preference applicable shall be: <b>Ten Percent (10%)</b>

	34	<b>Post-qualification will be undertaken if deemed necessary, Criteria stated in TDS Clause 28.3 shall be used.</b>
<b>F. Award of Contract</b>		
25.	38.1	Percentage for quantity increase or decrease: <b>Fifteen Percent (15%)</b>
26.	41.1	Amount of Performance Security shall be: <b>Ten percent (10%)</b> of the Contract Price
27.	42.1	The Advance Payment shall be limited to -- of the Contract Price: <b>Not Applicable</b>
28.	43.1	The Adjudicator proposed by the Procuring Entity: <b>Shall be appointed by Tanzania Institute of Arbitrators in case of disputes.</b>  The hourly fee for this proposed Adjudicator: <b>shall be determined as per published procedures and rules of the Tanzania Institute of Arbitrators</b>  The biographical data of the proposed Adjudicator: <b>Shall be determined by Tanzania Institute of Arbitrators.</b>
<b>G: REVIEW OF PROCUREMENT DECISIONS</b>		
29.	47.1	The address for Appeal to the Accounting officer <b>The Vice Chancellor Mbeya University of Science and Technology P. O. Box 131 Mbeya Tel: +255252503016/17, 2502861 Fax: +255252502302</b>  The address to serve a copy of complaint:  Chief Executive Officer, Public Procurement Regulatory Authority (PPRA), PPF Tower 8th Floor, P.O. Box 49, DAR ES SALAAM. Tel: 2133466, 2121236/7



		<p>Fax: 2121238  email: <a href="mailto:ceo@ppra.go.tz">ceo@ppra.go.tz</a>  Website: <a href="http://www.ppra.go.tz">www.ppra.go.tz</a></p>
<b>30.</b>	<b>49.2</b>	<p>The address for Appeal to PPAA:  The Secretary,  Public Procurement Appeals Authority,  Sukari House 1st Floor,  P.O. Box 9310,  DAR ES SALAAM.</p> <p>Tel: 2120451</p>

## **SECTION IV: GENERAL CONDITIONS OF CONTRACT**

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## A. General Provisions

1. **Definitions**
- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- a) "Adjudicator" is the person appointed jointly by the Employer and the Service Provider to resolve disputes in the first instance, as provided for in Clauses \_\_\_ and \_\_\_ hereunder;
  - b) "Activity Schedule" is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Tender;
  - c) "Completion Date" means the date of completion of the Services by the Service Provider as certified by the Employer;
  - d) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 2.1 of such signed Contract;
  - e) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 33.1;
  - f) "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the selection process or in contract execution.
  - g) "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;
  - h) "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

- i) "Dayworks" means varied work inputs subject to payment on a time basis for the Service Provider's employees and equipment, in addition to payments for associated materials and administration;
- j) "Employer" means the party who employs the Service Provider;
- k) "Foreign Currency" means any currency other than the currency of the country of the Employer;
- l) "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.
- m) "fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Service Provider (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
- n) "GCC" means these General Conditions of Contract;
- o) "Government" means the Government of the United Republic of Tanzania;
- p) "Local Currency" means the currency of the United Republic of Tanzania;
- q) "Member," in case the Service Provider consist of a joint venture of more than one Entity, means any of these entities; "Members" means all these entities, and

“Member in Charge” means the Entity specified in the SC to act on their behalf in exercising all the Service Provider’ rights and obligations towards the Employer under this Contract;

- r) “Party” means the Employer or the Service Provider, as the case may be, and “Parties” means both of them;
- s) “Personnel” means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof;
- t) “Service Provider” is a person or corporate body whose Tender to provide the Services has been accepted by the Employer;
- u) “Service Provider’s Tender” means the completed Tendering Documents submitted by the Service Provider to the Employer
- v) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented;
- w) “Specifications” means the specifications of the service included in the Tendering Documents submitted by the Service Provider to the Employer
- x) “Services” means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider’s Tender.
- y) “Subcontractor” means any Entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Clauses 7.1 and 8.1.
- z) “Site” means the place(s) named in SCC.
- aa) “obstructive practice” means acts intended to materially impede access to required information in exercising a duty under this Act;

**2. Applicable Law and**

2.1 The Contract shall be interpreted in accordance with the laws of the United Republic of Tanzania, unless otherwise



**Interpretation**

**specified in the SCC.** The documents forming the Contract shall be interpreted in the following order of priority:

- 1) Contract,
- 2) Letter of Acceptance,
- 3) Service Provider's Tender,
- 4) Special Conditions of Contract
- 5) Conditions of Contract,
- 6) Specifications,
- 7) Activity Schedule
- 8) Any other document listed in the **SCC** as forming part of the Contract.

- 3. Language** 3.1 This Contract has been executed in the language specified in the **SCC**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 4. Communications** 4.1 Any notice, request, or consent made pursuant to this Contract shall be in writing or in electronic forms that provide record of the content of communication and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the **SCC**.
- 5. Location** 5.1 The Services shall be performed at such locations as are specified in Appendix A, in the specifications and, where the location of a particular task is not so specified, at such locations, as the Employer may approve.
- 6. Authorized Representatives** 6.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Employer or the Service Provider may be

taken or executed by the officials specified in the **SCC**.

7. **Subcontracting** 7.1 The Service Provider may subcontract with the approval of the Employer's Representative, but may not assign the Contract without the approval of the Employer in writing or in electronic forms that provide record of the content of communication. Subcontracting shall not alter the Service Provider's obligations.
8. **Other Service Providers** 8.1 The Service Provider shall cooperate and share the Site with other Service Providers, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Service Providers, as referred to in the **SCC**. The Service Provider shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Service Providers, and shall notify the Service Provider of any such modification.
9. **Taxes and Duties** 9.1 The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

## **B. Commencement, Completion, Modification, and Termination of Contract**

10. **Effectiveness of Contract** 10.1 This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be stated in the **SCC**.
11. **Commencement of Services**
- Program** 11.1 Before commencement of the Services, the Service Provider shall submit to the Employer for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.
- Starting Date** 11.2 The Service Provider shall start carrying out the Services within thirty (30) days after the date the Contract becomes

effective, or at such other date as may be specified in the **SCC**.

**12. Intended Completion Date**

12.1 Unless terminated earlier pursuant to Clause 15, the Service Provider shall complete the activities by the Intended Completion Date, as is specified in the **SCC**. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Clause 26. In this case, the Completion Date will be the date of completion of all activities.

