

GARISSA UNIVERSITY

REQUEST FOR QUOTATION

FOR

Quotation Name	Provision for Maintenance and Servicing of Printers	
Quotation No.	GaU/RFQ/17/2024-2025	

ISSUED ON: 14th January 2025

SUBMISSION DATE: 22nd January 2025

Head of Supply Chain Management, Garissa University, P.O BOX 1801-70100, Garissa.

Email; Procurement@gau.ac.ke

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REQUEST FOR QUOTATIONS (RFQ)

To:_	[Insert Name and Address of selected Tenderer]
Froi	n: GARISSA UNIVERSITY
	Q TITLE: Provision for Maintenance and Servicing of Printers No: GaU/RFQ/17/2024-2025
Gari	ssa University invites you to submit quotations for Provision of Maintenance and
Serv	icing of Printers indicated in detail in "Table A. Schedule of Requirements and
Spec	rifications". The quotation shall follow the instructions and documents in this RFQ
docu	ment and shall be in English Language. Tenderers may obtain further information during
offic	e hours from 0800-1700hrs at the address given below.
1.	Quotations shall be submitted in accordance with the instruction in Part 1: Quotation Procedures and in a sealer envelope clearly indicating name and address of tenderer, the quotation name and title and must reach the Procuring Entity at the address indicated below not later than 22 nd January 2025. Quotations can be delivered by registered mail, courier or hand delivery at the tenderer's option. Late quotations shall be rejected.
2.	Enquiries regarding this quotation may be addressed to:
	Head of Supply Chain Management, Garissa University, P.O. BOX1801-70100, Garissa. Email: Procurement@gau.ac.ke
3.	Any resulting contract shall be subject to the terms and conditions detailed in Part 3: Contract.
4.	Please inform by email or express mail the undersigned within first two days of receipt of this RFQ if you will not be submitting a quotation.
	Head of Supply chain management, Garissa University, P.O. BOX1801-70100, Garissa. Email: Procurement@gau.ac.ke.
You	rs sincerely,
	d of Supply Chain Management, issa University

PART 1: INSTRUCTIONS TO TENDERERS

- 1. **Tenderers are advised to read carefully** these instructions and the Conditions of Contract in Part 3: Contract, before preparing the quotation. The standard forms in this RFQ may be photocopied for completion but the Tenderer is responsible for their accurate reproduction. The <u>term Tenderer</u> shall mean the firm or person invited to submit a quotation. The <u>term Quotation</u> herein shall mean the quotation submitted as usually understood in public procurement.
- 2. **Validity of Quotations**: The quotation will be held valid for 30 days from the date of submission.
- 3. **The Quotation shall consist of** completed Tables A, B and the Form of Quotation all indicated in Part 2 of this Request for Quotations, and documents to evidence Eligibility and Conformity to Technical Specifications.
- 4. **Sealing and Marking of Quotations**: Quotations in one "one original" should be sealed in a single envelope, clearly marked with the **Quotation Reference Number** in the RFQ, the Tenderer's name and the name of the Procuring Entity. Envelopes should be sealed in such a manner that opening and resealing cannot be achieved undetected.
- 5. **Submission of Quotations:** Quotations, and any alternatives if allowed as per Item 11 below, should be submitted to the address below, on or before the date and time indicated in sub-item 4 below. Late quotations will be rejected.

Head of Supply Chain Management, Garissa University, P.O Box 1801 -70100, Garissa.

Email: Procurement@gau.ac.ke

Date of Submission (deadline): Wednesday 22nd January 2025

Time of Submission (deadline): 11.00am.

- 6. **Opening of Quotations**: Quotations will be opened immediately after the closing date and time specified in item 5 (4) above, by at least three appointed officials of the Procuring Entity.
- 7. **Tenderer Eligibility:** Tenderer must submit Documentary evidence to show His/her eligibility to be awarded a contract to cover each of the following: (i) valid trading license (ii) certificate of registration, and (iii) valid tax compliance certificate. (iv) AGPO Certificate (where applicable). The Tenderer shall also complete attached forms to confirm eligibility and non-existence of a conflict of interest in relation to this procurement requirement by signing the attached Forms.
- 8. **Invitation not transferable**: This invitation is not transferable to other firms or individuals not so invited.
- 9. **Goods Eligibility:** Tenderer must submit as evidence documents to show the country of origin of any goods to be supplied or incorporated in the work or services
- 10. **Technical Specifications:** Documentary evidence to show that the goods meet the technical specifications.
- 11. **Alternative Quotations:** Tenderers **not permitted** to submit alternative quotations for goods. The Tenderer with the winning quotation conforming to the basic technical requirements shall be considered by the Procuring Entity.
- 12. **Currency:** Quotations shall be priced in Kenya Shillings. Quotations in other currencies will be rejected if not allowed.

