MINISTRY OF EDUCATION STATE DEPARTMENT OF VOCATIONAL AND TECHNICAL TRAINING



MATILI TECHNICAL TRAINING INSTITUTE

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STANDARD DOCUMENT FOR TENDER

TENDER NO: MATTI/TNDR/45/22-23

PROPOSED CONSTRUCTION OF PERIMETER WALL AT MATILI TECHNICAL COMPOUND A-LABOUR ONLY CONTRACT

SUBMIT TWO COPIES BY 13TH JULY 2022

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TENDER NO: MATTI/TNDR/45/22-23

TENDER NAME:

PROPOSED CONSTRUCTION OF PERIMETER WALL AT MATILI TTI COMPOUND A-LABOUR ONLY CONTRACT

INVITATION TO TENDER

PROCURING ENTITY: [MATILI TECHNICAL TRAINING INSTITUTE] CONTRACT NAME AND

DESCRIPTION: /PROPOSED CONSTRUCTION OF PERIMETER WALL AT MATILI TTI

COMPOUND A-LABOUR ONLY CONTRACT/

- 1. The (MATILI TECHNICAL TRAINING INSTITUTE) invites sealed tenders for the construction of PROPOSED CONSTRUCTION OF PERIMETER WALL AT MATILI TTI COMPOUND A-LABOUR ONLY CONTRACT.
- 2. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.

In case tender is subject to multiple contracts/lots, insert "Tenderers will be allowed to tender for one or more lots".

In case this tender is subject to a Reservation, specify the Group is eligible to tender, Insert e.g." Tendering to open to all Small and Medium Enterprises registered appropriately with.....").

- 3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours [8AM-5PM Monday to Friday] at the address given below.
- 4. A complete set of tender documents may be purchased or obtained by interested tenders upon payment of a non-refundable fees of (1000 in cash or Banker's Cheque and payable to the address given below. Tender documents may be obtained electronically from the Website(s) www.matilitechnical.ac.ke . Tender documents obtained electronically will be free of charge.
- 5. Tender documents may be viewed and downloaded for free from the website (<u>www.matilitechnical.ac.ke</u>). Tenderers who download the tender document must forward their particulars immediately to (*matiliprocurement@gmail.com*) to facilitate any further clarification or addendum.
- 6. Tenders shall be quoted be in Kenya Shillings and shall include all taxes. Tenders shall remain valid for (90) days from the date of opening of tenders.
- 7. All Tenders must be accompanied by a [insert "tender Security" or "Tender-Securing Declaration," as appropriate] of [insert amount and currency in case of a tender Security.]
- 8. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
- 9. Completed tenders must be delivered to the address below on or before [insert time and date]. Electronic Tenders [will or will not] be permitted.
- 10. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
- 11. Late tenders will be rejected.
- 10. The addresses referred to above are:

A. Address for obtaining further information and for purchasing tender documents

- 1) Name of Procuring Entity
- 2) Physical address for hand Courier Delivery to an office or Tender Box (City, Street Name, Building, Floor Number and Room)
- 3) Postal Address
- 4) Insert name, telephone number and e-mail address of the officer to be contacted.

B. Address for Submission of Tender	B.	Address	for Sub	mission	of Tenders
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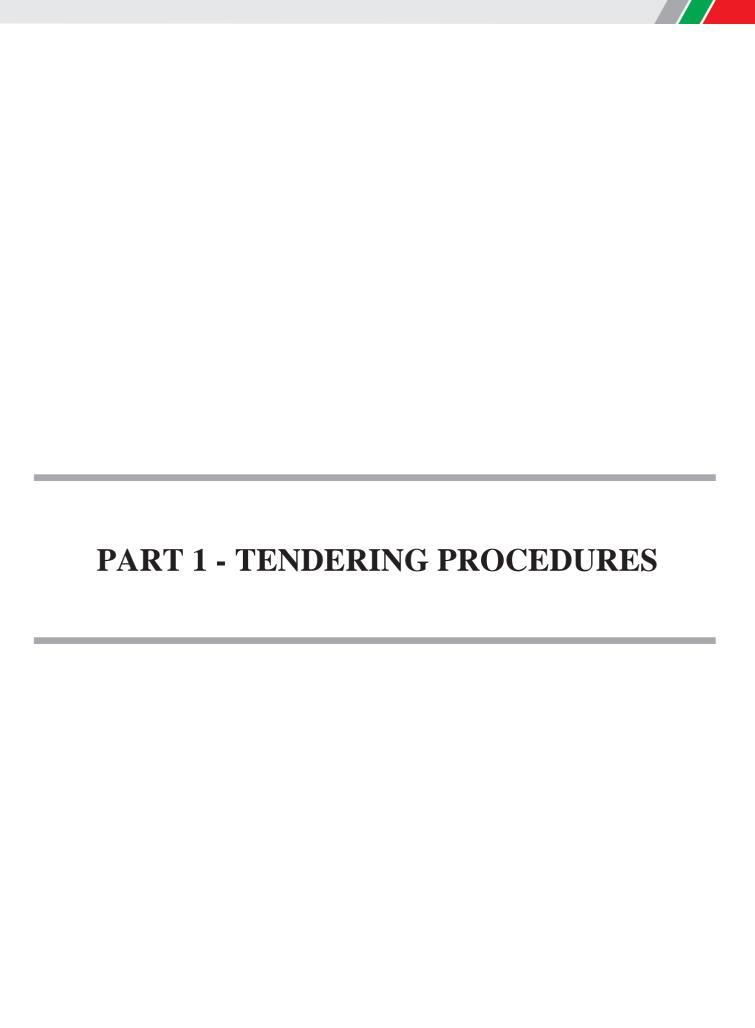
- 1) Name of Procuring Entity
- 2) Postal Address (include Designation of Officer to be attentional)
- 3) Physical address for hand Courier Delivery to an office or Tender Box (City, Street Name, Building, Floor Number and Room)

C. Address for Opening of Tenders.

- 1) Name of Procuring Entity
- 2) Physical address for the location (City, Street Name, Building, Floor Number and Room)

[Authorized Official (name, designation, Signature and date)]

Name_			(Official of the
Procuring Entity issuing the invitation)			
Designation	Signature	Date	



SECTION I: INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

1.1 The Procuring Entity as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The name, identification, and number of lots (contracts) of this Tender Document are **specified in the TDS**.

