

CONTRACT AGREEMENT

Agreement

Contract Number : NBC-MUST-W-2021/22 - 135

THIS AGREEMENT made the ^{29th} day of, ^{April} 2022., between Malawi University of Science and Technology of Near Ndata Farm, Thyolo, Post Office Box, 5196, Limbe (hereinafter called "the Employer"), of the one part, and China Gansu International Economic and Technical Cooperation Co. Limited, P.O. Box 40381 Lilongwe 4, Malawi (hereinafter called "the Contractor"), of the other part:

WHEREAS the Employer is desirous that the Contractor execute, Construction of a Purpose-Built laboratory Complex at Malawi University of Science and Technology (hereinafter called "the Works") and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein for the sum of, **Fourteen Billion, Two hundred Ninety-Eight Million, Three Hundred Forty-Four Thousand, Nine Hundred Twenty Eight Kwacha. (MK14,298,344,928.00)** (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 Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
 - I. Agreement,
 - II. General Conditions of Contract,
 - III. Special Conditions of Contract,
 - IV. Notification of award of contract
 - V. Notice of Acceptance,
 - VI. Contractor's Bid Submission Sheet,
 - VII. Specifications,
 - VIII. Drawings
 - IX. Bill of Quantities or Activity Schedule, and
any other document listed in the Special Conditions of Contract as forming part of the Contract.
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

Works Contract

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works 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.
5. The Contract Price or such other sum as may be payable shall be paid in Malawi Kwacha.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed in accordance with the law specified in the Special Conditions of Contract on the day, month and year indicated above.

Signed by: A. Malata (for the MUST)

Name: Prof. Address Mauakowa Malata

Position: Vice Chancellor

Witnessed by:

Signature: [Signature]

Name: Alfred Danny Chinombo

Address: P.O. Box 5196 Lilimbe

Position: University Registrar
(For MUST)

Signed by: [Signature]

Name: Mr. Gao Yang

Position: Managing Director

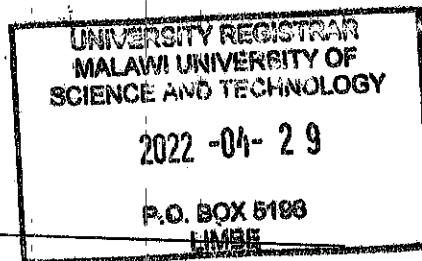
Witnessed by:

Signature: 王新阳

Name: Wang Xinlong

Address: P.O. Box 40381, Lilongwe

Position: Contract Manager
(For the Contractor)



GENERAL CONDITIONS OF CONTRACT

General Conditions of Contract

General

1. Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- 1.2 An "Admeasurement Contract" means a contract based on a priced Bill of Quantities or schedule of unit price rates in which payment to the Contractor is subject to measurement of physical quantities of items by the Employer.
- 1.3 The "Activity Schedule" means the priced Activity Schedule forming part of the Bid for a Lump Sum Contract.
- 1.4 The "Adjudicator" is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Clauses 24 and 25 hereunder.
- 1.5 "Bill of Quantities" means the priced and completed Bill of Quantities forming part of the Bid for an Admeasurement contract.
- 1.6 "Compensation Events" are those defined in Clause 44 hereunder.
- 1.7 The "Completion Date" is the date of completion of the Works as certified by the Project Manager, in accordance with Sub-Clause 55.1.
- 1.8 The "Contract" is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.
- 1.9 The "Contract Price" is the price stated in the Notice of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
- 1.10 "Contractor" means the Supplier appointed under the Contract for the performance of the Works.
- 1.11 "Days" are calendar days; "months" are calendar months.
- 1.12 "Dayworks" are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- 1.13 A "Defect" is any part of the Works not completed in accordance with the Contract.
- 1.14 The "Defects Liability Certificate" is the certificate issued by Project Manager upon correction of defects by the Contractor.
- 1.15 The "Defects Liability Period" is the period named in the Special Conditions of Contract and calculated from the Completion Date.
- 1.16 "Drawings" include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- 1.17 "Employer" means the Procuring Entity who employs the Contractor to carry out

the Works.

