
GOVERNMENT OF GHANA

OFFICE OF THE SENIOR MINISTER

PUBLIC SECTOR REFORM FOR RESULTS PROJECT

CONTRACT DOCUMENT

**Procurement of 2 Units Mid-Range Cross
Country Station Wagons**

Lot 4

GH-OSM-121230-GO-RFB

CALME SPARK LIMITED

PROJECT MANAGEMENT UNIT

MAY, 2020

Contract Agreement

THIS CONTRACT AGREEMENT is made the 11TH day of MAY, 2020.

BETWEEN

- (1) The Office of the Senior Minister of the Government of the Republic of Ghana and having its principal place of business at the Ministries, Accra (hereinafter called "the Purchaser"), and
- (2) Calme Spark Ltd, a corporation incorporated under the laws of Ghana and having its principal place of business at Accra, Ghana (hereinafter called "the Supplier").

WHEREAS the Purchaser invited bids for certain Goods and ancillary services, viz., Supply of 2 units Toyota Fortuners and has accepted a Bid by the Supplier for the supply of those Goods and Services in the sum of **Six Hundred and sixty-three Thousand, Two Hundred Ghana Cedis. (GHC 663,200.00)** (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Agreement
 - (b) Special Conditions of Contract
 - (c) General Conditions of Contract
 - (d) Technical Requirements (including Schedule of Requirements and Technical Specifications)
 - (e) The Supplier's Bid and original Price Schedules
 - (f) The Purchaser's Notification of Award
3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
5. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of the Government of the Republic of Ghana on the day, month and year indicated above.

"Pursuant to section 96(1) of the Public Financial Management Act, 2016 (Act 921), it is an offence to make an unauthorized commitment resulting in a financial obligation for the Government.

I Calme Spark Ltd understand and acknowledge that any unauthorized letter of guarantee or undertaking issued under this contract is unlawful, null and void, and is not legally binding on Government. I understand, acknowledge and agree that any judgment or garnishee order that may be issued in my favour as a result of a breach of this contract shall only be enforceable against OGM, and shall not be enforceable against any other Ministry, Department or Agency of the Government of Ghana that is not a party to this contract.

I understand that 'unauthorized letter of guarantee or undertaking' means one that has not been approved by the Ministry of Finance'.

For and on behalf of the Purchaser

On behalf of the Purchaser

Name: *HACIWA S. AKUBI*

Designation: *Ag chief Director*

Sign: *[Signature]*

11/05/2020

Seal: **AG. CHIEF DIRECTOR
OFFICE OF THE SENIOR MINISTER
OFFICE OF THE PRESIDENT
ACCRA**

On behalf of the Supplier

Name: *Pocun Dedei M.*

Designation: *DIRECTOR*

Sign: *[Signature]*

Seal: **CALME SPARK LTD
P. O. BOX 12345
GREATER ACCRA**

Witnessed By:

Name: *Thomas Kurt Bofo*

Signature: *[Signature]*

Designation: *CEO PSM / PROJECT COORDINATOR*

Date: *11/05/2020*

Witnessed by:

Name: *PAULINA ATIGAH*

Signature: *[Signature]*

Designation: *Sales Personnel*

Date: *11/05/2020*

Section VII. General Conditions of Contract

Table of Clauses

1. Definitions.....	7
2. Contract Documents.....	8
3. Fraud and Corruption.....	8
4. Interpretation.....	9
5. Language.....	10
6. Joint Venture, Consortium or Association.....	11
7. Eligibility	11
8. Notices	11
9. Governing Law	11
10. Settlement of Disputes	11
11. Inspections and Audit by the Bank.....	12
12. Scope of Supply	12
13. Delivery and Documents.....	12
14. Supplier’s Responsibilities.....	13
15. Contract Price.....	13
16. Terms of Payment.....	13
17. Taxes and Duties.....	13
18. Performance Security.....	14
19. Copyright	14
20. Confidential Information	14
21. Subcontracting	15
22. Specifications and Standards	15
23. Packing and Documents.....	16
24. Insurance	16
25. Transportation.....	16
26. Inspections and Tests	17
27. Liquidated Damages	18
28. Warranty	18
29. Patent Indemnity	19
30. Limitation of Liability.....	20
31. Change in Laws and Regulations.....	20
32. Force Majeure	21