2. Fraud and Corruption

- 2.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.
- 2.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.
- 2.3 Unfair Competitive Advantage Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the **Data Sheet** and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.
- 2.4 Unfair Competitive Advantage -Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender being tendered for. The Procuring Entity shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

3. Eligible Tenderers

- 3.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.7 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. Public employees and their close relatives (*spouses*, *children*, *brothers*, *sisters and uncles and aunts*) are not eligible to participate in the tender. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS**.
- 3.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 3.3 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:
 - a) Directly or indirectly controls, is controlled by or is under common control with another tenderer; or
 - b) Receives or has received any direct or indirect subsidy from another tenderer; or
 - c) Has the same legal representative as another tenderer; or
 - d) Has a relationship with another tenderer, directly or through common third parties, that puts it in a position

- to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process; or
- e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender; or
- f) any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer for the Contract implementation; or
- g) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contract specified in this Tender Document or
- h) Has a close business or family relationship with a professional staff of the Procuring Entity who:
 - i) are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or
 - ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.
- 3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved any of these practices shall be automatically disqualified.
- 3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.
- 3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8.A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or subconsultants for any part of the Contract including related Services.
- 3.7 Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.
- 3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are accredited by PPRA to be (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.
- 3.9 A Firms and individuals may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.
- 3.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in "SECTION III EVALUATION AND QUALIFICATION CRITERIA, Item 9".
- 3.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan

Citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than 51 percent ownership by Kenyan citizens. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

- 3.12 The National Construction Authority Act of Kenya requires that all local and foreign contractors be registered with the National Construction Authority and be issued with a Registration Certificate before they can undertake any construction works in Kenya. Registration shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before such award and signature of contract. Application for registration with National Construction Authority may be accessed from the website www.nca.go.ke.
- 3.13 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
- 3.14 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

4. Eligible Goods, Equipment, and Services

- 4.1 Goods, equipment and services to be supplied under the Contract may have their origin in any country that is not eligible under ITT 3.9. At the Procuring Entity's request, Tenderers may be required to provide evidence of the origin of Goods, equipment and services.
- 4.2 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5. Tenderer's Responsibilities

- 5.1 The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and the Procuring Entity will in no case be responsible or liable for those costs.
- 5.2 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.
- 5.3 The Tenderer and any of its personnel or agents will be granted permission by the Procuring Entity to enter upon its premises and lands for the purpose of such visit. The Tenderer shall indemnify the Procuring Entity against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the inspection.
- 5.4 The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

B. <u>Contents of Tender Documents</u>

6. Sections of Tender Document

6.1 The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITT 8.

PART 1 Tendering Procedures

- i) Section I Instructions to Tenderers (ITT)
- ii) Section II Tender Data Sheet (TDS)
- iii) Section III Evaluation and Qualification Criteria
- iv) Section IV Tendering Forms

PART 2 Works Requirements

- i) Section V Drawings
- ii) Section VI Specifications
- iii) Section VII Bills of Quantities

PART 3 Conditions of Contract and Contract Forms

- i) Section VIII General Conditions of Contract (GCC)
- ii) Section IX Special Conditions of Contract (SC)
- iii) Section X Contract Forms
- 6.2 The Invitation to Tender Document (ITT) issued by the Procuring Entity is not part of the Contract documents.
- 6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Tender document, responses to requests for clarification, the minutes of the pre-Tender meeting (if any), or Addenda to the Tender document in accordance with ITT 8. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document and to furnish with its Tender all information and documentation as is required by the Tender document.

7. Site Visit

7.1 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the Required Services and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for the Services. The costs of visiting the Site shall be at the Tenderer's own expense.

8. Pre-Tender Meeting

- 8.1 The Procuring Entity shall specify in the **TDS** if a pre-tender meeting will be held, when and where. The Procuring Entity shall also specify in the **TDS** if a pre-arranged pretender site visit will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 8.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.
- 8.3 Minutes of the pre-Tender meeting and the pre-arranged pretender site visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.
- 8.4 The Procuring Entity shall also promptly publish anonym zed (*no names*) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9. Clarification and amendments of Tender Documents

9.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting and the pre-

arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT 8.4.

10. Amendment of Tendering Document

- 10.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.
- 10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's web page in accordance with ITT 8.4.
- 10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 25.2 below.

C. Preparation of Tenders

11. Cost of Tendering

11.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

12. Language of Tender

12.1 The Tender, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring Entity, shall be written in the English Language. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate and notarized translation of the relevant passages into the English Language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

13. Documents Comprising the Tender

- 13.1 The Tender shall comprise the following:
 - a) Form of Tender prepared in accordance with ITT 14;
 - b) Schedules including priced Bill of Quantities, completed in accordance with ITT 14 and ITT 16;
 - c) Tender Security or Tender-Securing Declaration, in accordance with ITT 21.1;
 - d) Alternative Tender, if permissible, in accordance with ITT 15;
 - e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
 - f) Qualifications: documentary evidence in accordance with ITT 19establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
 - g) Conformity: a technical proposal in accordance with ITT 18;
 - h) Any other document required in the **TDS**.
- 13.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender,

- together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.
- 13.3 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

14. Form of Tender and Schedules

14.1 The Form of Tender and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested.

15. Alternative Tenders

- 15.1 Unless otherwise specified in the **TDS**, alternative Tenders shall not be considered.
- 15.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **TDS**, and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.
- 15.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the Procuring Entity. When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**, as will the method for their evaluating, and described in Section VII, Works' Requirements.

16. Tender Prices and Discounts

- 16.1 The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Bill of Quantities shall conform to the requirements specified below.
- 16.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Tenderer shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Procuring Entity. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Tender, and provided that the Tender is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive Tenderers will be added to the Tender price and the equivalent total cost of the Tender so determined will be used for price comparison.
- 16.3 The price to be quoted in the Form of Tender, in accordance with ITT 14.1, shall be the total price of the Tender, including any discounts offered.
- 16.4 The Tenderer shall quote any discounts and the methodology for their application in the Form of Tender, in accordance with ITT 14.1.
- 16.5 It will be specified in the **TDS** if the rates and prices quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, except in cases where the contract is subject to <u>fluctuations and adjustments</u>, not fixed price. In such a case, the Tenderer shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Procuring Entity may require the Tenderer to justify its proposed indices and weightings.
- 16.6 Where tenders are being invited for individual lots (contracts) or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 16.4, provided the Tenders for all lots (contracts) are opened at the same time.

16.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

17. Currencies of Tender and Payment

17.1 Tenderers shall quote entirely in Kenya Shillings. The unit rates and the prices shall be quoted by the Tenderer in the Bill of Quantities, entirely in Kenya shillings. A Tenderer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside Kenya shall device own ways of getting foreign currency to meet those expenditures.

18. Documents Comprising the Technical Proposal

18.1 The Tenderer shall furnish a technical proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Tender Forms, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work's requirements and the completion time.

19. Documents Establishing the Eligibility and Qualifications of the Tenderer

- 19.1 Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility in accordance with ITT 4.
- 19.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV. Tender Forms.
- 19.3 A margin of preference will not be allowed. Preference and reservations will be allowed, individually or in joint ventures. Applying for eligibility for Preference and reservations shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 33.1.
- 19.4 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a contractor or group of contractors qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.
- 19.5 The purpose of the information described in ITT 19.4 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.
- 19.6 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
- 19.7 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.
- 19.8 If a tenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
- 19.9 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of

interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

- i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
- ii) if the contract has been awarded to that tenderer, the contract award will be set aside,
- iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.
- 19.10 If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

20. Period of Validity of Tenders

- 20.1 Tenders shall remain valid for the Tender Validity period specified in the **TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 24). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
- 20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21.1, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 20.3.
- 20.3 If the award is delayed by a period exceeding the number of days to be specified in the **TDS** days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows:
 - a) in the case of **fixed price** contracts, the Contract price shall be the tender price adjusted by the factor specified in the **TDS**;
 - b) in the case of **adjustable price** contracts, no adjustment shall be made; or in any case, tender evaluation shall be based on the tender price without taking into consideration the applicable correction from those indicated above.