The Procuring Entity shall not allow quotations in foreign currency.

- 13. **Evaluation of Quotations**: The evaluation of quotations will be conducted using the procedure set out below:
 - i) Preliminary examination to determine Tenderer eligibility: (i) valid trading license (ii) certificate of registration, and (iii) tax compliance certificate (iv) valid AGPOCertificate (where applicable)
 - ii) Technical examination to determine goods eligibility, compliance with technical specifications and commercial responsiveness. Quotations failing this stage will be rejected and not considered in next stage.
 - iii) Financial comparison of quotations to determine the lowest evaluated quotation. In case foreign currency is allowed, for comparison purposes only, foreign currency quotations will be converted to Kenya shillings using the exchange rates published by the Central Bank of Kenya on the day of submission of quotations.
- 14. **Lowest Evaluated Quotation:** The lowest evaluated quotation shall be recommended for award of contract.
- 15. **Award of contract:** Award of contract shall be by placement of a Letter of Acceptance or Local Purchase Order in accordance with Part 3: Contract. The currency of award and payment shall be currency in which the quotation was submitted. Unsuccessful tenderers who responded will be notified of the accepted quotation, indicating the name and the amount of the accepted quotation
- 16. **Right to Reject**: The Procuring Entity reserves the right to accept or reject any quotation or to cancel the quotation process and reject all quotations at any time prior to contract award

Evaluation Criteria

The following criteria shall form the basis of the evaluation

No.	Preliminary evaluation	Remarks
MR1	Copy Certificate of registration/Incorporation	
MR2	Copy valid tax compliance certificate	
MR3	Copy KRA PIN Certificate	
MR4	Copy of Valid Business Permit	
MR5	Copy of CR12 for limited companies or copies of national identity card for sole	
	proprietors.	
MR6	Dully filled and signed form of quotation	
MR7	Dully filled and signed price schedule	
MR8	Dully filled and signed form for Disclosure of interest	
MR9	Dully filled and signed certification of independent quotation	
MR10	Dully filled and signed self – Declaration form	

Note: A bidder who will not Pass the Preliminary examination will not proceed to technical Evaluation.

STAGE 2: TECHNICAL EVALUATION CRITERIA

NO	Criteria Description	Weight
FIRM	S GENERAL EXPERIENCE	
TR1	The firm should have experience in Repair and Preventive Maintenance of ICT Equipment's.	12
	• 5 Years and above – 12 marks	
	• 2 to 4 years– 6 Marks	
	• 1 Year and below– 2 Marks	
	(Firm to provide contracts/LSO/LPO to demonstrate similar/related assignments in	
	ICT services within the years).	
TR 2	1	21
	Preventive Maintenance of ICT Equipment has been successfully implemented	
	(7 marks each) To be verified	
	NB: Recommendation Letters must be official client letterheads addressed to Vice Chancellor	
	Garissa University	
	KEY STAFF QUALIFICATIONS AND EXPERIENCE	
	MET STATE QUIENTONS IN DEAR ENTERVOL	
Projec	t Manager (One Engineer)	
TR 3	Qualifications – Bachelor's Degree in related field – Attach Certificate (5 Marks)	5
	2	

TR 4	Must have three (3) years & above experience in managing a similar project/service • 3 Years and above – 10 marks • 2 Year and below– 5 Marks	10
Team	Members (Four Engineers/Technicians)	
TR 5	At least four (4) Technical staff must have the following qualifications for technicians: Degree/Diploma in Information technology, Computer science, electrical and electronics engineering or related field. (5 marks Each)	20
TR 6	Must have three (3) years & above experience in service and support. • 3 Years and above – 10 marks • 2 Year and below– 5 Marks	10
Team 1	Member (One Engineer/Technician) – Quality Assurance	
TR 7	Qualifications – Must hold a Bachelor's Degree in related field (Attach Certificate) To be Verified. (7 Marks)	7
	TOTAL	85

Note: Only bids that meet at least 70% of the technical requirements will be considered for further evaluation

QUOTATION AND QUALIFICATION DOCUMENTS

 $\underline{\textit{Instructions to Tenderer}}. \textit{ Tenderer must complete and submit as part of the Form of quotation}.$