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

1.19 The "Initial Contract Price" is the Contract Price listed in the Procuring Entity's Notice of Acceptance.

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

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

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

1.23 The "Procuring Entity" is the party who employs the Supplier to carry out the Works.

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

1.25 A "Security" is any monetary surety required by the Employer to guarantee performance by the Contractor under the Contract.

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

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

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

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

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

1.31 The "Supplier" is a person or corporate body whose Bid to carry out the Works has been accepted by the Procuring Entity.

1.32 The "Contractor's Bid" is the completed bidding document submitted by the Contractor to the Procuring Entity.

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

1.34 A "Variation" is an instruction given by the Project Manager which varies the

Works.

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

2. Interpretation

2.1 In interpreting these General Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these General Conditions of Contract.

2.2 If sectional completion is specified in the Special Conditions of Contract, references in the General Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the following order of priority:

- (1) Agreement,
- (2) Notice of Acceptance,
- (3) Contractor's Bid,
- (4) Special Conditions of Contract,
- (5) General Conditions of Contract,
- (6) Specifications,
- (7) Drawings,
- (8) Bill of Quantities or Activity Schedule, and
- (9) Any other document listed in the Special Conditions of Contract as forming part of the Contract.

3. Language and Law

3.1 The language of the Contract is English and the law governing the Contract is that of Republic of Malawi, unless otherwise specified in the Special Conditions of Contract.

4. Project Manager's Decisions

4.1 Except where otherwise specifically stated and subject to any restrictions in the Special Conditions of Contract, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

5. Delegation

5.1 The Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may cancel any delegation

after notifying the Contractor.

6. Communications

- 6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.

7. Subcontracting

- 7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.

8. Other Suppliers

- 8.1 The Contractor shall cooperate and share the Site with other suppliers, contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Suppliers, as referred to in the Special Conditions of Contract. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Suppliers, and shall notify the Contractor of any such modification.

9. Personnel

- 9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the Special Conditions of Contract, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.
- 9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven (7) days and has no further connection with the work in the Contract.

10. Employer's and Contractor's Risks

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

11. Employer's Risks

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

- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
- 12. *use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works, or*
 - 13. *negligence, breach of statutory duty, or interference with any legal right by*

the Employer or by any person employed by or contracted to him except the Contractor.

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

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

- (a) a Defect which existed on the Completion Date,
- (b) an event occurring before the Completion Date, which was not itself an Employer's risk, or
- (c) the activities of the Contractor on the Site after the Completion Date.

14. Contractor's Risks

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

15. Insurance

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

- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.

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

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

15.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.

15.5 Both parties shall comply with any conditions of the insurance policies.

16. Site Investigation Reports

16.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the Special Conditions of Contract, supplemented by any information available to the Bidder.

17. Queries about the Special Conditions of Contract

17.1 The Project Manager will clarify queries on the Special Conditions of Contract.

18. Contractor to Construct the Works

18.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

19. The Works to Be Completed by the Intended Completion Date

19.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Programme submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

20. Approval by the Project Manager

20.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.

20.2 The Contractor shall be responsible for design of Temporary Works.

20.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

20.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

20.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.

21. Safety

21.1 The Contractor shall be responsible for the safety of all activities on the Site.

22. Discoveries

22.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

23. Possession of the Site

23.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Special Conditions of Contract, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

24. Access to the Site

24.1 The Contractor shall allow the Project Manager and any person authorised by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

25. Instructions

25.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.

26. Disputes

26.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within fourteen (14) days of the notification of the Project Manager's decision.

27. Procedure for Disputes

27.1 The Adjudicator shall give a decision in writing within twenty-eight (28) days of receipt of a notification of a dispute.

27.2 The Adjudicator shall be paid by the hour at the rate specified in the Bid Data Sheet and Special Conditions of Contract, together with reimbursable expenses of the types specified in the Special Conditions of Contract, and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within twenty-eight (28) days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above twenty-eight (28) days, the Adjudicator's decision will be final and binding.

