

S U P P L Y & D E L I V E R Y A G R E E M E N T

This Framework Agreement made and entered into this 18th day of May A. D. 2020, by and between the Ministry of Health, Republic of Liberia through the Covid-19 Incident Management System (party of the first part, hereinafter known and referred to as the "MINISTRY") represented by the Minister/IMS Chair Dr. Wilhelmina S. Jallah, and **DCL Laboratory Supply Limited**, a business firm organized and existing under the laws of Liberia with principal offices at 13th Street, Sinkor, Monrovia, Liberia, represented by its **Country Director, Ntiwunka E. Modestus** (hereinafter referred to as the "Supplier"); collectively, the Ministry and the Supplier shall hereinafter be referred to as the "Parties"; and

WITNESSETH:

WHEREAS, The Ministry is charged under Chapter 39 of the amended Executive Law of 1972 with administering government activities pertaining to the protection and improvement of public health;

WHEREAS, the Supplier is a Liberian registered entity;

WHEREAS, there is an outbreak of Corona virus (Covid-19) pandemic in Liberia and the world at large;

WHEREAS, in its fight against the said COVID-19, the Republic of Liberia, through the Ministry/IMS, is in need of medical & laboratory equipment (hereinafter "the supplies") to be distributed to all facilities that are treating Covid-19 patients;

WHEREAS, following a national competitive bidding in keeping with the Amended and Restated Public Procurement Concession Act of 2010, the Supplier emerged the most responsive and acceptable bidder; the Supplier accepts the Ministry's offer and warrants to the Ministry that it is in the business of distributing medical and laboratory supplies on the Liberian Market and has a business registration and valid license required under applicable laws;

NOW, THEREFORE, in consideration of their mutual interests, promises, warranties and covenants set forth herein, the parties hereto, intending to be legally bound, hereby agree as follows:

SECTION 1. DEFINITION.

In the context of this Agreement, the following words shall have the meaning given hereinafter:

"AGREEMENT" means this supply contract including its recitals, substantive clauses, and any appendices, the provision of which are an integral part thereof;

"AUTHORIZED REPRESENTATIVE" means an employee of the Ministry with written approval from the Ministry to receive Supplies on its behalf.

"CONTRACT PERIOD" means the term of this Agreement as described in Section 2;

"DELIVERY" means the physical delivery of medical and laboratory equipment purchased at the place designated in the order as described in Section 3;

"ORDER" means any written order for product issued by the Ministry including by e-mail and confirmed in writing by the Supplier in accordance with and pursuant to the Agreement;

"PARTIES" means the Supplier and the Ministry, including their successors, permitted assignees and permitted transferees, a **"Party"** means any one of them;

"SUPPLIES" means the medical and laboratory equipment.

SECTION 2. TERM OF THE SERVICE.

The service of the Supplier under this Agreement shall commence on the 18th day of May A.D. 2020 and shall continue until Covid-19 is declared over by the WHO or until terminated in writing by either party in keeping with sections 7 & 9 below. Notwithstanding any such termination date, the Agreement may remain active one month after the termination date to cover for vouchers committed on or before such termination date but remained unpaid as of the termination date. Provided however that any performance beyond the termination date shall not be construed as a renewal of the contract; renewal shall only be done by written agreement of the Parties.

SECTION 3. SUPPLY DELIVERY

A. The Ministry shall:

1. Obtain appropriation/allotment or Cash to purchase supplies from Supplier;
2. Issue in favor of the Supplier, a purchase order, in keeping with bid/quoted prices, attached with allotments and proforma invoices and other complementary documents to cover the exact quantity of medical and laboratory supplies under request from the Supplier;
3. Submit under receipt from the Supplier, the Supplier's copy of the committed purchase order, after which, the Warehouse of the Ministry, shall take delivery from the Supplier, the exact quantity and monetary value of the medical and laboratory supplies committed on the purchase order and sign the delivery notes of the Supplier;
4. Issue in favor of the Supplier, check(s) covering the monetary value of the committed purchase order, against which are attached, the processing copy(ies) of the committed purchase order(s) and delivery note(s) for medical and laboratory supplies supplied in addition to other complementary documents;

B. The Supplier shall:

1. Furnish the Ministry on demand with rates for medical and laboratory supplies in keeping with quoted bid prices;
2. Issue pro-forma invoices detailing quantity and monetary value of medical and laboratory supplies as requested by the Ministry;
3. Receive copies of committed purchase order from the Procurement Unit of the Ministry, and supply immediately thereafter, the exact quantity and monetary value of medical and laboratory supplies committed on the purchase order in its favor;
4. Ensure that the aforesaid medical and laboratory supplies are delivered to the Ware House Director of the Ministry and obtain delivery notes thereafter;

5. Ensure that the original copies of the aforesaid delivery notes are submitted to the OFM to be attached to voucher payable to the Supplier;
6. Ensure receipts of copies of the transactional documents the Ministry shall issue in its favor to cover the exact quantities and monetary values of medical and laboratory supplies supplied thereunder;
7. Ensure that the Ministry shall be supplied medical and laboratory equipment equaled to dollar value of invoice amounts;
8. Ensure that its stock of medical and laboratory supplies shall meet the Ministry's demand.