- (i) SCHEDULE OF REQUIREMENTS TABLE
- (ii) FORM FOR DISCLOSURE OF INTEREST
- (iii) CERTIFICATE OF INDEPENDENT QUOTATION DETERMINATION
- (iv) SELF-DECLARATION FORM
- (v) FOREIGN TENDERER 40% RULE(where provided)

FORM OF QUOTATION [To be completed by Tenderer]

	uotation Addressed to (Procuring Entity)
D	ate of Quotation
Q	uotation Reference Number:
Sı	ubject of Quotation
•	We have examined and have no reservations to the Request for Quotation document, and understand its full content and intent.
·•	In compliance with your request for quotations dated, referenced above, we offer to
	cover and conform to our pricing listed in the attached in Table B. Quotation Submission TABLE at a total priof Kenya Shillings (in words)
3.	We confirm that we are eligible to participate in public procurement and meet the eligibility criteria specified Part 1: INSTRUCTIONS TO TENDERERS.
ŀ.	We also confirm that the(goods to be supplied) conform to the SCHEDULE OR REQUIREMENTS TABLE below and in conformity with technical specifications listed in PART SCHEDULE OF REQUIREMENTS of this RFQ Document.
í.	We undertake to adhere by the Code of Ethical Conduct for Suppliers, Contractors and Service Providers, copavailable from(specify website) during the procurement process and the execution of ar resulting contract.
.	We confirm that the prices quoted are fixed and firm for the duration of the validity period and performance of the contract and will not be subject to revision or variation.
7.	The validity period of our quotation is:days from the time and date of the submission deadline (number to be same as in the instructions to Tenderers).
3.	We confirm we are not submitting any other Quotation as an individual or firm, and we are not participating is any other Quotation as a Joint Venture member or as a subcontractor.
).	We, along with any of our subcontractors, suppliers, Engineer, manufacturers, or service providers for any part the contract, are not subject to, and not controlled by any entity or individual that is subject to a temporar suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
0.	We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in artype of Fraud and Corruption.
1.	We hereby certify and confirm that the Quotation is genuine, non-collusive and made with the intention accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Quotation" attached below.
2.	We, the Tenderer, have completed fully and signed the FORM FOR DISCLOSURE OF INTEREST - intere of the firm in the Procuring Entity, attached below.
	The Delivery/Completion period offered is:days from date of acceptance of Quotation. The warranty period offered is weeks.
	Quotation Authorized by:
	Name and designation
	Signature:

i)	FORM FOR DISCLOSURE OF INTEREST	Interest of the Firm in the Procuring Entity
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i)	Are there any person/persons in	(Name of I	Procuring	Entity) wh	o has/have a	n interest or
	relationship in this firm? Yes/No					

If yes, provide details as follows.

	Names of Person		Interest or Relationship with
		Procuring Entity	Tenderer
1			
2			
3			

ii) Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		-
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Quotation has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the quotation of another tenderer, or influence the decisions of the Procuring Entity regarding this quotation process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the quotation.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Quotation Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Quotation document or specifications of the Contract, and/or the Quotation evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the quotation process and execution of the Contract?		

iii) Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.		
Full Name_		
Title or Designation_		
(Signature)	(Date)	

iv) CERTIFICATE OF INDEPENDENT QUOTATION DETERMINATION

I, the	und	ersigned, in submitting the accompanying Letter of quotation to the	
		[Name of Procuring Entity] for: [Name and number of quotations] in response to the request for tenders made	
by:_		[Name of Tenderer] do hereby make the following statements fy to be true and complete in every respect:	
that	certi	fy to be true and complete in every respect:	
Icert	ify, o	on behalf of[Name of Tenderer] that:	
1.	Iha	ve read and I understand the contents of this Certificate;	
2.	I understand that the Tenderer will be disqualified if this Certificate is found not to be true and complete in erespect;		
3.	I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the quotation on behalf of the Tenderer;		
4.		the purposes of this Certificate and the quotation, I understand that the word "competitor" shall include any ividual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:	
	a)	has been requested to submit a quotation in response to this request for quotations;	
	b)	could potentially submit a quotation in response to this request for quotations based on their qualifications, abilities or experience;	
5.	The	e Tenderer discloses that [check one of the following, as applicable]:	
	a)	The Tenderer has arrived at the quotation independently from, and without consultation, communication, agreement or arrangement with, any competitor;	
	b)	the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for quotations, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;	
6.		particular, without limiting the generality of paragraphs (5)(a) or (5)(b) above, there has been no consultation, agreement or arrangement with any competitor regarding:	
	a)	prices;	
	b)	methods, factors or formulas used to calculate prices;	
	c)	the intention or decision to submit, or not to submit, a quotation; or	
	d)	the submission of a quotation which does not meet the specifications of the request for quotations; except as specifically disclosed pursuant to paragraph (5) (b) above;	
7.	In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;		
8.	indi Cor	terms of the quotation have not been, and will not be, knowingly disclosed by the Tenderer, directly or irectly, to any competitor, prior to the date and time of the official quotation opening, or of the awarding of the atract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to agraph (5)(b) above.	
	Nai	me	
		e	
		re	
	2000	·-	