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

28. Replacement of Adjudicator

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

Time Control

29. Programme

- 29.1 Within the time stated in the Special Conditions of Contract, the Contractor shall submit to the Project Manager for approval a Programme showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 29.2 An update of the Programme shall be a programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 29.3 The Contractor shall submit to the Project Manager for approval an updated Programme at intervals no longer than the period stated in the Special Conditions of Contract. If the Contractor does not submit an updated Programme within this period, the Project Manager may withhold the amount stated in the Special Conditions of Contract from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Programme has been submitted.
- 29.4 The Project Manager's approval of the Programme shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time. A revised Programme shall show the effect of Variations and Compensation Events.

30. Extension of the Intended Completion Date

- 30.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 30.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within twenty-one (21) days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

31. Acceleration

- 31.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 31.2 If the Contractor's priced proposals for an acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.

32. Delays Ordered by the Project Manager

- 32.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

33. Management Meetings

- 33.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 33.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

34. Early Warning

- 34.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 34.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

Quality Control

35. Identifying Defects

- 35.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

36. Tests

- 36.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

37. Correction of Defects

- 37.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Special Conditions of Contract. The Defects Liability Period shall be extended for as long as

Defects remain to be corrected.

37.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

38. Uncorrected Defects

38.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will be liable for this amount. The amount will be deducted from current and future payment certificates, or paid by the Contractor if insufficient funds are due under the contract.

Cost Control

39. Bill of Quantities or Activity Schedule

39.1 This Contract is:

- (a) An Admeasurement Contract with a Bill of Quantities, subject to Option 1; or
- (b) A Lump Sum Contract with an Activity Schedule, subject to Option 2,
- (c) as indicated in the Special Conditions of Contract.

Option 1: Bill of Quantities for Admeasurement Contract

39.2 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.

39.3 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

Option 2: Activity Schedule for Lump Sum Contract

39.4 The Contractor shall provide updated Activity Schedules within fourteen (14) days of being instructed to by the Project Manager. The activities on the Activity Schedule shall be co-ordinated with the activities on the Programme.

39.5 The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately.

40. Change in the Bill of Quantities or Activity Schedule

Option 1: Changes in the Bill of Quantities for Admeasurement Contracts

40.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than twenty-five (25) percent, provided the change exceeds one (1) percent of the Initial Contract Price, the Project Manager shall adjust the rate or price to allow for the change.

40.2 The Project Manager shall not adjust rates or prices from changes in quantities if thereby the Initial Contract Price is exceeded by more than five (5) percent, except with the prior approval of the Employer.

40.3 If requested by the Project Manager, the Contractor shall provide the Project Manager

with a detailed cost breakdown of any rate in the Bill of Quantities.

Option 2: Changes in the Activity Schedule for Lump Sum Contracts

40.4 The Activity Schedule shall be amended by the Contractor to accommodate changes of Programme or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

41. Variations

41.1 All Variations shall be included in updated Programmes (or in the case of Lump Sum Contracts in updated Programmes and Activity Schedules) produced by the Contractor.

42. Payment for Variations

42.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

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

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

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

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

43. Cash Flow Forecasts

43.1 When the Programme (or in the case of Lump Sum Contracts the Programme or Activity Schedule) is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

44. Payment Certificates

44.1 The Contractor shall submit to the Project Manager monthly statements of the estimated

value of the work executed and materials on site less the cumulative amount certified previously.

44.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

44.3 The value of work executed and materials on site shall be determined by the Project Manager.

44.4 The value of work executed and materials on site shall comprise the value of:

(a) the quantities of the items in the Bill of Quantities completed in the case of Admeasurement Contracts; or

(b) completed activities in the Activity Schedule in the case of Lump Sum Contracts.

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

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

45. Payments

45.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within forty-five (45) days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

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

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

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

46. Compensation Events

46.1 The following shall be Compensation Events:

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

(b) The Employer modifies the Schedule of Other Suppliers in a way that affects the work of the Contractor under the Contract.