C. The Parties shall:

1. engage in the purchase of and payment for medical and laboratory equipment using other complementary procurement and payment methods not set forth in Section 3A & B, but which may be adopted pursuant to the Public Procurement and Concession Act of 2010 and the Public Financial Management Act of Liberia and any amendments thereafter.
2. Nothing in this Agreement establishes monopoly or right of exclusivity as regards the purchase or supply of the subject medical and laboratory equipment contemplated herein.

3.2. Contract Documents

This document and all annexes hereto together with the following named documents which are incorporated herein by reference constitute the entire contract (herein referred to as the "this contract" or "this Agreement" between the Ministry and the Supplier.

The Contract documents are taken as complementary of one another, but in case of ambiguities discrepancies or inconsistencies among them, the contract shall be interpreted on the basis of the following order of priority:

1. this Contract;
2. the Ministry's request for Proposal or bid documents (Annex I)
3. the Suppliers Bid or proposal (Annex II)
4. the Ministry Procurement Committee's evaluation report (Annex III)

SECTION 4. PRICE PAYMENT & TAX

4.1. The contract will be executed on a drawdown basis. The IMS will place orders and be subsequently invoiced by the Supplier as per prices in the bid document.

4.2. The Supplier shall be responsible to pay all lawful taxes in connection with the price(s) associated with this contract.

SECTION 5. WARRANTY

The Supplier warrants that the supplies to be supplied to the Ministry under this agreement shall:

- a) Be of merchantable quality;
- b) Be free from defects;
- c) Be fit for the intended purpose;
- d) Meet the needs of the Ministry as set out in the Ministry's tender for

the supply and delivery of medical and laboratory supplies.

6. DISPUTE SETTLEMENT

In case of any dispute arising out of or relating to this Agreement, the Party raising the dispute shall first serve Notice on the other Party setting forth a description of the dispute and requesting that the Parties meet to negotiate an amicable settlement. Failing an amicable settlement, all disputes arising from this agreement or related to it shall be finally settled in accordance with the arbitration procedures as prescribed by the Civil Procedure Law of the Republic of Liberia.

SECTION 7. RECIPROCAL RIGHTS CLAUSE

Should it occur that either Party fails to perform one or more of the obligations devolving upon it by virtue of this agreement; the other Party may terminate this agreement after official notice has been issued in accordance with Section 9. The non-performing Party shall have ten (10) days from receipt of notice to cure, following which the non-breaching Party may terminate the agreement without further notice to the other Parties. Each Party shall remain liable for all obligations accruing up to the date of termination.

SECTION 8. FORCE MAJEURE

It is also agreed and understood by the Parties hereto that in the event of hostilities including civil disturbances, natural disaster, or other acts of God beyond the control of either Party that renders performance under this contract impossible, the Party unable to perform shall give notice in writing to the other Party as soon as practicable upon the occurrence. Thereafter, the obligations of the Parties shall be suspended until the force majeure is cured but for no longer than 60 days. The Party giving such notice shall, as far as practicable, remedy such disability with all reasonable dispatch.

SECTION 9. TERMINATION OF CONTRACT.

It is mutually agreed by both Parties that either Party may terminate the Agreement by giving thirty (30) days' notice to the other, subject however to whatever rights have accrued by virtue of delivery and receipt of the supplies. In the event of failure by Supplier to deliver the supplies when due or within 7 days thereafter, the Ministry shall have the option to purchase the supplies from another source and the Ministry shall have the right to recover any additional cost incurred from the supplier including increased costs associated with obtaining substitute supplies.

10. MODIFICATION

This agreement constitute the total and entire understanding between the Parties and all previous agreements or understandings, whether oral or written, are hereby merged and incorporated into this agreement. Any modification to this agreement must be agreed upon by the Parties in writing.

SECTION 11. NOTICE

All communications and notices under this agreement shall be sent to either Party at their known addresses in writing or by mail or hand delivery.

SECTION 12. AMENDMENT.

Amendments and modifications to this Agreement shall be made in writing and signed by the parties hereto or their respective authorized agents.

13. SEVERABILITY

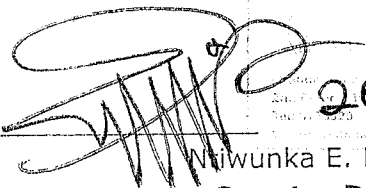
If any part or any provision of this Agreement shall to any extent prove invalid or unenforceable in law, the remainder of such provision and all other provisions of the Agreement shall remain valid and enforceable to the fullest extent permissible by law, and such provision shall be deemed to be omitted from this agreement to the extent of such invalidity or unenforceability. The remainder of this Agreement shall continue in full force and effect and the Parties shall negotiate in good faith to replace the invalid or unenforceable provision with a valid, legal and enforceable provision which has an effect as close as possible to the term and provision being replaced.

SECTION 14. BINDING CLAUSE

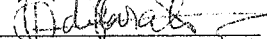
This agreement is binding on the Parties hereto, their successors in business, legal representatives and assigns as if they were specifically mentioned herein.


IN WITNESS WHEREOF, the parties have hereto set their signatures on this instrument on the date and in the year above written in the city of Monrovia, Liberia.

FOR THE SUPPLIER:


20th May 2020
Niiwunka E. Modestus
Country Director

FOR THE MINISTRY:

Signed: 
Mr. Fidel Wiah
Deputy IMS Manager for
Finance & Administration

Approved: 
Dr. Wilhelmina S. Jallah
Minister/IMS Chair