21. Tender Security

- 21.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified in the **TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified in the **TDS**. A Tender-Securing Declaration shall use the form included in Section IV, Tender Forms.
- 21.2 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:
 - a) an unconditional Bank Guarantee issued by reputable commercial bank); or
 - b) an irrevocable letter of credit;
 - c) a Banker's cheque issued by a reputable commercial bank; or
 - d) another security specified in the TDS,
- 21.3 If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 20.2.
- 21.4 If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.
- 21.5 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security and any other documents required in the **TDS**. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were

determined nonresponsive or a bidder declines to extend tender validity period.

- 21.6 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the **TDS**.
- 21.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:
 - e) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension thereto provided by the Tenderer; or
 - f) if the successful Tenderer fails to:
 - i) sign the Contract in accordance with ITT 50; or
 - ii) furnish a Performance Security and if required in the **TDS**, and any other documents required in the **TDS**
- 21.8 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.
- 21.9 The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 11.2.
- 21.10A tenderer shall not issue a tender security to guarantee itself.

22. Format and Signing of Tender

- 22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 15, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 Tenderers shall mark as "CONFIDENTIAL" all information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 22.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 22.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 22.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

- 23. Sealing and Marking of Tenders
- 23.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:
 - a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and

- b) in an envelope or package or container marked "COPIES", all required copies of the Tender; and
- c) if alternative Tenders are permitted in accordance with ITT 15, and if relevant:
 - i) in an envelope or package or container marked "ORIGINAL -ALTERNATIVE TENDER", the alternative Tender; and
 - ii) in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) bear the name and address of the Procuring Entity.
- b) bear the name and address of the Tenderer; and
- c) bear the name and Reference number of the Tender.
- 23.2 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

24. Deadline for Submission of Tenders

- 24.1 Tenders must be received by the Procuring Entity at the address specified in the **TDS** and no later than the date and time also specified in the **TDS**. When so specified in the **TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the **TDS**.
- 24.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

25. Late Tenders

25.1 The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of tenders, in accordance with ITT 24. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

26. Withdrawal, Substitution, and Modification of Tenders

- 26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 22.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
 - a) prepared and submitted in accordance with ITT 22 and ITT 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
 - b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 24.
- $26.2\,Tenders\,requested\,to\,be\,with drawn\,in\,accordance\,with\,ITT\,26.1\,shall\,be\,returned\,unopened\,to\,the\,Tenderers.$
- 26.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

27. Tender Opening

- 27.1 Except in the cases specified in ITT 23 and ITT 26.2, the Procuring Entity shall publicly open and read out all Tenders received by the deadline, at the date, time and place specified in the **TDS**, in the presence of Tenderers' designated representatives who chooses to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 24.1, shall be as specified in the **TDS**.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelopes with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal

and is read out at Tender opening.

- 27.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
- 27.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 27.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.
- 27.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the Procuring Entity to sign shall be specified in the **TDS**.
- 27.7 At the Tender Opening, the Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 25.1).

27.8 The Procuring Entity shall prepare minutes of the Tender Opening that shall include, as a minimum:

- a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
- b) the Tender Price, per lot (contract) if applicable, including any discounts;
- c) any alternative Tenders;
- d) the presence or absence of a Tender Security, if one was required.
- e) number of pages of each tender document submitted.
- 27.9 The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening register shall be distributed to all Tenderers upon request.

E. Evaluation and Comparison of Tenders

28. Confidentiality

- 28.1 Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with the Tender process until information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 46.
- 28.2 Any effort by a Tenderer to influence the Procuring Entity in the evaluation of the Tenders or Contract award decisions may result in the rejection of its tender.
- 28.3 Notwithstanding ITT 28.2, from the time of tender opening to the time of contract award, if a tenderer wishes to contact the Procuring Entity on any **matter related to the tendering process, it shall do so in writing.**

29. Clarification of Tenders

- 29.1 To assist in the examination, evaluation, and comparison of the tenders, and qualification of the tenderers, the Procuring Entity may, at its discretion, ask any tenderer for a clarification of its tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the tenders, in accordance with ITT 33.
- 29.2 If a tenderer does not provide clarifications of its tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

30. Deviations, Reservations, and Omissions

- 30.1 During the evaluation of tenders, the following definitions apply:
 - a) "Deviation" is a departure from the requirements specified in the tender document;
 - b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document; and
 - c) "Omission" is the failure to submit part or all of the information or documentation required in the Tender document.

31. Determination of Responsiveness

- 31.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 13.
- 31.2 A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that, if accepted, would:
 - a) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - b) limit in any substantial way, inconsistent with the tender document, the Procuring Entity's rights or the tenderer's obligations under the proposed contract; or
 - c) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.
- 31.3 The Procuring Entity shall examine the technical aspects of the tender submitted in accordance with ITT 18, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.
- 31.4 If a tender is not substantially responsive to the requirements of the tender document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

32. Non-material Non-conformities

- 32.1 Provided that a tender is substantially responsive, the Procuring Entity may waive any non-conformities in the tender.
- 32.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the tenderer submit the necessary information or documentation, within a reasonable period, to rectify nonmaterial non-conformities in the tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the tender. Failure of the tenderer to comply with the request may result in the rejection of its tender.
- 32.3 Provided that a tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the **TDS**.

33. Arithmetical Errors

- 33.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.
- 33.2 Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:
 - a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
 - b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, and subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
 - c) if there is a discrepancy between words and figures, the amount in words shall prevail

33.3 Tenderers shall be notified of any error detected in their bid during the notification of a ward.

34. Currency provisions

34.1 Tenders will priced be in Kenya Shillings only. Tenderers quoting in currencies other than in Kenya shillings will be determined non-responsive and rejected.

35. Margin of Preference and Reservations

- 35.1 No margin of preference shall be allowed on contracts for small works.
- 35.2 Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and/or persons living with disability, who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses/firms belonging to those specified groups are the only ones eligible to tender. Otherwise if no so stated, the invitation will be open to all tenderers.

36. Nominated Subcontractors

- 36.1 Unless otherwise stated in the **TDS**, the Procuring Entity does not intend to execute any specific elements of the Works by subcontractors selected in advance by the Procuring Entity.
- 36.2 Tenderers may propose subcontracting up to the percentage of total value of contracts or the volume of works as specified in the **TDS**. Subcontractors proposed by the Tenderer shall be fully qualified for their parts of the Works.
- 36.3 The subcontractor's qualifications shall not be used by the Tenderer to qualify for the Works unless their specialized parts of the Works were previously designated by the Procuring Entity in the **TDS** as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Subcontractors proposed by the Tenderer may be added to the qualifications of the Tenderer.

37. Evaluation of Tenders

- 37.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine the Best Evaluated Tender in accordance with ITT 40.
- 37.2 To evaluate a Tender, the Procuring Entity shall consider the following:
 - a) price adjustment due to discounts offered in accordance with ITT 16;
 - b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with IIT39;
 - c) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 30.3; and
 - d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.
- 37.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.
- 37.4 In the case of multiple contracts or lots, Tenderers shall be allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the **Form of Tender**, is specified in Section III, Evaluation and Qualification Criteria.

38. Comparison of Tenders

38.1 The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 38.2 to determine the Tender that has the lowest evaluated cost.

39. Abnormally Low Tenders

39.1 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price or that genuine competition between Tenderers is compromised.