(c) The Project Manager orders a delay or does not issue Drawings, Specifications, or

instructions required for execution of the Works on time.

- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Notice of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other Suppliers, contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The adverse effects on the Contractor of any of the Employer's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion beyond a period of thirty (30) days.
- (l) Other Compensation Events described in the Special Conditions of Contract or determined by the Project Manager shall apply.

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

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

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

47. Tax

47.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date twenty-eight (28) days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 47.

48. Currencies

- 48.1 Where payments are made in currencies other than Malawi Kwacha, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

49. Price Adjustment

- 49.1 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Special Conditions of Contract. 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:

$$P_c = A_c + B_c I_{mc}/I_{oc}$$

where:

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

A_c and B_c are coefficients specified in the Special Conditions of Contract, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency "c"; and

I_{mc} is the index prevailing at the end of the month being invoiced and I_{oc} is the index prevailing twenty-eight (28) days before Bid opening for inputs payable; both in the specific currency "c".

- 49.2 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.

50. Retention

- 50.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the Special Conditions of Contract until Completion of the whole of the Works.
- 50.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.
- 50.3 On completion of the whole Works, the Contractor may substitute retention money with an "on demand" Bank guarantee.

51. Liquidated Damages

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

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

52. Bonus

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

53. Advance Payment

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

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

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

54. Securities

54.1 The Performance Security shall be provided to the Employer no later than twenty-one (21) days after receipt of the Notice of Acceptance and shall be issued in the form of a Bank Guarantee in the format specified in the contract and in an amount specified in the Special Conditions of Contract and by a bank acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security (Bank Guarantee) shall be valid until a date twenty-eight (28) days from the date of issue of the Certificate of Completion.

55. Dayworks

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

55.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two (2) days of the work being done.

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

56. Cost of Repairs

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

Completion of the Contract

57. Completion

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

58. Taking Over

58.1 The Employer shall take over the Site and the Works within seven (7) days of the Project Manager's issuing a Certificate of Completion.

59. Final Account

59.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within sixty (60) days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within sixty (60) days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

60. Operating and Maintenance Manuals

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

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

61. Termination

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

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

- (a) the Contractor stops work for twenty-eight (28) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorised by the Project Manager;
- (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within twenty-eight (28) days;
- (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within ninety (90) days of the date of the Project Manager's certificate;
- (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (f) the Contractor does not maintain a Security, which is required;
- (g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the Special Conditions of Contract; and
- (h) if the Contractor, in the judgment of the Employer has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing the Contract.

61.3 For the purpose of this paragraph:

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

61.5 "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract;

61.6 "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Employer, designed to establish prices at artificial, noncompetitive levels; and

61.7 "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

61.8 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 59.2 above, the Project

Manager shall decide whether the breach is fundamental or not.

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

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

62. Payment upon Termination

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

62.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

63. Property

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

64. Force Majeure

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

64.2 If a Force Majeure situation arises, the Contractor shall promptly notify the Employer in writing of such condition and the cause thereof. Unless otherwise directed by the Employer in writing, the Contractor 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.

64.3 The Contractor shall not be liable for forfeiture of its performance security or retention monies held, 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.