[Name, title and signature of authorized agent of Tenderer and Date]

v) SELF-DECLARATION FORM

We,	the Tenderer (insert name) submitting our Quotation in
	ect of Quotation Nofor
	(insert quotation Title Description) for (insert Name of Procuring Entity)
DE	CLARE AS FOLLOWS:
by consinvo	We the Tenderer including any entity or individual that directly or indirectly controls, is controlled or is under common control with us, and any subcontractors, suppliers, project managers, ultants, manufacturers, service providers, agents, individuals, or any other party involved or to be lived for any part of the processes of procurement and contract execution related to the above ation:
a)	have not engaged/will not engage in any corrupt or fraudulent practices in the processes of procurement and contract execution related to the above quotation as defined and/or described in the following:
	 i) the RFQ for the above Quotation; ii) Kenya's Public Procurement and Asset Disposal Act, 2015) and its attendant Regulations;
	iii) Kenya's Anti-Corruption and Economic Crimes Act, 2013; and
	iv) any such other Acts or Regulations of Government of Kenya;
b)	have not offered/will not offer any inducement to any member of the board, management, staff and/or employees and/or agents of(name of the procuring entity);
c)	have not engaged/will not engage in any collusive or corrosive practice with other tenderers participating in the subject quotation;
d)	have not been sanctioned or debarred by any entity from participation in public procurement proceedings of Kenya.
	That, what is deponed to herein above is true to the best of our knowledge, information and belief
Nar	ne of the Tenderer: [Insert complete name of tenderer signing the quotation]
	ne of the person duly authorized to sign the quotation on behalf of the Tenderer:ert complete name of person duly authorized to sign the quotation]
	e of the person signing the Quotation:[Insert complete title of the person signing the ation]
_	ature of the person named above:

PART 2: SCHEDULE OF REQUIREMENTS

TABLE A. SCHEDULE OF REQUIREMENTS, TECHNICAL SPECIFICATIONS

Table A. SCHEDULE OF REQUIREMENTS AND TECHNICAL SPECIFICATIONS

[Procuring Entity to complete Columns a-d and Tenderer to complete Column Indicating YES or No and if NO indicate the specification of the offered item]

No	Item Description of Goods/work (Procuring Entity to select of For Works attach drawings		CONFORMITY WITH TECHNICAL SPECIFICATIO (to be completed by Tenderer)
	В	D	Е
1.		Service of machines and replacing of Spare part when needed including, Maintenance kit, Fuser Kit, Power Supply Unit, Imaging Unit, Tonners etc.	

TABLE B. SCHEDULE OF REQUIREMENTS TABLE

FINANCIAL EVALUATION STAGE CONTRACT FOR MAINTENANCE OF PRINTERS

The Maintenance Contract shall consist of:-

- i) **Routine Preventive Maintenance Service** Four regular service per annum (quarterly) to be scheduled for preventive and corrective maintenance and includes all necessary repairs, supply and fitting of new replacement parts.
- ii) **Special calls Requested by Garissa University -** The COMPANY shall from receipt of the problem report, arrive at Garissa University installation site within 1 working day.
- iii) **Contract premium** This will be aggregate for all printers as per the below schedule of printers: -

Indicate the Cost of Servicing each Equipment annually Inclusive of VAT

S/No	Printer Make/Model	QTY	Annual Amount
1.	Printing /Photocopy Machine TA5002i	1	
2.	Printing /Photocopy Machine M6235cidn	1	
3.	Printing /Photocopy Machine TA5500I	1	
4.	Printing /Photocopy Machine MZ4000i	1	
5.	Printing /Photocopy Machine Task Alfa 3212i	5	
6.	Printing /Photocopy Machine Ecosys M4125ign	1	
	Total		

Annually contract premium Ksh(This is exclusive of Consumables and Spares)

REPAIRS AND REPLACEMENT ON NEED BASIS

Tenderer should attach the pricelist of spares and consumables as per the schedule below inclusive of VAT

TONER SCHEDULE AND PRICING

S/No	PRINTER TONERS	PRICE (KSHS)
	DESCRIPTION	GENUINE TONERS/INK
1.	TK Kyocera -7235	
2.	TK Kyocera -7125	
3.	TK Kyocera -6325	
4.	TK Kyocera -6115	
5.	TK Kyocera -6305	
6.	TK 5280H BK	
	TOTAL	