33. Change Orders and Contract Amendments.....	21
34. Extensions of Time	22
35. Termination.....	22
36. Assignment	23
37. Export Restriction.....	24

Section VII. General Conditions of Contract

Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “Bank” means the World Bank and refers to the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA).
 - (b) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
 - (c) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
 - (d) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
 - (e) “Day” means calendar day.
 - (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
 - (g) “GCC” means the General Conditions of Contract.
 - (h) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
 - (i) “Purchaser’s Country” is the country specified in the Special Conditions of Contract (SCC).
 - (j) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the SCC.
 - (k) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract.
 - (l) “SCC” means the Special Conditions of Contract.

- (m) “Subcontractor” means any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.
- (n) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
- (o) “The Project Site,” where applicable, means the place named in the SCC.

Contract Documents

- 2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

Fraud and Corruption

- 3.1 If the Purchaser determines that the Supplier and/or any of its personnel, or its agents, or its Subcontractors, consultants, service providers, suppliers and/or their employees has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Purchaser may, after giving 14 days notice to the Supplier, terminate the Supplier's employment under the Contract and cancel the contract, and the provisions of Clause 35 shall apply as if such expulsion had been made under Sub-Clause 35.1.

- (a) For the purposes of this Sub-Clause:

- (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party¹;
- (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party

¹ “Another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

to obtain a financial or other benefit or to avoid an obligation²;

- (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party³;
- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party⁴;
- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under Clause 11 [Inspections and Audits by the Bank].

3.2 Should any employee of the Supplier be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the purchase of the Goods, then that employee shall be removed.

Interpretation

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

² “Party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

³ “Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

⁴ “Party” refers to a participant in the procurement process or contract execution.

- (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
- (b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

4.5 Nonwaiver

- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the

- Purchaser, shall be written in the language specified in the **SCC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.
- Joint Venture, Consortium or Association**
- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.
- Eligibility**
- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract and financed by the Bank shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.
- Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser’s Country, unless otherwise specified in the **SCC**.
- Settlement of Disputes**
- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any

disagreement or dispute arising between them under or in connection with the Contract.

10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC.**

10.3 Notwithstanding any reference to arbitration herein,

(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and

(b) the Purchaser shall pay the Supplier any monies due the Supplier.

**Inspections and
Audit by the
Bank**

11.1 The Supplier shall permit, and shall cause its Subcontractors and consultants to permit, the Bank and/or persons appointed by the Bank to inspect the Supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Bank if requested by the Bank. The Supplier's and its Subcontractors and consultants' attention is drawn to Clause 3 [Fraud and Corruption], which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures).

Scope of Supply

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

**Delivery and
Documents**

13.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the **SCC.**

- Supplier's Responsibilities** 14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.
- Contract Price** 15.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the **SCC**.
- Terms of Payment** 16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.
- 16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.
- 16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the **SCC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- Taxes and Duties** 17.1 For goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country.
- 17.2 For goods Manufactured within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser

shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

**Performance
Security**

- 18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the **SCC**.
- 18.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser; and shall be in one of the format stipulated by the Purchaser in the **SCC**, or in another format acceptable to the Purchaser.
- 18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

Copyright

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party

**Confidential
Information**

- 20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

- 20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:
- (a) the Purchaser or Supplier need to share with the Bank or other institutions participating in the financing of the Contract;
 - (b) now or hereafter enters the public domain through no fault of that party;
 - (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
 - (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.
- 20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

Subcontracting

- 21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.
- 21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

Specifications and Standards

- 22.1 Technical Specifications and Drawings
- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to

the official standards whose application is appropriate to the Goods' country of origin.

- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

Packing and Documents

- 23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the Purchaser.

Insurance

- 24.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

Transportation

- 25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

Inspections and Tests

- 26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Purchaser's Country as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 26.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall

repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 26.4.