65. Release from Performance

65.1 If the Contract is frustrated by an event of Force Majeure or by any other event entirely

Works Contract

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

SPECIAL CONDITIONS OF CONTRACT

Works Contract

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

GCC Clause Reference	Special Conditions
GCC 1.8	The name of the Contract is: CONSTRUCTION OF PURPOSE-BUILT LABORATORY COMPLEX FOR MALAWI UNIVERSITY OF SCIENCE AND TECHNOLOGY (MUST)
GCC 1.15 and GCC 35.1	Procurement Reference No. of the Contract is: ICB-MUST-W-2021/22-135 Defects Liability Period is: 365 calendar days.
GCC 17	The Procuring Entity or Employer is: MALAWI UNIVERSITY OF SCIENCE AND TECHNOLOGY (MUST)
GCC 1.20	The Intended Completion Date for the whole of the Works shall be: To be agreed
GCC 1.24	The Project Manager is: Joint-Venture of Arch Art Lab architects & RUO Consultants
GCC 1.26	The Site is located at: MALAWI UNIVERSITY OF SCIENCE AND TECHNOLOGY (MUST) NEAR NDATA FARM, THYOLO
GCC 1.29	The intended Start Date shall be: 10th January 2022
GCC 1.35	The Works consist of: Construction of : <ul style="list-style-type: none"> (a) 3-Level Main Laboratory Building (b) 2-Level Workshops, 2No. (c) 1-Level Music Studio (d) Specialist items (Refer to BQ7) (e) Associated External Works (including (but not limited to) roads, car parks and pavements, covered walkway, sewerage, stormwater drainage, elevated water tank, utility connections, re-routing of existing services, landscaping, etc) Sectional completion: Not applicable

Works Contract

GCC Clause Reference	Special Conditions
GCC 2.3 (9)	<p>The following documents also form part of the Contract:</p> <ul style="list-style-type: none"> • Employer's Notification to the Contractor of award of contract; and acceptance by the Contractor • Minutes of Contract Negotiations • Programme of Works • Performance Bond • Advance Working Capital Bond • Contractor's all risks insurance • Corrected Bid Submission Form • Contractor's key personnel
GCC 3.1	<p>The language of the Contract is English (UK) and the law governing the Contract is that of the Republic of Malawi.</p>
GCC 4.1	<p>The Employer's specific approval is required for:</p> <ul style="list-style-type: none"> a) Any new Variations or Compensation Events or Measurements which together with previously approved Variations and Compensation Events and Measurements, would result in the consumption of the Contingency sum of more than MWK 50 million b) individual Variations (GCC Clauses 39 and 40) or Compensation Events (GCC Clause 44) or Measurements (GCC Clause 38) which would result in an increase to the Initial Contract Price of MWK 1 million
GCC 8.1	<p>The Schedule of Other Suppliers is not part of the Contract</p>
GCC 9.1	<p>The Schedule of Key Personnel is part of the Contract</p>
GCC 13.1	<p>The minimum insurance cover (obtained from an approved insurance company in Malawi) and deductibles shall be:</p> <ul style="list-style-type: none"> (a) The minimum cover for insurance of the Works, Plant and Materials is: MWK 900 million (b) The maximum deductible for insurance of the Works, Plant and Materials is: MWK 200 million (c) The minimum cover for insurance of Equipment is: MWK 30 million

Works Contract

GCC Clause Reference	Special Conditions
	<p>(d) The maximum deductible for insurance of Equipment is: MWK 10 million</p> <p>(e) The minimum cover for insurance of property is: MWK 115 million</p> <p>(f) The maximum deductible for insurance of property is: MWK 10 million</p> <p>(g) The minimum cover for personal injury or death insurance: MWK 225 million with no deductible.</p>
GCC 16.1	Site Investigation Report(s) are not part of the contract .
GCC 23.1	The Intended Site Possession Date shall be: 10th January 2022 .
GCC 27.2	Fees and types of reimbursable expenses to be paid to the Adjudicator are: To be agreed with the Adjudicator, Employer and Contractor.
GCC 27.3	<p>The institution whose arbitration procedures shall be used is: National Construction Industry Council (N.C.I.C.).</p> <p>Arbitration shall take place at: To be agreed.</p>
GCC 28.1	The Appointing Authority for the Adjudicator is: N.C.I.C.
GCC 29.1	The Contractor shall submit a revised Programme for the Works within twenty-one (21) days of delivery of the Notice of Acceptance.
GCC 29.3	<p>The period between Programme updates is twenty-eight (28) days.</p> <p>The amount to be withheld for late submission of an updated Programme is: MWK 500 thousand</p>
GCC 39.1 and GCC 39.2	This Contract is an Admeasurement Contract with a Bill of Quantities, subject to Option 1.
GCC 43.1	The rate of interest for late payments shall be: Simple interest on commercial bank base rate (excluding advance payment)