- 39.2 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.
- 39.3 After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

40. Abnormally High Tenders

- 40.1 An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.
- 40.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:
 - i) If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.
 - ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.
- 40.3 If the Procuring Entity determines that the Tender Price is abnormally too high because <u>genuine competition</u> <u>between tenderers is compromised</u> (often due to collusion, corruption or other manipulations), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

41. Unbalanced and/or Front-Loaded Tenders

- 41.1 If in the Procuring Entity's opinion, the Tender that is evaluated as the lowest evaluated price is seriously unbalanced and/or front loaded, the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with the scope of works, proposed methodology, schedule and any other requirements of the Tender document.
- 41.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may as appropriate:
 - a) accept the Tender; or
 - b) require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or
 - c) agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works; or
 - d) reject the Tender,

42. Qualifications of the Tenderer

- 42.1 The Procuring Entity shall determine to its satisfaction whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 42.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 19. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.
- 42.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative

determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similar determination of that Tenderer's qualifications to perform satisfactorily.

- 42.4 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.
- 42.5 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.
- 42.6 After evaluation of the price analyses, if the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

43. Best Evaluated Tender

- 43.1 Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Best Evaluated Tender. The Best Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:
 - a) Most responsive to the Tender document; and
 - b) the lowest evaluated price.

44. Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders.

44.1 The Procuring Entity reserves the right to accept or reject any Tender and to annul the Tender process and reject all Tenders at any time prior to Contract Award, without thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

45. Award Criteria

45.1 The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender.

46. Notice of Intention to enter into a Contract

- 46.1 Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity shall issue a Notification of Intention to Enter into a Contract / Notification of award to all tenderers which shall contain, at a minimum, the following information:
 - a) the name and address of the Tenderer submitting the successful tender;
 - b) the Contract price of the successful tender;
 - c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
 - d) the expiry date of the Standstill Period; and
 - e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

47. Standstill Period

- 47.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.
- 47.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.

48. Debriefing by the Procuring Entity

- 48.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 46, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.
- 48.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending **such a debriefing meeting.**

49. Letter of Award

49.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21days of the date of the letter.

50. Signing of Contract

- 50.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.
- 50.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Procuring Entity.
- 50.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period

51. Appointment of Adjudicator

51.1 The Procuring Entity proposes the person named in the **TDS** to be appointed as Adjudicator under the Contract, at the hourly fee specified in the **TDS**, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in his Tender. If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority designated in the Special Conditions of Contract (SCC) pursuant to Clause 23.1 of the General Conditions of Contract (GCC), to appoint the Adjudicator.

52. Performance Security

- 52.1 Within twenty-one (21) days of the receipt of the Letter of Acceptance from the Procuring Entity, the successful Tenderer shall furnish the Performance Security and, any other documents required in the **TDS**, in accordance with the General Conditions of Contract, subject to ITT 40.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent bank is not required.
- 52.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the **TDS**, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.
- 52.3 Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million shillings.

53. Publication of Procurement Contract

- 53.1 Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:
 - a) name and address of the Procuring Entity;
 - b) name and reference number of the contract being awarded, a summary of its scope and the selection

method used;

- c) the name of the successful Tenderer, the final total contract price, the contract duration.
- d) dates of signature, commencement and completion of contract;
- e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

54. Procurement Related Complaints and Administrative Review

- 54.1 The procedures for making Procurement-related Complaints are as specified in the **TDS**.
- 54.2 A request for administrative review shall be made in the form provided under contract forms.

Section II - Tender Data Sheet (TDS)

The following specific data shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT.

ITT Reference PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS			
	A. General		
ITT 1.1	The name of the contract is		
	The reference number of the Contract		
	is		
	The number and identification of lots (contracts) comprising this Tender are		
	[insert number and identification of lots (contracts)]		
	[insert number and identification of tots (contracts)]		
	Lot 1- Name		
	Lot 2- Name		
	Lot Name		
ITT 2.3	The Information made available on competing firms is as follows:		
111 2.3	The information made available on competing firms is as follows.		
ITT 2.4	The firms that provided consulting services for the contract being tendered for are:		
111 2.4	The fifths that provided consulting services for the contract being tendered for are.		
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: <i>[insert a</i>		
	number].		
B. Contents of T	Cender Document		
8.1	(A) Pre-Tender conference [insert "shall" or "shall not"] take place at the		
	following date, time and place:		
	Date:		
	Time: Place:		
	1 fact		
	(B) A pre-arranged pretender visit of the site of the works [insert "shall" or		
	"shall not"] take place at the following date, time and place:		
	Date:		
	Time:		
	Place:		
ITT 8.2	The Tandagar will submit any questions in writing to good the Dressming Entity		
111 0.2	The Tenderer will submit any questions in writing, to reach the Procuring Entity not later than		
	not rater than		
ITT 8.4	The Procuring Entity's website where Minutes of the pre-Tender meeting and the		
	pre-arranged pretender site visit will be published is		
ITT 9.1	For Clarification of Tender purposes, for obtaining further information and for		
	purchasing tender documents, the Procuring Entity's address is:		
	(1) None of December 2 Entity		
	(1) Name of Procuring Entity		
	(2) Physical address for hand Courier Delivery to an office or Tender Box		
	(City, Street, Building, Floor Number and Room)		
	(3) Postal Address		

ITT Reference PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS					
	(4) Insert name, telephone number and e-mail address of the officer to be contacted				
C. Preparation	of Tenders				
ITP 13.1 (h)	The Tenderer shall submit the following additional documents in its Tender: [list any additional document not already listed in ITT 11.1 that must be submitted with the Tender. The list of additional documents should include the following:]				
ITT 15.1	Alternative Tenders [insert "shall be" or "shall not be"] considered. [If alternatives shall be considered, the methodology shall be defined in Section III, Evaluation and Qualification Criteria.]				
ITT 15.2	Alternative times for completion [insert "shall be" or "shall not be"]permitted. [If alternative times for completion are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]				
ITT 15.4	Alternative technical solutions shall be permitted for the following parts of the Works: [insert parts of the Works]: [If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]				
ITT 16.5	The prices quoted by the Tenderer shall be: [insert "subject to adjustment" or "fixed"]				
ITT 20.1	The Tender validity period shall be [insert number of days that is a multiple of seven counting as of the deadline for Tender submission] days.				
ITT 20.3 (a)	 (a) The delayed to exceedingnumber of days. (b) The Tender price shall be adjusted by the following percentages of the tender price: (i) By% of the local currency portion of the Contract price adjusted 				
	to reflect local inflation during the period of extension, and (ii) By% the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension.				
ITT 21.1	[If a Tender Security shall be required, a Tender-Securing Declaration shall not be required, and vice versa.] A Tender Security [insert "shall be" or "shall not be"] required. A Tender-Securing Declaration [insert "shall be" or "shall not be"] required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be [If a Tender Security is required, insert amount and currency of the Tender Security. Otherwise insert "Not Applicable".] [In case of lots, please insert amount and currency of the Tender Security for each lot] Note: Tender Security is required for each lot as per amounts indicated against each lot. Tenderers have the option of submitting one Tender Security for all lots (for the combined total amount of all lots) for which Tenders have been submitted, however if the amount of Tender Security is less than the total required amount, the Procuring Entity will determine for which lot or lots the Tender Security amount shall be applied.]				