SPARE PART PRICES

SCHEDUL

Sample: Photocopy Machine TA5002i, M6235cidn, TA5500I, MZ4000i

	SPARE DESCRIPTION	PRICE (KSHS)
1	Imaging Unit	
2	Maintenance Kit	
3	Fusing Unit	
4	Power supply unit	
	Total	

Signature:	
And seal/Stamp	
Name:	
Position:	
Authorised for and on behalf of (specify name of tenderer)	
	
Date	

PART 3: CONTRACT

CONTRACT AGREEMENT

(1)	THIS CONTRACT AGREEMENT is made	_ (specify date).
	reen	
[Inse	rt address of Procuring Entity] and	
[Inse	rt name of Supplier, or contractor or service provider], and having	its principal place of business at
[Inse	rt address of Supplier, contractor or service provider].	
Table	HEREAS the Procuring Entity invited quotations for the Supply of Goods/wor	[insert
brief	description of Goods, works and Services] and has accepted a Quotation [inse	on by the Tenderer in the sum of ert Contract Price in words and
 figure	es] (hereinafter called "the Contract Price").	The Community of the Co
(3)	NOW THIS AGREEMENT WITNESSED AS FOLLOWS:	
1.	This Contract Agreement includes the following documents:	
(a)	Table A. SCHEDULE OF REQUIREMENTS AND TECHNICAL SPEC	CIFICATIONS
(b)	Table B. QUOTATIONSUBMISSION TABLE	
(c)	FORM OF QUOTATION	
(d)	Conditions of Contract	
2	In consideration of the payments to be made by the Procuring Entity to the	Supplier/contractor/service provider

- 2. In consideration of the payments to be made by the Procuring Entity to the *Supplier/contractor/service provider* as hereinafter mentioned, the *Supplier/contractor/service provider* hereby covenants with the Procuring Entity to provide the Goods/works/services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
- 3. The Procuring Entity hereby covenants to pay the Supplier/Contractor/service provider (*select one*) in consideration of the provision of the Goods/works/services (*select one*) 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.
- (4) In WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Kenya.

For and on behalf of the Procuring Entity

Signed: [insert signature] in the capacity of [insert title or other appropriate designation]

in the presence of [insert identification of official witness]

For and on behalf of the Supplier/Contractor/Service Provider (select one)

Signed: [insert signature of authorized representative(s) of the Supplier] in the capacity of [insert title or other appropriate designation] in the presence of [insert identification of official witness]

CONDITIONS OF CONTRACT

1. Language

The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier/Contractor/Service Provider (*select one*) Provider and the Procuring Entity, shall be written in the English Language.

2. Eligibility

The goods shall have the nationality of an eligible country. All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries.

3. Notices

Any notice given by one party to the other pursuant to the Contract shall be in writing.

4. Governing Law

The Contract shall be governed by and interpreted in accordance with the Laws of Kenya, unless otherwise specified hereunder.

5. Settlement of Disputes

The Procuring Entity and the Supplier/Contractor/Service (*select one*) shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract. If the parties have failed to resolve their dispute or difference by such mutual consultation, either the Procuring Entity or the Supplier/Contractor/Service (*select one*) may give notice to the other party of its intention to commence arbitration. The dispute shall be referred to adjudication or arbitration in accordance with the laws of Kenya.

6. Supplier/Contractor/Service Provider Responsibilities

The Supplier/Contractor/Service Provider (select one) shall supply all the Goods included in the Schedule of Requirements.

7. Contract Price

Prices charged by the Supplier/Contractor/Service Provider (*select one*) under the Contract shall not vary from the prices quoted by the Supplier/Contractor/Service Provider (*select one*) in its quotation.

8. Terms of Payment

The Contract Price shall be paid One hundred (100) percent of the Contract Price as follows (select one):

- (i) For Goods, price of goods received upon submission of a claim/invoice supported by the acceptance certificate issued by the Procuring Entity.
- (ii) For Works, upon valuation by the Contractor of the portion of the works completed, such valuation to be accepted by the Procuring Entity, payments up to final completion certificate.
- (iii) For Services, upon valuation by the Service Provider of the services completed, such valuation to be accepted by the Procuring Entity, payments up to final completion certificate

9. Inspections and Tests

The Supplier/Contractor/Service Provider (*select one*) shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods, works or Services to confirm their conformity to technical specifications

10. Warranty

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.