

BSU/VC/PERS/322

30th November, 2022

The Managing Director,
Msuyela Nig. Limited,
Suite B35 Shakir Plaza, No.3 Michika Street,
Area 11, Garki,
Abuja.

Dear Sir,

LETTER OF CONTRACT AWARD

Project Title: **PROCUREMENT, INSTALLATION, TESTING AND COMMISSIONING OF FRUIT CHIPPING MACHINE, FOOD DRYER/DEHYDRATOR AT CEFTER FACTORIES**

I write to inform you that the Vice-Chancellor of Benue State University, Makurdi has approved the award of contract to your company for Procurement, Installation, Testing and Commissioning of Fruit Chipping Machine, Food Dryer/Dehydrator at CEFTER Factories to the tune of **Thirty-Nine Million Seven Hundred and Forty Eight Thousand One Hundred and Twenty Five naira (N39,748,125.00) only** for eight (8) weeks.

2). The award is, however, subject to the following conditions: -

- a) *that you agree to the appropriate tax deductions being made on the value of the contract as per existing regulations in the University relating to the subject;*
- b) *you will be entitled to a mobilization fee after due submission of an acceptable Advance Payment Guarantee.*

3). This letter is copied to the Registrar; Coordinator of Procurement Unit; the Bursar and the Legal Officer for information and necessary action.

4). If the conditions stipulated above are acceptable to you, please signify your acceptance in writing within three (3) days from the date of this letter. You shall then be required to receive further instructions from the Coordinator, Procurement Unit.

Accept my congratulations.

Yours faithfully,





MSUYELA NIG. LTD.

RC: 1651457

GENERAL CONTRACTOR

Plot 228 George Akume Way, Akaaer Degar Street,
Makurdi, Benue State.

Tel: 08162667007, 09077702222



Our Ref: Your Ref: Date: 6th December, 2022

The Vice Chancellor,
Benue State University,
Makurdi.

CP
Figma pls.
8/12/22



ACCEPTANCE LETTER

We wish to accept the offer of contract award to our company for the Supply, Installation, Testing and Commission of Fruit Chipping Machine, Food Dryer/Dehydrator and packaging at the CEFTER Factories to the tune of **Thirty Nine Million Seven Hundred and Forty Eight Thousand One Hundred and Twenty Five Naira (N39,748,125.00)**

We also express our willingness to perform our contractual obligation according to specifications

Our company is very grateful for this offer and hereby expresses its commitment to deliver high job and timely completion of the projects.

Please do accept the assurances of our highest regards.

Yours faithfully,

Emmanuel Igila Kukwa
MD/CEO

**BENUE STATE UNIVERSITY
MAKURDI**



Articles of Agreement

&

STANDARD FORM OF CONTRACT

Supply, Installation, Testing and Commissioning of Fruit
Chipping Machine, Food Dryer/Dehydrator and Packaging Machine
at the 2No. Semi-Detached Three (3) Prototype Factories.

Contract No.....

Contractor: Msuyela Nigeria Limited

Date: December, 2022

THIS AGREEMENT is made this 7th day of October.....2022

BETWEEN:

BENUE STATE UNIVERSITY of KM. 2 Gboko Road, Makurdi (hereinafter referred to as "The Client") which term shall include its successors and assigns on the one part.

AND

Msuyela Nigeria Limited of Plot 228, George Akume way, Akaaer Degar Street, Makurdi, Benue State. (Hereinafter referred to as "The Contractor") which term shall include its successors and assigns on the other part.

1. WHEREAS:

1. The Contractor is a supplier located at Plot 228, George Akume way, Akaaer Degar Street, Makurdi, Benue State.
2. The Client is desirous of engaging the Contractor for the Supply, Installation, Testing and Commissioning of Fruit Chipping Machine, Food Dryer/Dehydrator and Packaging Machine at the 2No. Semi-Detached Three (3) Prototype Factories.
3. The Contractor has undertaken to procure the said equipment in (2) above to the Client using its expertise experience in the business of procurement.


