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**IN THE HIGH COURT OF MALAWI
COMMERCIAL DIVISION
LILONGWE DISTRICT REGISTRY
COMMERCIAL CASE NO 011 OF 2020
(BEFORE HONORABLE JUSTICE ANABEL MTALIMAJA)**

BETWEEN:

SAVENDA MANAGEMENT SERVICES LIMITED..... CLAIMANT

AND

**ATTORNEY GENERAL (MINISTRY OF HEALTH AND
POPULATION).....DEFENDANT**

JUDGMENT AGAINST THE DEFENDANT

(Order 2, Rule 3(b) as read with Order 12, Rule 6(a) of the Courts (High court) (Civil Procedure Rules), 2017

UPON hearing Counsel for the Claimant and upon reading the Sworn Statement in support of the application,

IT IS HEREBY ORDERED that the Defendant's Defence be and is hereby set aside for non-compliance with the Direction of the Court to file its submissions on a point of law by the 2nd of September, 2020.

CONSEQUENTLY, Judgment without a hearing be and is hereby entered against the Defendant as pleaded on the following terms:

- (a) It is hereby declared that the Defendant's Cancellation of the Procurement Proceedings in respect of the Procurement Reference No: 031-01-HSJF-18/19-G-ICB-60 being procurement of fully equipped advanced and basic life saving ambulances

was not done in the public interest and thus contravened S. 46(b) of the Public Procurement and Disposal of Public Assets Act.

- (b) It is hereby declared that the Defendant is thus by statute liable for the loss occasioned to the Claimant by reason of its illegal cancellation of the said procurement proceedings at a time when the Defendant had created legitimate expectations to the Claimant which caused the Claimant to incur expenses in order to fulfil the requirements of the procurement proceedings that the Defendant had exposed the Claimant to.
- (c) Consequently, an order is hereby granted that the Defendant do compensate the Claimant for the loss suffered by the said illegal cancellation of the procurement proceedings by putting him in the same position he would have been had he been awarded the contract, the same to be assessed by the Assistant Registrar.
- (d) The Defendant is hereby ordered to pay the Claimant the sum of 320, 000.00 British Pounds spent by the Claimant on the Defendant's employees for the post bid evaluation exercise.
- (e) The Defendant is hereby ordered to pay the Claimant the expenses incurred in the preparation of the bid to be assessed by the Assistant Registrar.
- (f) The Defendant is hereby ordered to pay the Claimant general damages for inconvenience to be assessed by the Assistant Registrar.
- (g) The Defendant is hereby ordered to pay the Claimant costs at the indemnity scale to be assessed by the Assistant Registrar.

Dated the ^{10th}.....day of September, 2020

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ASSISTANT REGISTRAR/ JUDGE

To:
The Attorney General
Private Bag 333
Lilongwe

This document has been filed by Messrs Kita & Co, Legal Practitioners for the Claimant whose address for service is Kita Office Park, Area 12/628, Opp. Chinese Embassy, Post Office Box 695, Lilongwe.