Works Contract

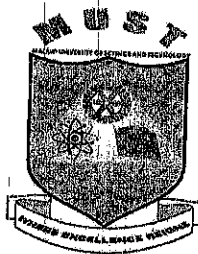
GCC Clause Reference	Special Conditions
GCC 46.1(i)	The following events shall also be Compensation Events: Not Applicable (N/A)
GCC 49.1	<p>The Contract sum is subject to annual price adjustment, if there is a double-digit movement on the existing inflation rate bench marked 28 days before the bid opening date.</p> $P_c = A_c + B_c I_{mc}/I_{oc}$ <p>where:</p> <p>P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency "c".</p> <p>A_c and B_c are coefficients specified in the Special Conditions of Contract, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency "c"; and</p> <p>I_{mc} is the index prevailing at the end of the month being invoiced and I_{oc} is the index prevailing twenty-eight (28) days before Bid opening for inputs payable; both in the specific currency "c".</p>
GCC 50.1	<p>The proportion of payments to be retained on each Interim Payment Certificate is 5%.</p> <p>The limit of Retention Money is: 5%</p>
GCC 51.1	<p>The rate per day for liquidated damages is 0.1 percent of the final Contract Price per day.</p> <p>The maximum amount of liquidated damages for the whole of the Works is 10% of the final Contract Price.</p>
GCC 52.1	<p>The Bonus for the whole of the Works is zero percent (0%) of the final contract Price.</p> <p>The maximum Bonus for the whole of the Works is zero percent (0%) of the final contract Price.</p>
GCC 53.1	<p>The Advance Payment will be equivalent to 20% of the Contract Price and will be paid in the same currencies and proportions as the Contract Price. It will be paid to the Contractor no later than 45 days after issuing the Advance Working Capital bond.</p>
GCC 53.3	<p>The Advance Payment shall be repaid by deducting a proportion of the Advance over the contract amount on the certified value of works</p>

Works Contract

GCC Clause Reference	Special Conditions
GCC 54.1	The Performance Security shall be for 5 percent of the Contract Price.
GCC 60.1	The date by which operating and maintenance manuals are required is: 28 days before date of completion. The date by which "as built" drawings are required is: 28 days before date of completion.
GCC 60.2	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required is: MWK 250,000.00 per day.

NOTIFICATION OF AWARD

All correspondence to be addressed to:
The University Registrar
registrar@must.ac.mw
achinombo@must.ac.mw
Telephone: 01478000



Malawi University of Science and
Technology
P.O. Box 5196
Limbe
Malawi

OFFICE OF THE UNIVERSITY REGISTRAR

Our Ref: 1/2/13/6

4th February, 2022

The Managing Director,
China Gansu International Economic and Technical Cooperation Ltd
P.O. Box 40381
Lilongwe 4
Malawi

Dear Sir,

INTENTION FOR AWARD OF CONTRACT FOR THE CONSTRUCTION OF A PURPOSE-BUILT LABORATORY COMPLEX PRN: ICB-MUST-W-2021/22-135

Following the submission of your bid for the Construction of a Purpose-Built Laboratory Complex at Malawi University of Science and Technology (MUST), I am pleased to inform you that your bid was successful, and we intend to award you the contract subject to successful contract negotiations.

Therefore, we would like to invite you to a contract negotiation meeting on **Thursday, 10th March 2022 at MUST Campus from 10:00 AM**. This meeting may lead to the final award and signing of the contract. Find attached a proposed agenda for the meeting for your review.

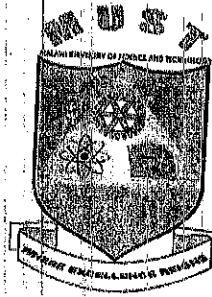
We would be grateful if you could confirm with us in writing your willingness to enter into the captioned contract.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Alfred Danny Chinombo', is written over a horizontal line.