IN WITNESS WHERE OF, the Client has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered by the within-named Client represented by:


Dr. Mrs. Mfaga Modom
Registrar
Benue State University,
Makurdi



In the Presence of:


Name: James Aolze CWA
Address: Benue State University, Makurdi
Occupation: Administration
Signature: 

Signed, Sealed and Delivered by the within-named Contractor represented by:


Emmanuel Igila Kukwa
Director
Msuyela Nigeria limited



In the Presence of:

Name: BISI CHANVEN
Address: 228 GEORGE AKUME WAY, MAKURDI
Occupation: CONTRACTOR
Signature: 

General Conditions of Contract

1. Definitions
- 1.1 The following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined term:
- (a) **Completion Schedule** means the fulfilment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract;
 - (b) **Contract Agreement** means the Agreement entered into between the University 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) **Delivery** means the transfer of ownership of the Goods from the Supplier to the University in accordance with the terms and conditions set forth in the Contract;
 - (g) **GCC** mean the General Conditions of Contract;
 - (h) **Goods** means all of the commodities, raw materials, machineries and book titles, products and/or other materials in solid, liquid or gaseous form that the Supplier is required to procure to the University under the Contract, as specified in the SCC;
 - (i) **Government** means the Federal Government of Nigeria;
 - (j) **University** means the entity purchasing the Goods and Related Services, as specified in the SCC;
 - (k) **Related Services** means the services incidental to the procure of the goods, such as insurance, installation, training and initial maintenance and other similar 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, including its legal successors or permitted assigns, who has a Contract with the Supplier to carry out a part of the procure in the Contract, or a part of the Related Services of the Contract;
 - (n) **Supplier** means the natural person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been accepted by the University and is named as such in the SCC and the Contract Agreement, and includes the legal successors or permitted assigns of the Supplier.

(c) Writing means any hand-written, type-written, or printed communication including telex, cable and facsimile transmission

2. Contract Documents
- 2.1 Subject to the order of precedence set forth in the GCC Sub-Clause 5.1, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.
3. Corrupt, Fraudulent, Collusive or Coercive Practices
- 3.1 The Government requires that Procuring Entities, as well as Suppliers, shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of contracts under public funds.
- 3.2 In pursuance of this requirement, the University shall:
- (a) exclude the Supplier from participation in the procurement proceedings concerned or reject a proposal for award; and
- (b) declare a Supplier ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public funds;
- if it at any time determines that the Supplier has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract under public funds.
- 3.3 Should any corrupt, fraudulent, collusive or coercive practice of any kind referred to in GCC Sub-Clause 3.4 hereunder come to the knowledge of the University, it shall, in the first place, allow the Supplier to provide an explanation and shall, take actions as stated in GCC Sub-Clause 3.2 and GCC Sub-Clause 38.1(c) only when a satisfactory explanation is not received. Such exclusion and the reasons thereof shall be recorded in the record of the procurement proceedings and promptly communicated to the Supplier concerned. Any communications between the Supplier and the University related to matters of alleged corrupt, fraudulent, collusive or coercive practices shall be in writing.
- 3.4 The Government defines, for the purposes of this provision, the terms set forth below as follows:
- (a) "*corrupt practice*" means offering, giving, or promising to give, directly or indirectly, to any officer or employee of a University or other governmental/private authority or individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a University in connection with the procurement proceeding;
- (b) "*fraudulent practice*" means a misrepresentation or omission of facts in order to influence a procurement proceeding or the execution of a contract to the detriment of the University;
- (c) "*collusive practice*" means a scheme or arrangement among two or more Tenderers with or without the knowledge of the University (prior to or after Tender submission) designed to establish Tender prices at artificial, non-competitive levels and to deprive the University of the benefits of free, open and competitive competition.

- (d) "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence the procurement proceedings or affect the execution of a contract.
- 3.5 The Supplier shall permit the University to inspect the Supplier's accounts and records and other documents relating to the submission of the Tender and Contract performance.
4. Interpretation
- 4.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof or of the Contract. Words have their normal meaning under the English language unless specifically defined.
- 4.2 Entire Agreement
- (a) The Contract constitutes the entire agreement between the University and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract Agreement.
- 4.1 Amendment
- (a) 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 authorised representative of each party thereto.
- 4.4 Non-waiver
- (a) Subject to GCC Sub-Clause 4.4(b), 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 authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.
- 4.5 Severability
- (a) 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.
- 4.6 Partial Procure
- (a) If partial procure is specified in the Schedule of Requirements, references in the GCC to the Procure and to the Delivery Date shall apply to any portion of the Procure (other than references to the Completion Date for the whole of the Procure).
5. Documents
- 5.1 The following documents forming the Contract shall be interpreted in the