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS				
ITT 21.2 (d)	The other Tender Security shall be				
ITT 21.5	On the Performance Security, other documents required shall be				
ITT 22.1	In addition to the original of the Tender, the number of copies is:[insert number of copies]				
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer sconsist of: [insert the name and description of the documentation required to demonstr				
	authority of the signatory to sign the Tender]				
D. Submission	and Opening of Tenders				
ITT 24.1	(A) For <u>Tender submission purposes</u> only, the Procuring Entity's address is:				
	(1) Name of Procuring Entity				
	(2) Postal Address (include name of Officer to be attentional)				
	(3) Physical address for hand Courier Delivery to an office or Tender Box (City, Street, Building, Floor Number and Room)				
	(4) Date and time for submission of Tenders				
	(5) Tenders shall submit/shall not submit tenders electronically.				
ITT 27.1	The Tender opening shall take place at the time and the address for Opening of Tenders provided below:				
	(1) Name of Procuring Entity				
	(2) Physical address for the location (City, Street, Building, Floor Number and Room)				
	(3) State date and time of tender opening.				
ITT 27.1	If Tenderers are allowed to submit Tenders electronically, they shall follow the electronic tender submission procedures specified below [insert a description of the electronic Tender opening procedures]:				
ITT 27.6	The number of representatives of the Procuring Entity to sign is				
E. Evaluation, a	and Comparison of Tenders				
ITT 32.3	The adjustment shall be based on the[insert "average" or "highest"] price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use				
ITT 35.2	its best estimate. The invitation to tender is extended to the following groups that qualify for Reservations				
	(These groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be;				

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS			
	describe precisely which groups qualify).			
ITT 36.1	At this time, the Procuring Entity [insert "intends" or "does not			
	<i>intend"]</i> to execute certain specific parts of the Works by subcontractors selected in advance.			
ITT 36.2	Contractor's may propose subcontracting: Maximum percentage of subcontracting permitted is:			
ITT 36.3	[Indicate N/A if not applicable]			
	The parts of the Works for which the Procuring Entity permits Tenderers to propose Specialized Subcontractors are designated as follows:			
	For the above-designated parts of the Works that may require Specialized			
	Subcontractors, the relevant qualifications of the proposed Specialized Subcontractors will be added to the qualifications of the Tenderer for the purpose of evaluation.			
ITT 37.2 (d)	Additional requirements apply. These are detailed in the evaluation criteria in			
	Section III, Evaluation and Qualification Criteria.			
ITT 51.1	The person named to be appointed as Adjudicator is			
	of(pride tel.			
	no. full postal and email addresses) at an hourly fee of Shs per day.			
	per day.			
ITT 52.2	Other documents required are			
ITT 54.1	The procedures for making a Procurement-related Complaints are detailed in the "Regulations" available from the PPRA Website www.ppra.go.ke or email complaints@ppra.go.ke . If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:			
	For the attention: [insert full name of person receiving complaints]			
	Title/position: [insert title/position]			
	Procuring Entity: [insert name of Procuring Entity]			
	Email address: [insert email address]			
	In summary, a Procurement-related Complaint may challenge any of the following:			
	(i) the terms of the Tender Documents; and			
	(ii) the Procuring Entity's decision to award the contract.			

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. General Provisions

Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:

- a) For construction turnover or financial data required for each year Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
- b) Value of single contract Exchange rate prevailing on the date of the contract signature.
- c) Exchange rates shall be taken from the publicly available source identified in the ITT 14.3. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.

This section contains the criteria that the Employer shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. The Procuring Entity should use **the Standard Tender Evaluation Document for Goods and Works** for evaluating Tenders.

Evaluation and contract award Criteria

The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents, and (iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

2 Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements of "Part 2 – Procuring Entity's Works Requirements", including checking for tenders with unacceptable errors, abnormally low tenders, abnormally high tenders and tenders that are front loaded. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides very clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered irresponsive and will not be considered further.

[The Procuring Entity will provide the preliminary evaluation criteria. To facilitate, a template may be attached or clearly described all information and list of documentation to be submitted by Tenderers to enable preliminary evaluation of the Tender]

3.	Tender Evaluation (ITT 35) Price evaluation : in addition to the criteria listed in ITT 35.2 (a) – (c) the following
	criteria shall apply:

- i) Alternative Completion Times, if permitted under ITT 13.2, will be evaluated as follows:
 ii) Alternative Technical Solutions for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows:
- iii) Other Criteria; if permitted under ITT 35.2(d):

.....

4. Multiple Contracts

Multiple contracts will be permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION 1

- i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.
- ii) If a tenderer wins more than one Lot, the tender will be awarded contracts for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the Lots. The tenderer will be awarded the combination of Lots for which the tenderer qualifies and the others will be considered for award to second lowest

the tenderers.

OPTION 2

The Procuring Entity will consider all possible combinations of won Lots [contract(s)] and determine the combinations with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combinations provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

5. Alternative Tenders (ITT 13.1)

An alternative if permitted under ITT 13.1, will be evaluated as follows:

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2- Works Requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

6. Margin of Preference is not applicable

7. Post qualification and Contract ward (ITT 39), more specifically,

- a) In case the tender <u>was subject to post-qualification</u>, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification data, if so required.
- b) In case the tender <u>was not subject to post-qualification</u>, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.
 - i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance pay ment) sufficient to meet the construction cash flow of Kenya Shillings
 - ii) Minimum <u>average</u> annual construction turnover of Kenya Shillings______ [insert amount], equivalent calculated as total certified payments received for contracts in progress and/or completed within the last______ [insert of year] years.
 - iii) At least______(insert number) of contract(s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings______equivalent.
 - iv) Contractor's Representative and Key Personnel, which are specified as _
 - v) Contractors key equipment listed on the table "Contractor's Equipment" below and more specifically listed as [specify requirements for each lot as applicable]
 - vi) Other conditions depending on their seriousness.

a) **History of non-performing contracts**:

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last ______ (specify years). The required information shall be furnished in the appropriate form.

b) **Pending Litigation**

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

c) Litigation History

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last______(specify years). All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

8. QUALIFICATION FORM SUMMARY

1	2	3	4	5	6
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	TOTAL SCORE	For Procuring Entity's Use (Qualification met or Not Met)
1	Nationality	Nationality in accordance with ITT 3.6	Forms ELI – 1.1 and 1.2, with attachments	2MKS	
2	Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14.	Form of Tender	2MKS	
3	Conflict of Interest	No conflicts of interest in accordance with ITT 3.3	Form of Tender	1MKS	
4	PPRA Eligibility	Not having been declared ineligible by the PPRA as described in ITT 3.8	Form of Tender	1MKS	
5	State- owned Enterprise	Meets conditions of ITT 3.7	Forms ELI – 1.1 and 1.2, with attachments	1MKS	
6	Goods, equipment and services to be supplied under the contract	To have their origin in any country that is not determined ineligible under ITT 4.1	Forms ELI – 1.1 and 1.2, with attachments	5MKS	
7	History of Non- Performing Contracts	Non-performance of a contract did not occur as a result of contractor default since 1 st January [].	Form CON-2		
8	Suspension Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	Not under suspension based on-execution of a Tender/Proposal Securing Declaration pursuant to ITT 19.9	Form of Tender		
9	Pending Litigation	Tender's financial position and prospective long-term profitability still sound according to criteria established in 3.1 and assuming that all pending litigation will NOT be resolved against the Tenderer.	Form CON – 2		
10	Litigation History	No consistent history of court/arbitral award decisions against the Tenderer since 1 st January [insert year]	Form CON – 2		
11	Financial Capabilities	(i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kenya Shillings [insert amount] equivalent for the subject contract(s) net of the Tenderer's other commitments.	Form FIN – 3.1, with attachments		