Alfred Danny Chinombo
UNIVERSITY REGISTRAR

ACCEPTANCE LETTER



MALAWI UNIVERSITY OF SCIENCE AND TECHNOLOGY

MINUTES OF PRE-CONTRACT NEGOTIATION MEETING FOR CONSTRUCTION OF PURPOSE-BUILT LABORATORY COMPLEX BETWEEN MUST AND CHINA GANSU INTERNATIONAL ECONOMIC AND TECHNICAL COOPERATION COMPANY LIMITED(CGICOP) HELD AT MUST IN ROOM 95, ON 15TH MARCH, 2022

Present:	Prof. Wilson Mandala	- Executive Dean – AMS, Chairman, MUST
	Mr. Macdonald Hudge	- Director of Finance & Investment, MUST
	Mr. Chiyembekezo Tewete	- Procurement Manager, MUST, Secretary
	Mr. Dan Gareta	- Chief Economist, Ministry of Finance & Economic Affairs
	Mr. Charles Makamo.	- Estates Development Manager, MUST
	MR. Gao Yang	- Managing Director, CGICOP
	Mr. Xinlong Wang	- Project manager, CGICOP
	Mr. Zhuo Qin Tay	- Site Agent, CGICOP
	Mr. Denis Lin	- Project Translator, CGICOP
	Sylvia Chigamba	- QS, CGICOP
	Robert Jambo	- Environmental Safe guards Specialist, CGICOP.
	Twambie Mwambembe	- Assistant Quantity Savayour G.M. Consultants
	Gladson Msyali	- QS G.M. Consultants
	Steve Musopole	- Team leader – Arch Art Lab.
	Gerard Luhanga	- Engineer, Ruo Consultants.

MINUTE

1.0 OPENING REMARKS

01/01/2022

The meeting opened with a prayer by Prof. Wilson Mandala.

01/02/2022

The Chairperson congratulated CGICOP for winning the contract to construct a Purpose-Built Laboratory Complex at MUST

2.0 ADOPTION OF THE AGENDA

01/03/2022

After self-introductions, the agenda of the meeting was adopted.

3.0 CONTRACT DETAILS AND BACKGROUND

01/04/2022.

The Chairperson gave an overview of the Project and confirmed that the project name is construction of a Purpose-Built Laboratory Complex at MUST. The meeting further agreed that the Contract price after the evaluation exercise was **MK14,298,344,928.00**.

01/05/2022

The Project Consultant **informed** the meeting that the scope of works for the laboratory complex involves construction of 4 buildings as follows; the Main laboratory which comprises a 3-level building, 2 workshops with 2-level buildings, a music Studio with 1 level, specialist items as per BOQ 7 and Associated External Works (including (but not limited to) roads, car parks and pavements, covered walkway, sewerage, stormwater drainage, elevated water tank, utility connections, re-routing of existing services, landscaping, etc).

01/06/2022

The Meeting was **informed** that the consultant for the project was Arch-Art-Lab. It was agreed that the consultant will hand over the project drawings to the contractor on 22nd March 2022. It was further **agreed** that the drawings will guide the contractor to draw-up an updated schedule of activities and the mobilization plan.

01/07/2022

Due to the nature and complexity of the project the meeting **agreed** on a mobilization period of **5 weeks starting from 22nd March 2022 to 19th April, 2022**. In addition, it was also agreed that within the mobilization period the draft contract shall be cleared with Government Contracting Unit (GCU) for signing.

01/08/2022

It was **agreed** that the contract will commence on **28th April 2022** and the expected completion date shall be **27th April, 2024**, (3years). The commencement date was agreed to allow for mobilization and signing of the contract.

01/09/2022

For a start, the Contractor will resubmit an updated program/schedule of works based on the agreed contract commencement dates and completion date. The meeting also agreed that dates could be adjusted in the course of the project period when there are valid and justifiable reasons. The meeting agreed that the Contractor will submit the updated schedule of works on **29th March 2022**, when a technical meeting shall be held on site.

01/10/2022

The meeting **learned** that the contractor has had discussions with subcontractors. It was further explained that the works which will be subcontracted exceed the required 30%. The contractor provided names of the subcontractors as follows; For electrical works; Sharma Electrical company, Powermec Electrical company, Ufulu Electrical company, for steel works; PYH and for land scaping, Puchec landscapers. The meeting **agreed** that the all subcontractors involved shall be registered by NCIC and shall provide valid certificates.