Contract and Priority of Documents	<ul style="list-style-type: none"> (a) the signed Contract Agreement; (b) the letter of Notification of Award (c) the completed Tender Submission Sheet as submitted by the Tenderer; (d) the completed Price Schedules as submitted by the Tenderer; (e) the Special Conditions of Contract; (f) the General Conditions of Contract; (g) the Schedule of Requirements; (h) the Technical Specifications; (i) the Drawings, and; (j) any other document listed in the SCC as forming part of the Contract.
6. Eligibility	<p>6.1 The Supplier and its Sub-Contractors shall have the nationality of a country other than those specified in the SCC.</p> <p>6.2 All Goods and Related Services supplied under the Contract shall have their origin in the countries except those specified in the SCC.</p>
7. Governing Language	<p>7.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the University shall be written in English. 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 English, in which case, for purposes of interpretation of the Contract, this translation shall govern.</p> <p>7.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.</p>
8. Governing Law	<p>8.1 The Contract shall be governed by and interpreted in accordance with the laws of the People's Republic of Nigeria.</p>
9. Gratuities / Agency fees	<p>9.1 No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the Tender or the contract, shall be given or received in connection with the procurement process or in the contract execution.</p>
10. Joint Venture, (JV)	<p>10.1 If the Supplier is a joint venture, all of the parties shall be jointly and severally liable to the University for the fulfilment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture. The composition or the constitution of the joint venture; shall not be altered without the prior consent of the University.</p>
11. Confidential Information	<p>11.1 The University 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 University to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from each Subcontractor</p>

an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 11.

11.2 The University 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 University for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

11.3 The obligation of a party under GCC Sub-Clauses 11.1 and 11.2 above, however, shall not apply to information that:

- (a) the University or Supplier needs to share with 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.

11.4 The above provisions of GCC Clause 11 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 Procure or any part thereof.

11.5 The provisions of GCC Clause 11 shall survive completion or termination, for whatever reason, of the Contract.

12. Communications and Notices

12.1 Communications between Parties (notice, request or consent required or permitted to be given or made by one party to the other) pursuant to the Contract shall be in writing to the addresses specified in the SCC.

12.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

12.3 A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.

13. Patent and Intellectual Property Rights

13.1 The Supplier shall, subject to the University's compliance with GCC Sub-Clause 13.2, indemnify and hold harmless the University 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 University may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property rights 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 Nigeria; 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.

with any other book titles, plant, or materials not supplied by the Supplier, pursuant to the Contract.

- 13.2 If any proceedings are brought or any claim is made against the University arising out of the matters referred to in GCC Sub-Clause 13.1, the University shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the University's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 13.3 If the Supplier fails to notify the University within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the University shall be free to conduct the same on its own behalf.
- 13.4 The University 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.
- 13.5 The University 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 University.
14. Copyright 14.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the University by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the University 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.
15. Assignment 15.1 The Supplier shall not assign, in whole or in part, its obligations under the Contract, except with the University's prior written consent.
16. Sub-contracting 16.1 The Supplier shall obtain approval of the University in writing of all Sub-Contracts to be awarded under the Contract if not already specified in the Tender. Sub-Contracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.
- 16.2 Subcontractors shall comply with the provisions of GCC Clause 3.
17. Supplier's Responsibilities 17.1 The Supplier shall procure all the Goods and Related Services specified in the Scope of Procure in conformity in all respects with the provisions of the Contract Agreement.
18. University's Responsibilities 18.1 The University shall pay the Supplier, in consideration of the provision of Goods and Related Services, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and manner prescribed in the Contract Agreement.