**13. Modification**

13.1 Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written Contract between the Parties and shall not be effective until the consent of the appropriate Tender Board, as the case may be, has been obtained.

**14. Force Majeure**

**No Breach of Contract**

14.1 The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

**Extension of Time**

14.2 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

**Payments**

14.3 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the

Service after the end of such period.

- 14.4 Payments shall be made promptly by the Purchaser, within sixty (60) days after submission of an invoice or claim by the Supplier. If the Purchaser makes a late payment, the Supplier shall be paid interest on the late 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 rate as specified in the SCC.

## **15. Termination**

### **By the Employer**

- 15.1 The Employer may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause and sixty (60) days' in the case of the event referred to in (g):
- a) if the Service Providers do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing or in electronic forms that provide record of the content of communication;
  - b) if the Service Provider become insolvent or bankrupt;
  - c) if, as the result of Force Majeure, the Service Provider/s are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
  - d) if the Service Provider/s, in the judgment of the Employer has engaged in corrupt, fraudulent, coercive, collusive or obstructive practices in competing for or in executing the Contract.
  - e) if the Service Provider does not maintain a Performance Security in accordance with Clause 27;
  - f) if the Service Provider has delayed the completion of the Services by the number of days for which the maximum amount of liquidated damages can be paid in accordance

with Clause 26.1 and the **SCC**;

- g) if the Employer, in its sole discretion, decides to terminate this Contract.

**By the Service Provider**

15.2 The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Clause:

- (a) if the Employer fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 43 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Service Providers are unable to perform a material portion of the Services for a period of not less than sixty (60) days.

**Payment upon Termination**

15.3 Upon termination of this Contract pursuant to sub-Clauses 15.1 or 15.2, the Employer shall make the following payments to the Service Provider:

- (a) remuneration pursuant to Clause 33 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a), (b), (d), (e), (f) of Clause 15.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel.

**Limitation of Liability**

16 Except in cases of criminal negligence or willful conduct, and in the case of infringement pursuant to GCC Clause 8,

- (a) The Service Provider shall not be liable to the procuring entity, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the

Supplier to pay liquidated damages to the Purchaser; and

- (b) The aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement..

### **C. Obligations of the Service Provider**

#### **16. General**

16.1 The Service Providers shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Providers shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Employer, and shall at all times support and safeguard the Employer's legitimate interests in any dealings with Subcontractors or third parties.

#### **17. Inflict of Interests**

##### **Service Provider not to Benefit from Commissions and Discounts**

17.1 The remuneration of the Service Providers pursuant to Clause 33 shall constitute the Service Providers' sole remuneration in connection with this Contract or the Services, and the Service Providers shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Providers shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

- Service Provider and Affiliates not to be Otherwise Interested in Project** 17.2 The Service Providers agree that, during the term of this Contract and after its termination, the Service Providers and their affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
- Prohibition of Conflicting Activities** 17.3 Neither the Service Providers nor their Subcontractors nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:
- (a) during the term of this Contract, any business or professional activities which would conflict with the activities assigned to them under this Contract;
  - (b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees in active duty or on any type of leave, to perform any activity under this Contract;
  - (c) after the termination of this Contract, such other activities as may be specified in the **SCC**.
- 18. Confidentiality** 18.1 The Service Providers, their Subcontractors, and the Personnel of either of them shall not disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Employer's business or operations without the prior written consent of the Employer.
- 19. Insurance to be Taken out by the Service Providers** 19.1 The Service Providers (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at their (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be specified in the **SCC**; and (b) at the Employer's request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid.

- 20. Protection of the environment**
- 20.1 The Service Provider 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.
- 20.2 The Service Provider shall ensure that emissions, surface discharges and effluent from his activities shall not exceed values prescribed in relevant environmental laws.
- 21. Labour Laws**
- 21.1 The Service Provider 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.
- 21.2 The Service Provider shall require his employees to obey all applicable laws, including those concerning safety at work.
- 22. Health and Safety**
- 22.1 The Service Provider shall at all times take all reasonable precautions to maintain the health and safety of his personnel.
- 22.2 The Service Provider 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
- 22.3 The Service Provider shall notify the Employer details of any accident as soon as practicable after its occurrence. The Service Provider shall maintain records and make reports concerning health, safety, and welfare of persons, and damage to the property, as the Employer may reasonably require.
- 22.4 The Service Provider 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 Service Provider's personnel, the Employers Staff and the surrounding community.
- 23. Service**
- 23.1 The Service Provider shall obtain the Employer's prior



<b>Providers' Actions Requiring Employer's Prior Approval</b>	<p>approval in writing or in electronic forms that provide record of the content of communication before taking any of the following actions:</p> <ul style="list-style-type: none"> <li>(a) entering into a subcontract for the performance of any part of the Services,</li> <li>(b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),</li> <li>(c) changing the Program of activities; and</li> <li>(d) any other action that may be specified in the <b>SCC</b>.</li> </ul>
<b>24. Reporting Obligations</b>	<p>24.1 The Service Providers shall submit to the Employer the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.</p>
<b>25. Documents Prepared by the Service Providers to be the Property of the Employer</b>	<p>25.1 All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Providers in accordance with this Clause shall become and remain the property of the Employer, and the Service Providers shall, not later than 14 days upon termination or expiration of this Contract, deliver all such documents and software to the Employer, together with a detailed inventory thereof. The Service Providers may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the <b>SCC</b>.</p>
<b>26. Liquidated Damages</b>	
<b>Payments of Liquidated Damages</b>	<p>26.1 The Service Provider shall pay liquidated damages to the Employer at the rate per day stated in the <b>SCC</b> 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 <b>SCC</b>. The Employer may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages</p>

shall not affect the Service Provider's liabilities.

**Correction for Over-payment** 26.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Clause 36.

**Lack of Performance Penalty** 26.3 If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Clause 41.1

**27. Performance Security** 27.1 The Service Provider shall provide the Performance Security to the Employer no later than the date specified in the Letter of Acceptance. The Performance Security 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. The performance Security shall be valid until a date 28 days from the Completion Date of the Contract, unless otherwise specified in the **SCC**.

27.2 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.

#### **D. Service Provider's Personnel**

**28. Description of Personnel** 28.1 The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix

C are hereby approved by the Employer.

**29. Removal and/or Replacement of Personnel**

- 29.1 Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.
- 29.2 If the Employer finds (i) that any of the Personnel have committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Employer's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.
- 29.3 The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel

**E. Obligations of the Employer**

**30. Assistance and Exemptions**

- 30.1 The Employer shall use its best efforts to provide the Service Provider such assistance and exemptions as specified in the **SCC**.