4.0 CONTRACT SCHEDULES AND SECURITIES

01/11/2022

The meeting **agreed** that the contractor will be paid an advance payment equivalent to 20% of the contract price, in this case MK2,859,668,985.60, on the condition that the contractor shall provide MUST with an advance payment bond from a reputable financial institution preferably a local commercial bank. It was further agreed that the payment shall be made 45 days after submission of a certificate.

01/12/2022

The Meeting **agreed** that the contractor shall provide a Performance Bond equivalent to 5% of the contract price soon after signing the contract.

01/13/2022

The Meeting **agreed** that the contractor shall provide an all-works insurance obtained from an approved Insurance Company in Malawi and deductibles as (as stipulated in the bidding document) as follows.

- I. The minimum cover for insurance of the Works, Plant and Materials: **MWK 900 million**
- II. The maximum deductible for insurance of the Works, Plant and Materials is: **MWK 200 million**
- III. The minimum cover for insurance of Equipment is: **MWK 30 million**
- IV. The maximum deductible for insurance of Equipment is: **MWK 10 million**
- V. The minimum cover for insurance of property is: **MWK 115 million**
- VI. The maximum deductible for insurance of property is: **MWK 10 million**
- VII. The minimum cover for personal injury or death insurance: **MWK 225 million** with no deductible.

01/14/2022

The meeting **agreed** that MUST shall retain 5% of the certificate amount on every certificate submitted by the contractor.

01/15/2022

The Meeting **agreed** that the defects liability period shall be for 18-month and that the Contractor shall remain liable for any structural defects that may occur on the infrastructure within five years of completion. In addition, the contractor shall be called to assess the defects and repair at their cost over the 5 years.

01/16/2022

It was also **agreed** that the contractor shall prepare Valuation Certificates every month for the review and approval by the consultant. It was further **agreed** that Valuation Certificate shall be paid within 45 days from the date of submission.

5.0 CONTRACTOR'S TEAM/CLIENTS TEAM

01/17/2022

The Contractor **confirmed** to maintain the project team that was stipulated in the bidding document, with the addition to the team of an Environmental Safe guards' Specialist.

01/18/2022

The meeting was informed that from the clients side the team will comprise the following:

1. Project manager – Steve Musopole – Team leader -Ark-Art-Lab, Consultants
2. Structural Engineer – Mr. Luhanga
3. Mechanical Engineer – Nalawe PhD
4. Electrical Engineer –Patrick Gopani.
5. Quantity Surveyor – Mr. Mvula
6. Landscape Architect – Davie Chitedze
7. Resident Engineer – Mr. Dan Gumbo.

6.0 COMMUNICATION AND REPORTING

01/19/2022

The meeting agreed that all communication will be forwarded to the University Registrar for the attention of Mr. Charles Makamo through the Consultant. Communication to the Contract will be forwarded to Mr. Gao the Managing Director for China Gansu limited. It was further agreed that communication shall be by email and confirmed by a physical copy (submitted in person) of each communication.

7.0 MEETING

01/20/2022

The meeting agreed that the consultant will provide a schedule for meetings to held in the course of the construction works within seven days from 15th March, 2022. It was Further agreed that when meetings are held the consultant will be responsible for producing minutes within 7 days from the day of meeting.

01/21/2022

The meeting agreed that the contractor shall produce monthly progress reports for the consultant who will compile the project monthly reports to the client.

10.0 CLOSING REMARKS

01/23/2020

The Chairman thanked all members for their contributions and the meeting was closed with a prayer by Mr. Dan Gareta.

I certify that these minutes are a true and accurate record of issues that were discussed and agreed at the meeting.

Professor Wilson Mandala (Chairman)

Mr. M. Hudge – (MUST).

Steve Musopole (Arch-Art-Lab) Team leader

Gao Yang (CGICOP) Managing Director

Charles Makamo (MUST).

Chiyembekezo Tewete (MUST) Secretary