1	2	3	4	5	6
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	TOTAL SCORE	For Procuring Entity's Use (Qualification met or Not Met)
		 (ii) The Tenderers shall also demonstrate, to the satisfaction of the Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments. (iii) The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last [insert number of years] years shall be submitted and must 			
		demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long-term profitability.			
12	Average Annual Construction Turnover	Minimum average annual construction turnover of Kenya Shillings [insert amount], equivalent calculated as total certified payments received for contracts in progress and/or completed within the last [insert of year] years, divided by [insert number of years] years	Form FIN – 3.2		
13	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last [insert number of years] years, starting 1 st January [insert year].	Form EXP – 4.1		
	Specific Construction & Contract Management Experience	A minimum number of [state the number] similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub-contractor between 1st January [insert year] and tender submission deadline i.e (number) contracts, each of minimum value Kenya shillings equivalent. [In case the Works are to be tender as individual contracts under multiple contract procedure, the minimum number of contracts required for purposes of evaluating qualification shall be selected from the options mentioned in ITT 35.4] The similarity of the contracts shall be based on the	Form EXP 4.2(a)		

N)	
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$^{\circ}$	

5	1	2	3	4	5	6
	Item	Qualification Subject	Qualification Requirement	Document To be Completed	TOTAL	For Procuring
	No.			by Tenderer	SCORE	Entity's Use
						(Qualification
						met or Not
						Met)
			following: [Based on Section VII, Scope of Works, specify			
			the minimum key requirements in terms of physical size,			
			complexity, construction method, technology and/or other			
			characteristics including part of the requirements that may			
			be met by specialized subcontractors, if permitted in			
			accordance with ITT 34.3]			

QUALIFICATION FORMS

1. FORM EQU: EQUIPMENT

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer.

Equipment	Name of manufac	turer		Model and power rating
information				
	Capacity			Year of manufacture
Current status	Current location			
	Details of current	commitments	i	
Source	Indicate source of	the equipme	nt	
	☐ Owned	Rented	☐ Leased	☐ Specially manufactured
		☐ Rented ent owned by	☐ Leased	
ne following info	Owned rmation for equipm Name of owner	☐ Rented ent owned by	☐ Leased	

2. FORM PER -1

Contractor's Representative and Key Personnel Schedule

Tenderers should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Contractor' Representative and Key Personnel

1.	Title of position: Contractor's Representative						
	Name of candidate:						
	Duration of	[insert the whole period (start and end dates) for which this position will be					
	appointment:	engaged]					
	Time commitment: for	[insert the number of days/week/months/ that has been scheduled for this					
	this position:	position]					
	Expected time schedule	[insert the expected time schedule for this position (e.g. attach high level Gantt					
	for this position:	chart]					
2.	Title of position: []					
	Name of candidate:						
	Duration of	[insert the whole period (start and end dates) for which this position will be					
	appointment:	engaged]					
	Time commitment: for	[insert the number of days/week/months/ that has been scheduled for this					
	this position:	position]					
	Expected time schedule	[insert the expected time schedule for this position (e.g. attach high level Gantt					
	for this position:	chart]					
3.	Title of position: [J					
	Name of candidate:						
	Duration of	[insert the whole period (start and end dates) for which this position will be					
	appointment:	engaged]					
	Time commitment: for	[insert the number of days/week/months/ that has been scheduled for this					
	this position:	position]					
	Expected time schedule	[insert the expected time schedule for this position (e.g. attach high level Gantt					
	for this position:	chart]					
4.	Title of position: [
	Name of candidate:						
	Duration of	[insert the whole period (start and end dates) for which this position will be					
	appointment:	engaged]					
	Time commitment: for	[insert the number of days/week/months/ that has been scheduled for this					
	this position:	position]					
	Expected time schedule	[insert the expected time schedule for this position (e.g. attach high level Gantt					
	for this position: chart]						
5.	Title of position: [insert to						
	Name of candidate						
	Duration of	[insert the whole period (start and end dates) for which this position will be					
	appointment:	engaged]					
	Time commitment: for	[insert the number of days/week/months/ that has been scheduled for this					
	this position:	position]					
	Expected time schedule	[insert the expected time schedule for this position (e.g. attach high level Gantt					
	for this position:	chart]					

3. FORM PER-2:

Resume and Declaration - Contractor's Representative and Key Personnel.

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Name of Tenderer		

Position [#1]:	title of position from Form PER-1				
Personnel information	Name:	Date of birth:			
	Address:	E-mail:			
	Professional qualifications:				
	Academic qualifications: Language proficiency: [language and levels of speaking, reading and writing skills]				
Details					
	Address of Procuring Entity:				
	Telephone:	Contact (manager / personnel officer):			
	Fax:				
	Job title:	Years with present Procuring Entity:			

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
[main project details]	[role and responsibilities on the project]	[time in role]	[describe the experience relevant to this position]

Declaration

I, the undersigned [insert either "Contractor's Representative" or "Key Personnel" as applicable], certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Tender:

Commitment	Details
Commitment to duration of contract:	[insert period (start and end dates) for which this
	Contractor's Representative or Key Personnel is available to
	work on this contract]
Time commitment:	[insert period (start and end dates) for which this
	Contractor's Representative or Key Personnel is available to
	work on this contract]

I understand that any misrepresentation or omission in this Form may:

- a) be taken into consideration during Tender evaluation;
- b) result in my disqualification from participating in the Tender;
- c) result in my dismissal from the contract.

Name of Contractor's Representative or Key Personnel: [insert name]	me]
Signature:	
Date: (day month year):	Countersignature
of authorized representative of the Tenderer:	
Signature:	Date: (day month
vaar).	

4. TENDERER'S QUALIFICATION WITHOUT PRE-QUALIFICATION

To establish its qualifications to perform the contract in accordance with Section III, Evaluation and Qualification Criteria the Tenderer shall provide the information requested in the corresponding Information Sheets included hereunder.

4.1 FORM ELI -1.1

Tenderer Information Form
Date:
ITT No. and title:
Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration:
[indicate country of Constitution]
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information
Name:
Address:
Telephone/Fax numbers:
E-mail address:
Articles of Incorporation (or equivalent documents of constitution or association), and/or
documents of registration of the legal entity named above, in accordance with ITT 3.6
☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5
☐ In case of state-owned enterprise or institution, in accordance with ITT 3.8, documents
establishing:
Legal and financial autonomy
Operation under commercial law
 Establishing that the Tenderer is not under the supervision of the Procuring Entity
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

4.2 FORM ELI -1.2

Tenderer's JV Information Form (to be completed for each member of Tenderer's JV) Date: _ ITT No. and title: _____ Tenderer's JV name: JV member's name: JV member's country of registration: JV member's year of constitution: JV member's legal address in country of constitution: JV member's authorized representative information Name: Address: _ Telephone/Fax numbers: E-mail address: 1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 3.6. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 3.8. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