**31. Change in the Applicable Law**

- 31.1 If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by Contract between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses 34(a) or (b), as the case may be.

**32. Services and Facilities**

- 32.1 The Employer shall make available to the Service Provider the Services and Facilities listed under Appendix F.

## F. Payments to the Service Provider

33. **Lump-Sum Remuneration** The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Providers in carrying out the Services described in Appendix A. Except as provided in Clause 34.1, the Contract Price may only be increased above the amounts stated in Clause 33 if the Parties have agreed to additional payments in accordance with Clause 35.1.
34. **Contract Price**
- a) The price payable in local currency is set forth in the **SCC**.
  - b) The price payable in foreign currency is set forth in the **SCC**.
35. **Payment for Additional Services** 35.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Clause 13, a breakdown of the lump-sum price is provided in Appendices D and E.
36. **Terms and Conditions of Payment** Payments will be made to the Service Provider and according to the payment schedule stated in the **SCC**. Unless otherwise stated in the **SCC**, advance payment shall be made against the provision by the Service Provider of a bank guarantee or insurance bond for the same amount, and shall be valid for the period stated in the **SCC**. Any other payment shall be made after the conditions listed in the **SCC** for such payment have been met, and the Service Provider has submitted an invoice to the Employer specifying the amount due.
37. **Interest on Delayed Payments** If the Employer has delayed payments beyond twenty eight (28) days after the due date stated in the **SCC**, interest shall be paid to the Service Provider for each day of delay at the rate stated in the **SCC**
38. **Price Adjustment** 38.1 a) Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the **SCC**. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the

payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \text{ Lmc/Loc} + C_c \text{ Imc/Ioc}$$

Where:

$P_c$  is the adjustment factor for the portion of the Contract Price payable in a specific currency "c".

$A_c$ ,  $B_c$  and  $C_c$  are coefficients specified in the **SCC**, representing:  $A_c$  the nonadjustable portion;  $B_c$  the adjustable portion relative to labor costs and  $C_c$  the adjustable portion for other inputs, of the Contract Price payable in that specific currency "c"; and

$Lmc$  is the index prevailing at the first day of the month of the corresponding invoice date and

$Loc$  is the index prevailing 28 days before Tender opening for labor; both in the specific currency "c".

$Imc$  is the index prevailing at the first day of the month of the corresponding invoice date and  $Ioc$  is the index prevailing 28 days before Tender opening for other inputs payable; both in the specific currency "c".

- b) If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

**39. Dayworks**

- 39.1 If applicable, the Daywork rates in the Service Provider's Tender shall be used for small additional amounts of Services only when the Employer has given written instructions in advance for additional services to be paid in that way.
- 39.2 All work to be paid for as Dayworks shall be recorded by the Service Provider on forms approved by the Employer. Each completed form shall be verified and signed by the Employer

representative as indicated in Clause 6 within two days of the Services being performed.

39.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Clause 39.

## **G. Quality Control**

- |  |      |   |
|--|------|---|
| <b>40. Identifying Defects</b>                                   | 40.1 | The Employer shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Employer may instruct the Service Provider to search for a Defect and to uncover and test any service that the Employer considers may have a Defect.  |
| <b>41. Correction of Defects and Lack of Performance Penalty</b> | 41.1 | <ul style="list-style-type: none"><li>a) The Employer shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.</li><li>b) Every time a notice of Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Employer's notice.</li><li>c) If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Clause 26.3.</li></ul> |

## **H. Settlement of Disputes**

- |                                |      |   |
|--------------------------------|------|---|
| <b>42. Amicable Settlement</b> | 42.1 | The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.  |
| <b>43. Dispute Settlement</b>  | 43.1 | If any dispute arises between the Employer and the Service Provider in connection with, or arising out of, the Contract or the provision of the Services, whether during carrying out the |

Services or after their completion, the matter shall be referred to the Adjudicator within 14 days of the notification of disagreement of one party to the other.

- 43.2 The Adjudicator shall give a decision in writing or in electronic forms that provide record of the content of communication within 28 days of receipt of a notification of a dispute.
- 43.3 The Adjudicator shall be paid by the hour at the rate specified in the **SCC**, together with reimbursable expenses of the types specified in the **SCC**, and the cost shall be divided equally between the Employer and the Service Provider, 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.
- 43.4 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the **SCC**.
- 43.5 Should the Adjudicator resign or die, or should the Employer and the Service Provider 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 Service Provider. In case of disagreement between the Employer and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the **SCC** at the request of either party, within 14 days of receipt of such request.

**SECTION V: SPECIAL CONDITIONS OF CONTRACT**



## Special Conditions of Contract

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract.

SCC Clause Number	GCC Clause Number	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
<b>A. General Provisions</b>		
<b>1.</b>	<b>1.1(a)</b>	The Adjudicator: <b>Shall be appointed by Tanzania Institute of Arbitrators</b> in case of disputes.
	<b>1.1(b)</b>	Activity schedule: <b>List of items of services to be performed by the service provider is attached in section VII</b>
	<b>1.1(c)</b>	The completion date: <b>31/08/2016</b>
	<b>1.1(d)</b>	The contract name: <b>Provision of Catering Services.</b>
	<b>1.1(h)</b>	The Employer: <b>Mbeya University of Science and Technology</b>
	<b>1.1(o)</b>	The Member in Charge:
	<b>1.1(r)</b>	The Service Provider:

	<b>1.1(v)</b>	The works to be performed by the service provider: <b>Provision of Catering Services</b>
<b>2.</b>	<b>2.1</b>	The law that applies to the Contract is: <b>The laws of Tanzania.</b>
<b>3.</b>	<b>3.1</b>	The language: <b>English.</b>
<b>4.</b>	<b>4.1</b>	<p>The addresses are:</p> <p>Employer: <b>Mbeya University of Science and Technology, P. O. Box 131, Mbeya.</b></p> <p>Attention: <b>Vice Chancellor</b></p> <p>Tel: <b>+255252503016/17, 2502861</b></p> <p>Fax: <b>+255252502302</b></p> <p>Email: <a href="mailto:vc@must.ac.tz">vc@must.ac.tz</a>, <a href="mailto:mist@mist.ac.tz">mist@mist.ac.tz</a></p> <p>Website: <b>www.mist.ac.tz</b></p> <p>Service Provider: _____</p> <p>Attention: _____</p> <p>Telex: _____</p> <p>Facsimile: _____</p>
<b>5.</b>	<b>6.1</b>	<p>The Authorized Representatives are:</p> <p>For the Employer: <b>The Vice Chancellor</b></p> <p>For the Service Provider: _____</p>