19. Scope of Procure
- 19.1 The Goods and Related Services to be supplied shall be as specified in Section 6: Schedule of Requirements.
- 19.2 Unless otherwise stipulated in the Contract, the Procure shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining delivery of the Goods and completion schedule of the Related Services as if such items were expressly mentioned in the Contract.
20. Change Orders and Contract Amendments
- 20.1 The University may at any time order the Supplier through a notice in accordance with GCC Clause 12, 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 University provided such changes do not materially affect the scope of procure;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Supplier.
- 20.2 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 submitted within twenty-eight (28) days from the date of the Supplier's receipt of the University's Change Order.
- 20.3 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.
21. Packing and Documents
- 21.1 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.
- 21.2 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 subsequent instructions ordered by the University.
22. Delivery and Documents and Acceptance
- 22.1 Subject to GCC Sub-Clause 20.1, the Delivery of the Goods and completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Section 6: Schedule of Requirements.

- 22.2 The documents to be furnished by the Supplier shall be specified in the SCC, and shall be received by the University at least one week before arrival of the Goods and, if not received, the Supplier shall be responsible for consequent expenses.
- 22.3 Acceptance by the University shall be processed not later than fourteen (14) days from receipt of the goods at final destination in the form of an Acceptance Certificate, unless any defects in the procure, any damage during transport or any failure to meet the required performance criteria of the procure are identified and reported to the Supplier in accordance with GCC Clause 31 and GCC Clause 32. In such cases the Acceptance Certificate will be issued only for those parts of the contract supplies which are accepted. The Acceptance Certificate for the remaining supplies will only be issued after the Supplier has remedied the defects and/or any non-conformity in accordance with GCC Clause 31 and GCC Clause 32.
23. Contract Price
- 23.1 The Contract Price shall be *thirty-nine million, seven hundred and forty-eight thousand, one hundred and twenty-five naira (N39,748,125.00) only*
- 23.2 Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorised in the SCC.
24. Transportation
- 24.1 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Nigeria, defined as the Site, transport to such place of destination including insurance, and other incidental costs, and temporary storage, if any, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.
25. Spare Parts
- 25.1 As specified in the SCC, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:
- (a) such spare parts as the University may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) advance notification to the University of the pending termination, in sufficient time to permit the University to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the University, the blueprints, drawings, and specifications for the spare parts, if requested.
- 25.2 The Supplier shall carry sufficient inventories to assure ex-stock procure of spare parts as promptly as possible, but in any case, within the time specified in the SCC for placing the order and opening the letter of credit.
26. Terms of
- 26.1 The Contract Price, including any Advance Payments, if applicable, shall be paid

- 26.2 The Supplier's request for payment shall be made to the University in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Related Services performed, and accompanied by the documents pursuant to GCC Clause 22 and upon fulfilment of any other obligations stipulated in the Contract.
- 26.3 Payments shall be made promptly by the University, no later than the dates indicated in the SCC.
- 26.4 In the event that the University fails to pay the Supplier any payment by its respective due date or within the period set forth in the SCC, the University 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.
27. Insurance
- 27.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in the manner specified in the SCC.
28. Taxes and Duties
- 28.1 The Supplier shall be entirely responsible for all taxes, duties, license fees, and other such levies imposed or incurred until delivery of the contracted goods to the University.
29. Performance Security
- 29.1 In the case of Goods having warranty obligations the Performance Security shall be reduced to the amount specified in the SCC after delivery and acceptance of the Goods to cover the Supplier's warranty obligations in accordance with GCC Sub-Clause 32.3.
- 29.2 The University may claim against the security if any of the following events occurs for fourteen (14) days or more;
- (a) the Supplier is in breach of the Contract and the University has notified him that he is.
- 29.3 The Performance Security shall be discharged by the University 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.
30. Specifications and Standards
- 30.1 The Supplier shall ensure that the Goods and Related Services comply with technical specifications and other provisions of the Contract.
- 30.2 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 University later than the contract signing date, by giving a notice of such disclaimer to the University.
- 30.3 The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section 7: Technical Specifications 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.
- 30.4 Wherever references are made in the Contract to codes and standards to

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 University and shall be treated in accordance with GCC Clause 20.