26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

**Liquidated
Damages**

27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

Warranty

28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.

28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

Patent Indemnity

29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct

any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.

29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

Limitation of Liability

30.1 Except in cases of criminal negligence or willful misconduct,

(a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and

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

Change in Laws and Regulations

31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the

performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

Force Majeure

32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

32.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**Change Orders and
Contract
Amendments**

33.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier’s performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this

Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

Extensions of Time

34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

Termination

35.1 Termination for Default

(a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:

(i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34;

(ii) if the Supplier fails to perform any other obligation under the Contract; or

(iii) if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.

- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency.

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

35.3 Termination for Convenience.

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
 - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

Assignment

- 36.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

Export Restriction 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser and of the Bank that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.

Section VIII. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

GCC 1.1(j)	The Purchaser's country is: Republic of Ghana
GCC 1.1(k)	The Purchaser is: Project Management Unit, Office of the Senior Minister (Office of the President)
GCC 1.1 (q)	The Project Site(s)/Final Destination(s) is/are: Public Services Commission Building, Ministries, Accra.
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms. If the meaning of any trade term and the rights and obligations of the parties thereunder shall not be as prescribed by Incoterms, they shall be as prescribed by International Chamber of Commerce
GCC 4.2 (b)	The version edition of Incoterms shall be 2010 Edition
GCC 5.1	The language shall be: English
GCC 8.1	For notices , the Purchaser's address shall be: Attention: Mr. Thomas Kusi-Boafo Office of the Senior Minister Annex, Public Sector Reforms, Room No. 112 1st Floor Public Services Commission Building, Private Mail Bag, Stadium Post Office City: Accra Country: Ghana Telephone: +233 24 447 7460 Electronic mail address: kusiboafothomas@gmail.com
GCC 9.1	The governing law shall be the law of: Republic of Ghana
GCC 10.2	The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:

	<p>(a) <i>Contract with foreign Supplier:</i></p> <p>GCC 10.2 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.</p> <p>(b) <i>Contracts with Supplier national of the Purchaser’s country:</i></p> <p>In the case of a dispute between the Purchaser and a Supplier who is a national of the Purchaser’s country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Purchaser’s country.</p>
<p>GCC 13.1</p>	<p>Details of Shipping and other Documents to be furnished by the Supplier are:</p> <p>For Goods supplied from abroad:</p> <p>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by cable the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:</p> <ul style="list-style-type: none"> (i) copies of the Supplier’s invoice showing Goods’ description, quantity, unit price, and total amount; (ii) original and two (2) copies of the negotiable, clean, on-board bill of lading marked “freight prepaid” and two (2) copies of non-negotiable bill of lading; (iii) copies of the packing list identifying contents of each package; (iv) insurance certificate; (v) Manufacturer’s or Supplier’s warranty certificate; (vi) inspection certificate, issued by the nominated inspection agency, and the Supplier’s factory inspection report; and (vii) certificate of origin. <p>The above documents shall be received by the Purchaser at least two (2) weeks before arrival of the Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.</p>

	<p>For Goods from within the Purchaser's country: Upon delivery of the Goods to the transporter, the Supplier shall notify the Purchaser and mail the following documents to the Purchaser:</p> <ul style="list-style-type: none"> (i) copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount; (ii) delivery note, railway receipt, or truck receipt; (iii) Manufacturer's or Supplier's warranty certificate; (iv) inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and (v) certificate of origin. <p>The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p>
<p>GCC 15.2</p>	<p>The prices charged for the Goods supplied and the related Services performed shall not be adjustable.</p> <p>If prices are adjustable, the following method shall be used to calculate the price adjustment: N/A</p>
<p>GCC 16.1</p>	<p>GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>Payment for Goods supplied from abroad: N/A</p> <p>Payment of foreign currency portion shall be made in currency of contract price in the following manner:</p> <ul style="list-style-type: none"> (i) Advance Payment: Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the bidding documents or another form acceptable to the Purchaser. (ii) On Shipment: Eighty (80) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 12. (iii) On Delivery & Acceptance: Ten (10) percent of the Contract Price of Goods delivered and received at the specified locations in Accra shall be paid within thirty (30) days