<b>B. Commencement, Completion, Modification, and Termination of Contract</b>		
<b>6.</b>	<b>8.1</b>	Schedule of other Service Providers: <b>Not Applicable.</b>
<b>7.</b>	<b>10.1</b>	The date on which this Contract shall come into effect: <b>01/09/2015.</b>
<b>8.</b>	<b>11.2</b>	The Starting Date for the commencement of Services: <b>01/09/2015.</b>
<b>9.</b>	<b>12.1</b>	The Intended Completion Date: <b>31/08/2016.</b>
<b>C. Obligations of the Service Provider</b>		
<b>10.</b>	<b>17.3 (c)</b>	Give the list of other activities which the personnel of service providers should not engage in: <b>Not Applicable</b>
<b>11.</b>	<b>19.1</b>	The risks and coverage by insurance shall be: <ul style="list-style-type: none"> <li>(i) Third Party motor vehicle</li> <li>(ii) Third Party liability</li> <li>(iii) Employer's liability and workers' compensation</li> <li>(iv) Professional liability</li> <li>(v) Loss or damage to equipment and property</li> </ul>
<b>12.</b>	<b>22.4</b>	Other Measures for HIV-AIDS awareness programs: <ul style="list-style-type: none"> <li><b>a) Minimizing the number of migrant workers employed in your company.</b></li> <li><b>b) Provide access to Voluntary Counseling and</b></li> </ul>

		<b>Testing (VCT)</b>
<b>13.</b>	<b>23.1(d)</b>	<p>The other actions requiring the employer’s prior approval are:</p> <ul style="list-style-type: none"> <li><b>a) Entering into a subcontract for the performance of any part of the Services,</b></li> <li><b>(b) Appointing such members of the Personnel not listed by name in Appendix C (Key Personnel and Subcontractors),</b></li> <li><b>(c) Changing the Program of activities; and</b></li> <li><b>d) Other related issues.</b></li> </ul>
<b>14.</b>	<b>25.1</b>	<p>Restrictions about future use of documents submitted by Service Providers: <b>shall become and remain the property of the Employer.</b></p>
<b>15.</b>	<b>26.1</b>	<p>The liquidated damages rate: <b>0.10% of the contract price per day.</b></p> <p>The maximum amount of liquidated damages for the whole contract is <b>ten percent (10%)</b> of the final Contract Price.</p> <p>The percentage of the cost of having a Defect corrected to be used for the calculation of Lack of Performance Penalty/(ies) is <b>0.5% of the monthly amount as per invoice of the number of lack of performance percentages below Seventy percent (70%)</b></p>
<b>16.</b>	<b>27.1</b>	<p>Performance Security shall be valid for: <b>(365) days (one year)</b></p> <p>The amount of Performance Security, as a percentage of the Contract Price shall be: <b>ten percent (10%) of the</b></p>

		<b>contract price</b>
<b>E. Obligations of the Employer</b>		
<b>17.</b>	<b>30.1</b>	<b>Note:</b> List here any assistance or exemptions that the Employer may provide under Clause 27: <b>Not Applicable.</b>
<b>F. Payments to the Service Provider</b>		
<b>18.</b>	<b>34.1(a)</b>	The amount in local currency: <b>Will be the amount of the Lowest evaluated Bidder:</b>
<b>19.</b>	<b>34.1(b)</b>	The amount in foreign currency or currencies: <b>Not Applicable.</b>
<b>20.</b>	<b>36.1</b>	<p>Payments shall be made according to the following schedule:</p> <p><i>[Note: (a) the following installments are indicative only; (b) if the payment of foreign currency and of local currency does not follow the same schedule, add a separate schedule for payment in local currency; (c) "commencement date" may be replaced with "date of effectiveness;" and (d) if applicable, detail further the nature of the report evidencing performance, as may be required:</i></p> <p><b>Not Applicable.</b></p> <ul style="list-style-type: none"> <li>• Advance for Mobilization, Materials and Supplies: _____ percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same: <b>Not applicable</b></li> <li>• Progress payments in accordance with the milestones established as follows, subject to certification by the Employer, that the Services have been rendered satisfactorily, pursuant to the performance indicators:</li> </ul>

		<p>➤ <i>__(indicate milestone and/or percentage)__</i> <b>Not applicable</b></p> <p>➤ <i>__(indicate milestone and/or percentage)__</i> <b>Not applicable,</b> and</p> <p>➤ <i>__(indicate milestone and/or percentage)__</i> <b>Not Applicable</b></p> <p><b>Payment will be effected each month after the submission of the monthly performance report.</b></p> <p>Should the certification not be provided, or refused in writing by the Employer within one month of the date of the milestone, or of the date of receipt of the corresponding invoice, the certification will be deemed to have been provided, and the progress payment will be released at such date.</p> <ul style="list-style-type: none"> <li>• The amortization of the Advance mentioned above shall commence when the progress payments have reached 25% of the contract price and be completed when the progress payments have reached 75%. <b>Not Applicable</b></li> <li>• The Bank Guarantee or Insurance Bond shall be released when the total payments reach Seventy five percent (75%) of the lump-sum amount. <b>Not Applicable</b></li> </ul>
21.	37.1	<p>Payment shall be made within <b>twenty eight (28)</b> days of receipt of the invoice and the relevant documents specified in <b>GCC</b> Clause 37, and within <b>sixty (60)</b> days in the case of the final payment.</p> <p>The interest rate: <b>Not Applicable.</b></p>
22.	38.1	<p>Price adjustment in accordance with 38: <b>Not Applicable</b></p>

		The coefficients for adjustment of prices: <b>Not Applicable</b>
<b>H. Settlement of Disputes</b>		
<b>23.</b>	<b>43.3</b>	<p>The Adjudicator: <b>Shall be appointed by Tanzania Institute of Arbitrators in case of Disputes.</b></p> <p>Who will be paid a rate of- per hour of work: <b>Shall be determined as per published procedures and rules of the Tanzania Institute of Arbitrators</b></p> <p>The following reimbursable expenses are recognized: <b>Shall be determined by the Tanzania Institute of Arbitrators.</b></p> <p>The arbitration procedures of: <b>Tanzania Institute of Arbitrators.</b></p> <p>The designated Appointing Authority for a new Adjudicator: <b>Shall be Tanzania Institute of Arbitrators</b></p>