31. Inspections and Tests

- 31.1 The Supplier shall at its own expense and at no cost to the University carry out all such tests and/or inspections of the Goods and Related Services as are specified in the Schedule of Requirements.
- 31.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor and/or at the Goods' final destination, or in another place in Nigeria as specified in the SCC. Subject to GCC Sub-Clause 31.3, 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 University.
- 31.3 The University or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 31.2, provided that the University bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 31.4 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 University. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the University or its designated representative to attend the test and/or inspection.
- 31.5 The University 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 impede 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.
- 31.6 The Supplier shall provide the University with a report of the results of any such test and/or inspection.
- 31.7 The University 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 University, and shall repeat the test and/or inspection, at no cost to the University, upon giving a notice pursuant to GCC Sub-Clause 31.4.
- 31.8 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 University or its representative, nor the issue of any report pursuant to GCC Sub-Clause 31.6, shall release the Supplier from any warranties or other obligations under the

32. Warranty
- 32.1 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.
- 32.2 Subject to GCC Sub-Clause 30.1, 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 Nigeria.
- 32.3 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.
- 32.4 The University 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 University shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 32.5 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 University.
- 32.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the SCC, The University 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 University may have against the Supplier under the Contract.
33. Extensions of Time
- 33.1 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 22, the Supplier shall promptly notify the University in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the University 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.
- 33.2 Except in the case of Force Majeure, as provided under GCC Clause 37, 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 34, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.
34. Liquidated Damages
- 34.1 Except as provided under GCC Clause 37, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the University 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 Contract Price of the delayed Goods and/or Related 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

35. Limitation of Liability 35.1 Except in cases of criminal negligence or wilful misconduct,
- (a) the Supplier shall not be liable to the University, 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 University and
 - (b) the aggregate liability of the Supplier to the University, 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 book titles, or to any obligation of the supplier to indemnify the University with respect to patent infringement.
36. Change in Laws and Regulations 36.1 Unless otherwise specified in the Contract, if after the date twenty eight (28) days before the submission of Tenders for the Contract, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Nigeria (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 23.
37. Force Majeure 37.1 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.
- 37.2 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 University in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 37.3 If a Force Majeure situation arises, the Supplier shall promptly notify the University in writing of such condition and the cause thereof. Unless otherwise directed by the University 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.
38. Termination 38.1 Termination for Default
- (a) The University, without prejudice to any other remedy for breach of Contract, by giving twenty-eight (28) days written notice of default, 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 University pursuant to GCC Clause

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

(b) In the event the University terminates the Contract in whole or in part, pursuant to GCC Sub-Clause 38.1(a), the University 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 University 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.

(c) If the Supplier, in the judgment of the University has engaged in corrupt, fraudulent, collusive or coercive practices, as defined in GCC Clause 3, in competing for or in executing the Contract.

38.2 Termination for Insolvency.

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

38.3 Termination for Convenience.

(a) The University, 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 University'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 University at the Contract terms and prices. For the remaining Goods, the University 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.

39. Settlement of Disputes

39.1 Amicable Settlement

(a) The University and the Supplier shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

39.2 Arbitration

(a) If the Parties are unable to reach a settlement as per GCC Clause 39.1(a) within twenty-eight (28) days of the first written correspondence on the matter of disagreement, then either Party

may give notice to the other party of its intention to commence arbitration in accordance with GCC Sub-Clause 39.2(b).

- (b) The arbitration shall be conducted in accordance with the Arbitration Act (.....) of Nigeria as at present in force and in the place shown in the SCC.

Special Conditions of Contract

GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 1.1 (h)	The nature of the goods to be supplied and installed are: Supply, Installation, Testing and Commissioning of Fruit Chipping Machine, Food Dryer/Dehydrator and Packaging Machine at the 2No. Semi-Detached Three (3) Prototype Factories.
GCC 1.1(j)	The University is Benue State University, Makurdi of No. 2, Makurdi – Gboko Road represented by the Vice - Chancellor of the University.
GCC 1.1(n)	The Supplier is Msuyela Nigeria Ltd of Plot 228 George Akume Way, Akaaer Degar Street, Makurdi, Benue State.
GCC 5.1(j)	The following documents shall also be part of the Contract: "Price Schedule"
GCC 6.1	Suppliers and Sub-contractors from the following countries are not eligible: None
GCC 6.2	Goods and Related Services from the following countries are not eligible:
GCC 12.1	<p>For <u>notices</u>, the University's contact details shall be: Attention: Mr. James Adzer, Address: Procurement Unit, Benue State University, Telephone: 03039156040, Facsimile number: Electronic mail address: jamesadzer01@gmail.com.</p> <p>For <u>notices</u>, the Supplier's contact details shall be: Attention: Emmanuel Igila Kukwa Address: Plot 228, George Akume way, Akaaer Degar Street, Makurdi, Benue State. Telephone: 08162667007, 09077702222 Facsimile number: Electronic mail address:</p>
GCC 21.2	<p>A complete packing list indicating the content of each package shall be enclosed in a water proof envelope and shall be secured to the outside of the packing case. In addition, each package shall be marked with indelible ink/paint in bold letters, as follows:</p> <p>a. Contract Number</p>