4.3 FORM CON – 2

Historical Contract Non-Performance, Pending Litigation and Litigation History

	's Name:		
Date:	l		
	ber's Name		
111 No. a	and title:		
Non-Perf	Formed Contracts in	accordance with Section III, Evaluation and Qualification C	riteria
	Contract non-perform	nance did not occur since 1st January [insert year] specified in	Section III,
		Criteria, Sub-Factor 2.1.	
	Contract(s) not perfe	ormed since 1 st January [insert year] specified in Section III, 1	Evaluation and
Qualifica	tion Criteria, require	ement 2.1	
	_		
Year	Non- performed	Contract Identification	Total Contract
	portion of		Amount (current
	contract		value, currency,
			exchange rate and
			Kenya Shilling
			equivalent)
[insert	[insert amount	Contract Identification: [indicate complete contract name/	[insert amount]
year]	and percentage]	number, and any other identification]	
		Name of Procuring Entity: [insert full name]	
		Address of Procuring Entity: [insert street/city/country]	
		Reason(s) for nonperformance: [indicate main reason(s)]	
Pending I	Litigation, in accorda	nce with Section III, Evaluation and Qualification Criteria	
□	No pending litigation	in accordance with Section III, Evaluation and Qualification	n Criteria, Sub-
Factor 2.	3.		
□ I	Pending litigation in a	accordance with Section III, Evaluation and Qualification Crit	eria, Sub-Factor 2.3
as indicat	ted below.		

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)		
		Contract Identification:			
		Name of Procuring Entity:			
		Address of Procuring Entity:			
		Matter in dispute:			
		Party who initiated the dispute:			
		Status of dispute:			
		Contract Identification:			
		Name of Procuring Entity:			
		Address of Procuring Entity:			
		Matter in dispute:			
		Party who initiated the dispute:			
		Status of dispute:			
Litigation His	story in accordance with S	Section III, Evaluation and Qualification Crite	ria		
□ No L	itigation History in accord	dance with Section III, Evaluation and Qualific	cation Criteria, Sub-Factor		
2.4.					
☐ Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4					
as indicated b	elow.				

Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
[insert year]	[insert percentage]	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: [insert full name] Address of Procuring Entity: [insert street/city/country] Matter in dispute: [indicate main issues in dispute] Party who initiated the dispute: [indicate "Procuring Entity" or "Contractor"] Reason(s) for Litigation and award decision [indicate main reason(s)]	[insert amount]

4.4 **FORM FIN – 3.1:**

Financial Situation and Perform	rmance	Perfor	ท я	atio	fn:	Si	al	anci	Fin
---------------------------------	--------	--------	-----	------	-----	----	----	------	-----

Tenderer's Name:	
Date:	
JV Member's Name	
ITT No. and title: $__$	

4.4.1. Financial Data

Type of Financial information in	Historic information for previousyears,								
(currency)	(amount in currency, currency, exchange rate*, USD equivalent)								
	Year 1	Year 2	Year 3	Year 4	Year 5				
Statement of Financial Position (Information from Balance Sheet)									
Total Assets (TA)									
Total Liabilities (TL)									
Total Equity/Net Worth (NW)									
Current Assets (CA)									
Current Liabilities (CL)									
Working Capital (WC)									
Information from Income Statem	ent								
Total Revenue (TR)									

Type of Financial information in(currency)	Historic information for previousyears, [amount in currency, currency, exchange rate*, USD equivalent)							
	Year 1	Year 2	Year 3	Year 4	Year 5			
Profits Before Taxes (PBT)								
Cash Flow Information								
Cash Flow from Operating Activities								

^{*}Refer to ITT 15 for the exchange rate

4.4.2 Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (Kenya Shilling equivalent)
1		
2		
3		

4.4.3 Financial documents

T	he Tenderer and its parties shall provide copies of financial statements for _	 years pursuant Section III, Evaluation and
Q	Pualifications Criteria, Sub-factor 3.1. The financial statements shall:	-

- (a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).
- (b) be independently audited or certified in accordance with local legislation.
- (c) be complete, including all notes to the financial statements.
- (d) correspond to accounting periods already completed and audited.

¹ If the most recent set of financial statements is for a period earlier than 12 months from the date of Tender, the reason for this should be justified.

4.5 **FORM FIN – 3.2:**

Average Annual Construction Turnover

Tenderer's Name:	
Date:	
JV Member's Name	
ITT No. and title:	

Annual turnover data (construction only)					
Year	Amount	Exchange rate	Kenya Shilling equivalent		
	Currency				
[indicate year]	[insert amount and indicate				
	currency]				
Average					
Annual					
Construction					
Turnover *					

^{*} See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

4.6 **FORM FIN – 3.3**:

Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III, Evaluation and Qualification Criteria

Financial Resources				
No.	Source of financing	Amount (Kenya Shilling equivalent)		
1				
2				
3				

4.7 **FORM FIN – 3.4:**

Current Contract Commitments / Works in Progress

Tenderers and each member to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

	Current Contract Commitments								
	Name of Contract	Procuring Entity's Contact Address, Tel,	Value of Outstanding Work [Current Kenya Shilling /month Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month)]				
1									
2									
3									
4									
5									

4.8 **FORM EXP - 4.1**

General Construction Experience

Tenderer: _

Amount of contract: ______

Name of Procuring Entity: ______

Address: _____

	s Name:		
JV Membe	er's Name		
ITT No. ar	nd title:		
Page		_ofpages	
Starting Year	Ending Year	Contract Identification	Role of Tenderer
		Contract name: Brief Description of the Works performed by the Tenderer: Amount of contract: Name of Procuring Entity: Address:	
		Contract name: Brief Description of the Works performed by the Tenderer: Amount of contract: Name of Procuring Entity: Address:	
		Contract name: Brief Description of the Works performed by the	

4.9 <u>FORM EXP - 4.2(a)</u> Specific Construction and Contract Management Experience

Tenderer's Name:				
Date:				
JV Member's Name				
ITT No. and title:				
Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor □	Member in JV □	Management Contractor □	Sub- contractor
Total Contract Amount			Kenya Shilling	
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:		1	-	
Address: Telephone/fax number E-mail:				

4.10 FORM EXP - 4.2 (a) (cont.)

Specific Construction and Contract Management Experience (cont.)

Simila	r Contract No.	Information
Descri	ption of the similarity in accordance	
	ub-Factor 4.2(a) of Section III:	
1.	Amount	
2.	Physical size of required works	
items		
3.	Complexity	
4.	Methods/Technology	
5.	Construction rate for key activities	
6.	Other Characteristics	

4.11 FORM EXP - 4.2(b)

Construction Experience in Key Activities

Tenderer's Name:					
Date: Tenderer's JV Member Name:					
Sub-contractor's Name ² (as per ITT 34): ITT No. and title:		_			
All Sub-contractors for key activities mu Evaluation and Qualification Criteria, S		e information	in this form as	per ITT 34 and Sec	ection II
1. Key Activity No One: _					
	Information				
Contract Identification					
Award date					
Completion date					
Role in Contract	Prime Contractor □	Member in JV □	Management Contractor	Sub-contractor	
Total Contract Amount			Kenya Shillin	g	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity the contract (i)	in Percenta participa (ii)		Actual Quantity Performed (i) x (ii)	
Year 1					
Year 2					
Year 3					
Year 4					
Procuring Entity's Name:		1			
Address: Telephone/fax number E-mail:					
	Information				
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:					