**SECTION VI: PERFORMANCE SPECIFICATIONS AND  
DRAWINGS**



*[text of Performance Specification Drawings (if any) to be inserted in the Tendering Documents by the Procuring Entity, as applicable]* **Not Applicable**

## **SECTION VII: ACTIVITY SCHEDULE**

## 1.0 STATEMENT OF REQUIREMENTS

S/N	ISSUES	REQUIREMENT	REMARKS
1.	Management	<ul style="list-style-type: none"> <li>• Management of staff employed in delivering the service.</li> <li>• Monthly valuation report to the University management.</li> <li>• Head of complaints from the University is Contract Manager through the senior catering officer.</li> <li>• Food measurements will be made in the presence of staff from the office of the senior catering officer.</li> <li>• Cooked food will only be moved from the kitchen with the permission of the chief cook and in his absence the senior catering officer will give the permission.</li> <li>• Senior catering officer have the power to stop food from being eaten when it is certified that food is not worth for human consumption.</li> <li>• An officer from the office of the senior catering officer will be responsible on daily routine to inspect</li> </ul>	<p>Must provide details include organization charts or structure</p> <p>Off – site and On site management systems to handle the contract.</p> <p>The Contact Company to lodge it. The contract company should abide with this instructions.</p>

		the cleanliness of the dining hall building and all its parts.	
2.	Invoices	Invoice with covering letter to be sent for payment during the first week of each calendar month for services provided during the previous month.	Invoice to be sent for payment through contract manager and senior catering officer.
3.	Management reports	<p>A Management report must be presented the first week of each calendar month covering the previous calendar month detailing minimum occurrences.</p> <ul style="list-style-type: none"> <li>• Any occurrence of failure to meet the specific performance standards and proposed remedial action will be taken.</li> <li>• Any complaints received from the senior catering officer have to be dealt with.</li> <li>• Proposal for action that would improve service delivery at no additional cost</li> </ul>	<p>The management reports to accompany the monthly invoice</p> <p>The firm should propose the format of this management report and any other issue they suggest it could embrace.</p>
4.	Contract staff	<ul style="list-style-type: none"> <li>• Contract staff should be of a good character and health and well motivated</li> <li>• Must maintain silence at the University's premises.</li> <li>• All kitchen staff to be medically examined within one Month after signing the contract, and submit medical examination report to the senior catering officer.</li> </ul>	<p>Bidders to provide staff appointment procedures, details of human resources polices and health e.g.</p> <ul style="list-style-type: none"> <li>- Disciplinary.</li> <li>- Training</li> <li>- Terms and condition of service.</li> <li>- Gender perspectives</li> <li>- Leave entitlement</li> <li>- Pensions if any and</li> </ul>

			other benefits
5.	Transition (phase – in) period	There should be a smooth transition (handover) of service from present providers to the new awarded contract.	Firm should provide proposals for taking over the service (s). Note that payment will commence as contract date).
6.	Policies	The service should be delivered paying due regard to environmental, health, safety, labour, anticorruption and security considerations.	Firm should state their compliance to the policies.
7.	Uniforms	To field staff	Firm should provide details of proposed uniforms and identify cards
8	Insurance	<ul style="list-style-type: none"> <li>i) To protect Client’s Properties and Assets</li> <li>ii) To protect Service providers Staff, Properties and Assets</li> </ul>	Firm to provide details of the valid Insurance policies and deposit photo staff copy with the University senior catering officer.

## 2.0 SUMMARY OF ACTIVITIES- CATERING SERVICES

S/NO	SERVICE OUTPUT	SPECIFIC PERFORMANCE STANDARDS	SERVICE AVAILABLE	REMARKS
	<p><b>Food/meals</b></p> <ul style="list-style-type: none"> <li>- good quality</li> <li>- appropriate</li> <li>- adequate</li> <li>- well balanced diet and</li> <li>- acceptable</li> </ul> <p><b>Food storage</b></p> <p>Should be appropriately structured for the purpose.</p> <p><b>Food distribution</b> to all students in clean utensils</p> <p><b>Food preparation</b></p> <p>Regularly inspected kitchen facilities</p>	<ul style="list-style-type: none"> <li>- good quality cooked with cholestral free cooking oil</li> <li>- appropriate</li> <li>- adequate</li> <li>- well balanced diet prepared with adequate spices and acceptable</li> </ul> <p>At least 1.500 KCl per day per public Health relations of food control quality Act. No.10 (1978)</p> <p>Distributed in food grade utensils</p> <p>Meals preparation facilities to be inspected</p>	<p>Three times a day</p> <ul style="list-style-type: none"> <li>- B/Fast (6.30 –7.15 hours local time)</li> <li>- Lunch (11.50 – 13.00 hours local time)</li> <li>- Dinner (18.30 –20.00 hours local time)</li> </ul> <p>Time of Service delivery should be observed.</p>	<p>The service provider should respond to special instructions given by the senior catering officer.</p> <p>Should respond to clients concern complaints</p> <p>Technology used should be approved by the management of the University</p>

## STUDENTS' FOOD MENU

DAY	BREAKFAST	LUNCH	DINNER
<b>MONDAY</b>	milk Tea 1/3 x 500g bread	Beans stew Ugali vegetable	Meat stew Boiled rice Fruits.
<b>TUESDAY</b>	milk Tea 1/3 x 500g bread Boiled egg	Beans stew Ugali vegetable	Meat stew Boiled rice Fruits.
<b>WEDNESDAY</b>	milk Tea 1/3 x 500g bread	Beans stew Ugali vegetable	Meat stew Boiled rice Fruits
<b>THURSDAY</b>	milk Tea 1/3 x 500g bread	Beans stew Ugali vegetable	Meat stew Boiled rice Fruits
<b>FRIDAY</b>	milk Tea 1/3 x 500g bread	Beans stew Ugali vegetable	Meat stew Boiled rice Fruits
<b>SATURDAY</b>	milk Tea 1/3 x 500g bread	Beans stew Boiled rice vegetable	Meat stew Boiled rice Fruits
<b>SUNDAY</b>	milk Tea 1/3 x 500g bread 1 boiled egg	Meat stew Boiled rice vegetable	Beans stew Boiled rice Fruits

- Beans stew and meat stew should be cooked with spices and cholesterol free cooking oil.
- Rice should be cooked with cholesterol free oil

## UNIT OF MEASURE

- i) Milk 125 ml
- ii) Meat 150 gm
- iii) Rice 300 gm
- iv) Ugalii (sembe) 125 gm
- v) Fresh green vegetables 70 gm
- vi) Beans 125 gm
- vii) Fruits shall be provided every meal depending on season (banana or oranges)
- viii)  $\frac{1}{4}$  (quarter) Chicken will be served to every student in the last Friday of each month

### Special Diet

- ix) Tenderer shall provide special diet as per Doctor's food prescription to a student with a special case without cost alteration.
- x) Beef pilau, and bread with butter/margarine will be served during all religious holidays such as Idd El Fitri-1<sup>st</sup> day only, Easter Sunday, Maulid day and Christmas during lunch only.
  - bread with butter/margarine will be served during breakfast time at no extra cost.
  - Beef, pilau, will be served during lunch time
  - Soda will be served by the University on all religious holidays eg Easter Sunday, maulid day, Idd El Fitri, X-mas the 1<sup>st</sup> day only during lunch only.