	<p>upon submission of claim supported by the acceptance certificate issued by the Purchaser.</p> <p>Payment of local currency portion shall be made in Ghana Cedis within thirty (30) days of presentation of claim supported by a certificate from the Purchaser declaring that the Goods have been delivered and that all other contracted Services have been performed.</p> <p>Payment for Goods and Services supplied from within the Purchaser's country:</p> <p>Payment for Goods and Services supplied from within the Purchaser's country shall be made in the currency of the contract price as follows:</p> <p>(i) On Acceptance: Hundred (100) percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the Purchaser on receipt of the Goods and upon submission of the documents specified in GCC Clause 13.</p>
GCC 16.5	<p>The payment-delay period after which the Purchaser shall pay interest to the supplier shall be 60 days.</p> <p>The interest rate that shall be applied is Bank of Ghana base rate plus 2%.</p>
GCC 18.1	<p>A Performance Security shall be required. 30% of Contract Sum from an Insurance Company or 10% from a Commercial Bank.</p>
GCC 18.3	<p>The Performance Security shall be in the form of:</p> <p>A Bank Guarantee: 10% of Contract Price.</p> <p>A Performance Bond: 30% of Contract Price.</p> <p>The Performance security shall be denominated in the currencies of payment of the contract in accordance with the portions in the contract.</p>
GCC 18.4	<p>Discharge of the Performance Security shall take place when the goods are received and accepted by purchaser.</p>
GCC 23.2	<p>The packing, marking and documentation within and outside the packages shall be:</p> <p>Project Management Unit, Office of the Senior Minister, Accra, Ghana.</p>
GCC 24.1	<p>The insurance coverage shall be as specified in the Incoterms.</p>

GCC 25.1	The Supplier is required under the Contract to transport the Goods to a specified place of final destination within the Purchaser's country, defined as the Project Site, transport to such place of destination in the Purchaser's country, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price
GCC 26.1	The inspections and tests shall be conducted for performance and maximum load capacity and landfill equipment and trucks. Predestination Inspection is required.
GCC 26.2	The Inspections and tests shall be conducted at manufacturer's factory and test results submitted to purchaser.
GCC 27.1	The liquidated damage shall be: 0.5% per week
GCC 27.1	The maximum amount of liquidated damages shall be: 2.5% for maximum of 5 weeks delay.
GCC 28.3	<p>The period of validity of the Warranty shall be: valid for thirty six (36) months after the Vehicles have been delivered to and accepted at the final destination indicated in the SCC, or Forty (40) months after the date of shipment or loading in the country of origin, or for 100,000km of driving, whichever period concludes earliest.</p> <p>For purposes of the Warranty, the place(s) of final destination(s) shall be: Office of the Senior Minister Annex, Public Services Commission Building, Ministries, Accra.</p>
GCC 28.5	The period for repair or replacement shall be: 4 weeks

1. List of Goods and Delivery Schedule

Line Item N°	Description of Goods	Quantity	Physical unit	Final Destination as specified in BDS	Delivery (as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date [<i>to be provided by the bidder</i>]
Lot 4	Mid-Range Cross Country Station Wagons	2	No.	As per INCOTERMS at Public Services Commission Building, Ministries, Accra.	30 days	60 days	4 weeks

3. Technical Specifications

LOT 4 (4X4 CROSS COUNTRY STATION WAGON)