	<p>c. Country of origin</p> <p>d. Gross weight</p> <p>e. Net weight</p> <p>f. Package number of total number of packages</p> <p>g. Brief description of the content</p> <p>Upright markings, where appropriate, shall be placed on all four vertical sides of the package.</p> <p>All materials used for packing shall be environmentally neutral.</p> <p>Additional marking and documentation within and outside the packages shall be:</p>
GCC 22.2	<p>The documents to be provided are as follows:</p> <p>(a) copies of Supplier's invoice showing goods' description, quantity, unit price, total amount;</p> <p>(b) copies of the packing list identifying the contents of each package;</p> <p>(c) manufacturer's/supplier's warranty certificate (if any);</p> <p>(d) inspection certificate issued by the nominated inspection agency (or University) and/ or the supplier's factory inspection report (if any);</p> <p>(e) Certificate of origin.</p>
GCC 23.2	<p>The prices charged for the Goods delivered and the Related Services to be performed shall be fixed for the duration of the contract.</p>
GCC 25.1	<p>Additional spare parts requirements are specified in Annex- [] of the Specifications.</p>
GCC 25.2	<p>Within eight (8) weeks of signing of the agreement the entire goods must be supplied.</p>
GCC 26.1	<p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>1. The payments shall be made</p> <p>(a) direct through the accounts office of the University upon a certificate issued by the Procurement Unit of the University.</p>

	<p>2. Payments shall be made in Nigeria Naira in the following manner:</p> <p>(a) Advance Payment: <i>thirty (30)</i> percent of the Contract Price shall be paid within twenty-eight (28) 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 Tender Document.</p> <p>(b) On Delivery on EXW (ex-warehouse in Nigeria): <i>usually 80 (eighty) percent of the Contract price of the Goods shipped shall be paid upon submission of documents specified in GCC Clause 22.2.</i></p> <p>(c) On Delivery and Acceptance: <i>[usually ten (10)]</i> percent of the Contract Price of the Goods delivered shall be paid upon submission of documents specified in GCC Clause 22.2 within twenty-eight (28) days of submission of a claim supported by the Acceptance Certificate issued by the University.</p>
GCC 26.4	Payments shall be made by the University as funds are made available by the sponsor of the project.
GCC 27.1	"All risks" insurance, including "war risks, riots, and/or strikes" shall be acquired for 110% of the delivered cost of the goods on "Warehouse to Warehouse" basis.
GCC 29.1	The Performance Security shall be reduced to 2 % percent of the Contract Price.
GCC 31.2	<p>The Inspections and tests shall be conducted at: <i>Benne State University Stores In Makurdi.</i></p> <p>The University's right to inspect, test and where appropriate reject the Goods after delivery, shall in no way be limited or waived by the reason of Goods having, <i>place of inspection</i> tested or passed by the University or its representative prior the Goods shipment.</p>
GCC 32.3	<p>The period of validity of the Warranty shall be: <i>one year</i></p> <p>For purposes of the Warranty, the place of final destination shall be: <i>Benne State University Stores.</i></p>
GCC 32.5	The period for repair or replacement shall be: <i>four (4) weeks.</i>
GCC 34.1	<p>The liquidated damage shall be one half of one percent (0.5%) of the Contract value per week or part thereof.</p> <p>The maximum amount of liquidated damages shall be: <i>Ten (10%) of the Contract value.</i></p>
GCC 39.3(h)	Arbitration shall take place in: <i>Makurdi</i>