## **ASSETS TO BE PROVIDED BY THE CLIENT**

The Client will provide the successful Tenderer/bidder the following assets and facilities:

- A toilet and washroom.
- Cafeteria
- Office accommodation.
- Utilities i.e. water and Electricity.
- Cold Rooms
- 200 Kg Platform Scale
- Food storage space

## **ASSETS TO BE PROVIDED BY SERVICE PROVIDER**

The Successful Tenderer/bidder will provide the following assets and facilities:

- Compartment Serving Trays (depending on the number of students to be served).
- Mugs (stainless steel) of capacity 0.25 litre. (Depending on the number of students to be served).
- Saucers (small plates) for serving breads (depending on the number of students to be served).
- Dust bins for dumping wastes.
- Cleaning facilities such as mops, cotton lags, brooms, etc.
- Transport facilities.
- Safety protective gears.
- Staff uniforms (minimum two pairs)
- Solid Fuel Cooker
- Refrigerators
- Potato Pilling Machine
- Round Trolley
- Sack Trolley

## **SECTION VIII: FORMS OF TENDER**

## 1.0 Form of Agreement

### Lump-Sum Remuneration

This AGREEMENT (hereinafter called the "Contract") is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Employer]* (hereinafter called the "Employer") and, on the other hand, *[name of Service Provider]* (hereinafter called the "Service Provider").

**[Note:** *In the text below text in brackets is optional; all notes should be deleted in final text. If the Service Provider consist of more than one Entity, the above should be partially amended to read as follows: "...(hereinafter called the "Employer") and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Employer for all the Service Providers' obligations under this Contract, namely, [name of Service Provider] and [name of Service Provider] (hereinafter called the "Service Provider").]*

#### WHEREAS

- (a) the Employer has requested the Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the "Services");
- (b) the Service Provider, having represented to the Employer that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of *[insert the figures and words and the currency]*;
- (c) the Employer has set aside funds towards the cost of the Services and intends to apply a portion of the proceeds of these funds to eligible payments under this Contract, it being understood that such payments will be subject, in all respects, to the terms and conditions of the Contract providing for the funds and that no party other than the Employer shall derive any rights from the Contract providing for the funds or have any claim to the funds proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
  - a) Contract Agreement
  - b) The General Conditions of Contract;

- c) The Special Conditions of Contract;
- d) The Service Provider's Tender
- e) The Priced Activity Schedule
- f) The Specifications (Statement of Requirements)
- g) The following Appendices: [**Note:** *If any of these Appendices are not used, the words "Not Used" should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.*]

- Letter of acceptance

- Notice to proceed

- Service Provider's Tender

Appendix A: Description of the Services

Appendix B: Schedule of Payments

Appendix C: Key Personnel and Subcontractors

Appendix D: Breakdown of Contract Price in Foreign Currency

Appendix E: Breakdown of Contract Price in Local Currency

Appendix F: Services and Facilities Provided by the Employer

2. The mutual rights and obligations of the Employer and the Service Provider shall be as set forth in the Contract, in particular:
  - a) The Service Provider shall carry out the Services in accordance with the provisions of the Contract; and
  - b) the Employer shall make payments to the Service Provider in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[name of Employer]*

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*[Authorized Representative]*

For and on behalf of *[name of Service Provider]*

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*[Authorized Representative]*

**[Note:** *If the Service Provider consists of more than one Entity, all these entities should appear as signatories, e.g., in the following manner:]*

For and on behalf of each of the Members of the Service Provider

*[Name of member]*

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*[Authorized Representative]*

*[Name of member]*

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*[Authorized Representative]*

## 2.0 Form of Tender

[date]

To: [name and address of Procuring Entity]

We offer to execute the [name and identification number of Contract] in accordance with the Conditions of Contract accompanying this Tender for the Contract Price of [amount in numbers], [amount in words] [name of currency].

The Contract shall be paid in the following currencies:

Currency	Percentage payable in currency	Rate of exchange: one foreign equals [insert local]	Inputs for which foreign currency is required
(a)			
(b)			

The advance payment required is:-

Amount	Currency
(a)	
(b)	

We accept the appointment of [name proposed in **Tender Data Sheet**] as the adjudicator.

[or]

We do not accept the appointment of [name proposed in **Tender Data Sheet**] as the Adjudicator, and propose instead that [name] be appointed as Adjudicator, whose daily fees and biographical data are attached.

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.

With reference to ITT Sub-Clause 3.11, it is our intention to subcontract approximately [insert the percent] percentage of the Tender /Contract Price, details of which are provided herein.

Our firm, its affiliates or subsidiaries, including any subcontractors or service providers 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:-

Name and address of agent or recipient	Amount and currency	Purpose of commission or gratuity

*(if none has been paid or is to be paid, state "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: \_\_\_\_\_

Name of Tenderer: \_\_\_\_\_

Address: \_\_\_\_\_

**SCHEDULE OF SUMMARY PRICE PROPOSAL**

Name of activity	Amount in words	Amount in figure
<b>Total amount</b>		

Signed:.....

Name:.....

In the capacity of : .....

Duly authorised to sign the Tender for and on behalf of .....

Date----- day of-----20-----



**PAYMENT SCHEDULE**

<b>Proposed Invoice Submission Date</b>	<b>Proposed Payment Date</b>	<b>Payment Amount (TShs.)</b>
September 2015		
October 2015		
November 2015		
December 2015		
January 2016		
February 2016		
March 2016		
April 2016		
May 2016		
June 2016		
July 2016		
August 2016		
September 2016		
October 2016		
November 2016		
December 2016		
January 2017		
February 2017		
March 2017		
April 2017		
May 2017		
June 2017		
July 2017		
August 2017		
<b>TOTAL</b>		

Signed:.....

Name:.....

In the capacity of : .....