Minimum Specifications	
QUANTITY	Two (2)
MAKE	Toyota
MODEL	Fortuner
COUNTRY OF ORIGIN	Japan
OFFERED SPECIFICATIONS	
<p>Principal Features</p> <ul style="list-style-type: none"> - Left- hand drive, power assisted steering - Seating capacity; 7 persons - Diesel engine with maximum output power of (ps/rpm) 120 at 3400 rpm - Max Torque (Kgr/rpm) 343/1600 rpm - GVW: 2715 kg - FM/AM radio/ CD player with auxiliary input/USB, Bluetooth phone connectivity and 6 speakers - 4 Wheel Drive Station wagon - Leather Upholstery - Roof rail - Dual Air Conditioner (Front and Back Controls) - Driver And Passenger Air bags - Side impact beams on all doors - Side step - Front bush guards - Integrated antenna in rear and side glass - Spare tyre mounted on a rear swing door with full tyre cover - Immobilizer with manufacturer installed alarm - Minimum turning radius: 6.2 mm minimum 	
ENGINE	
<ul style="list-style-type: none"> - Diesel engine (4 cylinders) - Tropical water-cooled - The engine shall be equipped with a direct electric starting system, 12 volt, alternator, radiator, water pump, fuel pump, lubricating oil pump, oil filter, dry-type air cleaner - Engine capacity 2982 cc 	

- Turbo/Natural Aspiration
- Fuel tank: 80 litres
- **Maximum Fuel Consumption (Lit/100km)- 8.6 per 100km**

CLUTCH

Heavy duty Single plate, dry disk, hydraulically operated

TRANSMISSION

- Four wheel drive
- Automatic transmission, five forward and one reverse speed transmission, synchromesh-type

Suspension

- Front: Heavy duty suspension with coil spring and double acting, telescopic shock absorbers
- Rear: coil spring

Steering

- Left hand side control
- Power assisted
- Variable Speed Type

Brakes

- Power assisted
- Ventilated disc type- front
- Solid Discs type, rear
- Front and Rear Spat (to reduce tyre pressures)
- Dual hydraulic circuit braking system
- Mechanical parking brake
- ABS with Electronic brake-force distribution (EBD)
- Vehicle stability control (VSC)

Wheel Rims and Tires

- Rim type – Styled Steel
- Rim size: 17’’
- One spare wheel and tyre complete, mounted on a tyre carrier

Chassis

- Four-by-four wheel drive
- Double cabin with seating capacity for 7 passengers (driver and one passenger at front and three passengers at rear)
- single wheels on front and rear axle
- channel section reinforced frame fitted with semi-elliptical springs with double-acting shock absorbers at the front and rear end

Seats

- Two separate seats at front, each individually adjustable
- Bucket type front seats
- Seating Capacity – 7 persons
- Seat material – Heavy duty leather

Accessories

- Keyless entry
- Start button
- speedometer and tachometer
- odometer and trip meter
- power windows
- fuel gauge
- driver & passengers airbag
- water temperature indicator
- head and tail lights, cabin lights, backup lights and indicator lights
- heavy duty Battery = 12 volts
- side rear-view mirrors (2)
- laminated windshield with wipers (2)
- rear metal step bumper with towing attachment
- front tow hook
- dry-type powder fire extinguisher, 1KG capacity
- front-rear automatic air Conditioning system
- Eco driving indicator zone display
- seat belts for both front and back seats
- fuel tank security lock
- lockable glove compartment
- sunvisors – 2
- digital Clock
- Audio multimedia player with –
 1. touch screen front mirror
 2. bluetooth
 3. Aux –usb
 4. Remote audio control (steering wheel mounted)

<p>5. 6 speakers</p> <ul style="list-style-type: none"> - central locking system with alarm - driver assist system with: <ol style="list-style-type: none"> 1. rear view back up camera 2. front camera 3. parking sensors back - side steps - front bush guard bar - closable groove in between front seats - fog lights/lamps - first Aid Kits - Bucket liner, front guard and fibre glass canopy
<p>Tools</p> <ul style="list-style-type: none"> - A set of manufacturer's standard basic tools required with tool box to be supplied with each truck including jack set, wheel spanner
<p>Protection against corrosion Optimum and guaranteed protection is required. Bidder to describe the anti-corrosion treatment process to be provided in respect of body, frame, floor and underbody.</p>
<p>Colour Finish Black</p>
<p>Warranty 3 years or 100,000 km</p>

Inspections and Tests

The following inspections and tests shall be performed: at The Public Services Commission Building at Ministries, Accra.

Pre-Delivery Inspection.