Duly authorised to sign the Tender for and on behalf of .....

Date----- day of-----20-----

[Letterhead paper of the Procuring Entity]

[Date]

### 3.0 Letter of Acceptance

To: *[name and address of the Service provider]*

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

**Note:** Insert one of the 3 options for the second paragraph. The first option should be used if the Tenderer has not objected the name proposed for Adjudicator. The second option if the Tenderer has objected the proposed Adjudicator and proposed a name for a substitute, who was accepted by the Procuring Entity. And the third option if the Tenderer has objected the proposed Adjudicator and proposed a name for a substitute, who was not accepted by the Procuring Entity.

We confirm that *[insert name proposed by Procuring Entity in the Tender Data Sheet]*,

**or**

We accept that *[name proposed by Tenderer]* be appointed as the Adjudicator

**or**

We do not accept that *[name proposed by Tenderer]* be appointed as adjudicator, and by sending a copy of this letter of acceptance to *[insert the name of the Appointing Authority]*, we are hereby requesting *[name]*, the Appointing Authority, to appoint the Adjudicator in accordance with Clause 43 of the Instructions to Tenderers

You are hereby instructed to proceed with the execution of the said Contract for the provision of Services in accordance with the Contract documents.

Please return the attached Contract dully signed

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

Attachment: Contract

## 4.0 Form of Qualification Information

[To establish qualifications to perform the contract the Tenderer shall provide information requested in form below]

### 1. Individual Tenderers or Individual Members of Joint Ventures

#### 1.1 Eligibility

Constitution or legal status of Tenderer: *[attach copy]*

Place of registration: *[insert]*

Principal place of business: *[insert]*

Registration/ Certificate of Incorporation *[attach]*

Current Business License *[attach]*

Conflict of Interest – No conflict of interest in accordance with ITT 3.6 *[should be declared in the Form of Tender]*

Government-owned entity – meet conditions of ITT 3.8 *[Attach legal status]*

#### Experience

- 1.2 Services performed as Service Provider on the services of a similar nature and volume over the last **Three** years.

S/No.	Project Name and Country	Name of Employer and full address	Service Provider Participation	Type of Services Performed	Year	Value of Contract
1.						
2.						
3.						

To comply with this requirement, services cited should be at least 70 per cent complete.

Experience as Service Provider, sub-contractor in at least a **Three** Contracts for the past **Five** years, each with a minimum value of **Tanzania Shillings Five hundred million only (500,000,000/=) per year** that have been successfully and substantially completed and that are similar to the proposed services.

Also list details of services under way or committed, including expected completion dates.

2. S/No.	3. Name of Contract	4. Employer's Contact Address, Tel, Fax	Value of Outstanding Services [Current TZS Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [TZS/month]
1.					
2.					
n-1					
N					

### 1.3

### Equipment and Plants

Major items of Service Provider's Equipment proposed for carrying out the services.

List all information requested below

List all information requested below

S/No.	Item of equipment [PE to list required equipment]	Description, make, and age (years)	Condition (new, good, Poor) and number available	Owned, leased (from whom?) or to be purchased (from whom?)
1.				
2.				
3.				
n-1				
n				

## 1.4

## Personnel

Qualifications and experience of key personnel proposed for administration and execution of the Contract. (CVs of all key proposed key personnel shall be attached)

S/No.	Position [PE to list required key personnel]	Name	Years of Experience (General Experience) [PE to list required Years of Experience]	Years of experience in proposed position [PE to list Years of Experience]
1.				
2.				
3.				
n-1				
n				

## 1.5

## Subcontracting

Proposed sub-contractor and firms involved. Refer to ITT Sub-Clause 3.11 and Clause 7 of General Conditions of Contract

S/No.	Sections of the Services	Value of subcontract	Subcontractor (name and address)	Experience in similar service
1.				
2.				
n-1				
n				

## 1.6

## Average Annual Services Turnover

Minimum average annual services turnover of **Tanzania Shillings One billion two hundred million only (1,200,000,000/=)**, calculated as total certified payments received for contracts in progress and/or completed within the last **Three** years, divided by **Three** years.

Annual turnover data (services only)			
Year	Amount Currency	Exchange Rate	TZS Equivalent
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			
		Average Annual Services Turnover★	

★ Total TZS equipment for all years divided by the number of years.

### 1.7 Financial Situation and Performance

Financial reports for **Three (3)** years . Balance sheets, profit and loss statements, auditors' reports, etc.

**[List below and attach copies.]**

The submitted financial reports must demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long term profitability.

1. Average Coefficient of Current Ratio  $\geq 1.1$
2. Average Coefficient of Debt Ratio  $\leq 0.75$
3. Average Coefficient of Interest Coverage Ratio  $\geq 5.0$
4. Debt Equity Ratio  $\leq 3.0$

Information in this table should be extracted from the financial reports submitted.

Type of Financial information in (TZS)	Historic information for previous (TZS equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
<b>State</b>					
<b>ent of Financial Position (Information from Balance Sheet)</b>					
Total Assets (TA)					
Total Liabilities (TL)					

Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
<b>Information from Income Statement</b>					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
<b>Cash Flow Information</b>					
Cash Flow from Operating Activities					

## 1.8

### Financial Capability

The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the services cash flow requirements estimated as **Tanzania Shillings Five hundred million only (500,000,000/=)** for the subject contract(s) net of the Tenderer other commitments

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total services cash flow demands of the subject contract or contracts.

Source of financing	Amount (TZS Equivalent)
1.	
2.	
3.	
4.	

1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contracted by the Employer.

## 1.10

### Litigation History

Information on current litigation in which the Tenderer is involved.

S/No.	Other party(ies)	Cause of dispute	Amount involved
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1.			
2.			

**1.11 Occupation Health and Safety Policy**

Information regarding Occupation Health and Safety Policy and Safety Record of the Tenderer

**1.12 Proposed Service Programme**

Proposed Program (service method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the tendering documents.

**2. Joint Ventures**

2.1 The information listed in 1.1 – 1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.11 & 1.12 above shall be provided for the joint venture.

## **SECTION IX: FORMS OF SECURITY**

## Form: Tender Security (Bank Guarantee)

[If required, the **Bank/Tenderer** shall fill in this Bank Guarantee form in accordance with the instructions indicated in brackets.]

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[insert bank's name, and address of issuing branch or office]

**Beneficiary:** [insert name and address of Procuring Entity]

**Date:** [insert date]

**TENDER GUARANTEE No.:** [insert number]

We have been informed that [insert name of the Tenderer; if a joint venture, list complete legal names of partners] (hereinafter called "the Tenderer") has submitted to you its Tender dated [insert date] (hereinafter called "the Tender") for the execution of [insert name of Contract] under Invitation for Tenders No. [insert IFT number] ("the IFT").

Furthermore, we understand that, according to your conditions, Tenders must be supported by a Tender Guarantee.

At the request of the Tenderer, we [insert name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures expressed in Tanzania Shillings or the equivalent amount in an international freely convertible currency] ([insert amount in words]) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- (a) has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender; or
- (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT; or
- (c) having been notified of the acceptance of its Tender by the Procuring Entity during the period of Tender validity, (i) fails or refuses to execute the Contract, , or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITT.

This Guarantee shall expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the Contract signed by the Tenderer and of the Performance Security issued to you by the Tenderer; or (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or (ii) twenty-eight (28) days after the expiration of the Tenderer's Tender.

Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.

---

[Signature of authorized representative(s)]

## Form: Tender Securing Declaration

*[The Tenderer shall fill in this Form in accordance with the instructions indicated]*

Date: *[insert **date** (as day, month and year)]*

Tender No.: *[insert **number of tendering process**]*

Alternative No.: *[insert **identification No if this is a Tender for an alternative**]*

To: *[insert **complete name of Procuring Entity**]*

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 Procuring Entity for the period of time as determined by the Authority if we are in breach of our obligation(s) under the tender conditions, because we:

- (a) have withdrawn our Tender during the period of Tender validity specified in the Form of Tender;
- (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT
- (c) having 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, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.

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 (28) days after the expiration of our Tender.

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Tender Securing Declaration]*

Name: *[insert **complete name of person signing the Tender Securing Declaration**]*

Duly authorized to sign the Tender for and on behalf of: *[insert **complete name of Tenderer**]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert **date of signing**]*

Corporate Seal (where appropriate)

*[Note: In case of a Joint Venture, the Tender Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender]*

## Form: Tender Security (Tender Bond)

*[If required, the **Surety/Tenderer** shall fill in this Tender Bond Form in accordance with the instructions indicated in brackets.]*

BOND NO. *[insert Bond number]*

BY THIS BOND *[insert name of Tenderer; if joint venture, insert complete legal names of partners]* as Principal (hereinafter called "the Principal"), and *[insert name, legal title, and address of Surety]*, **authorized to transact business in United Republic of Tanzania**, as Surety (hereinafter called "the Surety"), are held and firmly bound unto *[insert name of Procuring Entity]* as Obligee (hereinafter called "the Procuring Entity") in the sum of *[insert amount in figures expressed in Tanzania Shillings or the equivalent amount in an international freely convertible currency] [insert amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Tender to the Procuring Entity dated the *[number]* day of *[month]*, *[year]*, for the construction of *[insert name of Contract]* (hereinafter called the "Tender").

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (1) withdraws its Tender during the period of Tender validity specified in the Form of Tender; or
- (2) (b) does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT or

having been notified of the acceptance of its Tender by the Procuring Entity during the period of Tender validity; having 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, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT. then the Surety undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation shall remain in full force and affect up to and including the date 28 days after the date of expiration of the Tender validity as stated in the Invitation to Tender or extended by the Procuring Entity at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this *[insert number]* day of *[month]*, *[year]*

Principal: \_\_\_\_\_ Surety: \_\_\_\_\_

Corporate Seal (where appropriate)

\_\_\_\_\_

*[insert signature(s) of authorized representative(s)]*

\_\_\_\_\_

*[insert signature(s) of authorized representative(s)]*

\_\_\_\_\_

[insert printed name and title]

\_\_\_\_\_

[insert printed name and title]

**Form: Performance Bank Guarantee [Unconditional]**

The Unconditional (or "On-Demand") Bank Guarantee has the merit of simplicity and of being universally known and accepted by commercial banks.

To: [name and address of Procuring Entity]

Whereas [name and address of Service Provider] (hereinafter called "the Service Provider") has undertaken, in pursuance of Contract No. [number] dated [date] to execute [name of Contract and brief description of Services] (hereinafter called "the Contract");

And whereas it has been stipulated by you in the said Contract that the Service Provider shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

And whereas we have agreed to give the Service Provider such a Bank Guarantee;

Now therefore we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Service Provider, up to a total of [amount of Guarantee] [amount in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of [amount of Guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Service Provider before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Services to be performed there under or of any of the Contract documents which may be made between you and the Service Provider shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date 28 days from the date of issue of the Certificate of Completion.

Signature and seal of the Guarantor \_\_\_\_\_

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Date

**Form: Bank Guarantee for Advance Payment**

**To:** *[name and address of Employer]*

*[name of Contract]*

**Gentlemen:**

In accordance with the provisions of the General Conditions of Contract, Clause 36 ("Advance Payment") of the above-mentioned Contract, *[name and address of Service Provider]* (hereinafter called "the Service Provider) shall deposit with *[name of Employer]* a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of *[amount of Guarantee]* *[amount in words]*.

We, the *[Bank or Financial, institution]*, as instructed by the Service Provider, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to *[name of Employer]* on his first demand without whatsoever right of objection on our part and without his first claim to the Service Provider, in the amount not exceeding *[amount of Guarantee]* *[amount in words]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between *[name of Employer]* and the Service Provider, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until *[name of Employer]* receives full repayment of the same amount from the Service Provider.

Yours truly,

Signature and seal: \_\_\_\_\_

Name of Bank/Financial Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_



## **SECTION X: FORMS OF INTEGRITY**



## FORMS OF INTEGRITY

[Each tenderer must submit a statement, as part of the tender documents, with the following formats]

### MEMORANDUM (Format 1)

#### ***Regulation 78(2) of the Public Procurement Regulations, 2013 - Government Notice No. 466 of 2013)***

We, [*insert name of company/supplier*], place 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 or facilitate, directly or indirectly, any improper inducement or reward to any public officer their relations or business associates, in connection with its tender, or in the subsequent performance of the contract if it is successful.

We have an Anti-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by our management and employees, as well as by all third parties working with us 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 Program are attached.

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Tenderer: \_\_\_\_\_

Address: \_\_\_\_\_

**MEMORANDUM (Format 2)**

***Regulation 78(2) of the Public Procurement Regulations, 2013 - Government Notice No. 446 of 2013)***

We [*insert name of company/supplier*] has issued, for the purposes of this tender, a Compliance Program copy attached -which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by our management 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, subcontractors and suppliers")"

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Tenderer: \_\_\_\_\_

Address: \_\_\_\_\_