² If applicable 64

2.	Activity	No.	Two

OTHER FORMS

5. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

- i) The Tenderer must prepare this Form of Tender on PROPOSED CONSTRUCTION OF PERIMETER WALLAT MATILI TTI COMPOUND A-LABOUR ONLY CONTRAC with its letterhead clearly showing the Tenderer's complete name and business address.
- *ii)* All italicized text is to help Tenderer in preparing this form.
- *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.*
- *iv)* The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.
 - Tenderer's Eligibility- Confidential Business Questionnaire
 - Certificate of Independent Tender Determination
 - Self-Declaration of the Tenderer

	Date of this Tender submission : [insert date (as day, month and year) of Tender submission]
	Request for Tender No.: [insert identification]
	Name and description of Tender [Insert as per ITT]
	Alternative No.: [insert identification No if this is a Tender for an alternative]
	To: [insert complete name of Procuring Entity] Dear Sirs,
1.	In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum of Kenya Shillings [[Amount in figures] Kenya Shillings [amount in words]
	The above amount includes foreign currency amount (s) of [state figure or a percentage and currency] [figures]
	The percentage or amount quoted above does not include provisional sums, and only allows not more than two foreign currencies.
2.	We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.
3.	We agree to adhere by this tender until[Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4.	Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.
5.	 We, the undersigned, further declare that: i) No reservations: We have examined and have no reservations to the tender document, including Addendatissued in accordance with ITT 28; ii) Eligibility: We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;

<u>Tender-Securing Declaration</u>: We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing or Proposal-Securing Declaration in the Procuring Entity's

Conformity: We offer to execute in conformity with the tendering documents and in accordance with the

iii)

iv)

Country in accordance with ITT 19.8;

implementation and completion specified in the construction schedule, the following Works: [insert a brief description of the Works];

- v) <u>Tender Price:</u> The total price of our Tender, excluding any discounts offered in item 1 above is: [Insert one of the options below as appropriate]
- vi Option 1, in case of one lot: Total price is: [insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies]; Or

Option 2, in case of multiple lots:

- a) <u>Total price of each lot</u> [insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]; and
- b) <u>Total price of all lots</u> (sum of all lots) [insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];
- vii) <u>Discounts:</u> The discounts offered and the methodology for their application are:
- viii) The discounts offered are: [Specify in detail each discount offered.]
- ix) The exact method of calculations to determine the net price after application of discounts is shown below: [Specify in detail the method that shall be used to apply the discounts];
- x) <u>Tender Validity Period</u>: Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- xi) <u>Performance Security:</u> If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document;
- xii) <u>One Tender Per Tender:</u> We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;
- xiii) <u>Suspension and Debarment</u>: We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
- xiv) <u>State-owned enterprise or institution:</u> [select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 3.8];
- xv) <u>Commissions, gratuities, fees</u>: We have paid, or will pay the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: [insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate "none.")

- xvi) <u>Binding Contract</u>: We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- xvii) Not Bound to Accept: We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive;
- xviii) <u>Fraud and Corruption:</u> We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption;

- xix) <u>Collusive practices</u>: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Tender Determination" attached below.
- we undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from ______(specify website) during the procurement process and the execution of any resulting contract.
- xxi) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
 - a) Tenderer's Eligibility; Confidential Business Questionnaire to establish we are not in any conflict to interest.
 - b) Certificate of Independent Tender Determination to declare that we completed the tender without colluding with other tenderers.
 - c) Self-Declaration of the Tenderer to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in "Appendix 1- Fraud and Corruption" attached to the Form of Tender.

Name of the Tenderer: *[insert complete name of person signing the Tender]

Name of the person duly authorized to sign the Tender on behalf of the Tenderer: **[insert complete name of person duly authorized to sign the Tender]

Title of the person signing the Tender: [insert complete title of the person signing the Tender]

Signature of the person named above: [insert signature of person whose name and capacity are shown

above] **Date signed** [insert date of signing] day of [insert month], [insert year]

Date signed	da	v of .

Notes

^{*} In the case of the Tender submitted by joint venture specify the name of the Joint Venture as Tenderer ** Person signing the Tender shall have the power of attorney given by the Tenderer to be attached with the Tender.

A. <u>TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE</u>

Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form.

(a) Tenderer's details

	ITEM	DESCRIPTION
1	Name of the Procuring Entity	
2	Reference Number of the Tender	
3	Date and Time of Tender Opening	
4	Name of the Tenderer	
5	Full Address and Contact Details of the Tenderer.	 Country City Location Building Floor Postal Address Name and email of contact person.
6	Current Trade License Registration Number and Expiring date	
7	Name, country and full address (postal and physical addresses, email, and telephone number) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which the Tenderer handles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (postal and physical addresses, email, and telephone number) of state which stock exchange	

General and Specific Details

				Count	ry of Origin_		Nationality Citizenship
			the following detai				
	Names of Partners		Nationality	Citiz	zenship	% Shares owned	
<u>l</u>							
1 2 3							
,	1		l			l	
	_		, provide the follow				
	ii) State	the nominal	and issued capital	of the Co	mpany		
	Nomi	nal Kenva S	hillings (Equivaler	nt)			Issued
							133000
	Kenya	a Shillings (Equivalent)				
	iii) Give	details of Di	rectors as follows.				
	Names of Director		Nationality	Citiz	zenship	% Shares owned	
1 2 3 (e	e) DISCLOSURE i) Are there a	OF INTERI	EST- Interest of the	e Firm in	. (Name of Pi		
3	i) Are there a or relations If yes, provide de	OF INTERI ny person/pe ship in this fire etails as follo	EST- Interest of the ersons inrm? Yes/No	e Firm in	. (Name of Pr	ng Entity. rocuring Entity) who has,	/have an intere
(e	e) DISCLOSURE i) Are there a or relations	OF INTERI ny person/pe ship in this fire etails as follo	EST- Interest of the ersons in	e Firm in	. (Name of Pr	ng Entity.	/have an intere
2	i) Are there a or relations If yes, provide de	OF INTERI ny person/pe ship in this fire etails as follo	EST- Interest of the ersons inrm? Yes/No	e Firm in	. (Name of Pr	ng Entity. rocuring Entity) who has,	/have an intere

	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	Tender has a relationship with another tenderer, directly or		
	through common third parties, that puts it in a position to		
	influence the tender of another tenderer, or influence the		
	decisions of the Procuring Entity regarding this tendering		
	process.		

	Type of Conflict	Disclosure	If YES provide details of the
_		YES OR NO	relationship with Tenderer
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 tender.		
6	Tenderer would be providing goods, works, non-consulting		
	services or consulting services during implementation of the		
	contract specified in this Tender 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 Tender		
	document or specifications of the Contract, and/or the		
	Tender 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 such		
	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 tendering process and		
	execution of the Contract.		

f) Certification

submission.	non given above is complete, current and accurate as at the da	ne oi
Full Name		itle oı
Designation		
(Signature)	(Date)	

B. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

•		
Procu	e undersigned, in submitting the accompanying Letter of Tender to the	Name of of tender in erer] do hereby
certi	tify, on behalf of [Name of Tenderer] that:	
	I have read and I understand the contents of this Certificate;	
2.	I understand that the Tender will be disqualified if this Certificate is found not to be true and comprespect;	plete in every
3.	I am the authorized representative of the Tenderer with authority to sign this Certificate, and to subnon behalf of the Tenderer;	nit the Tender
l.	For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who: a) has been requested to submit a Tender in response to this request for tenders; b) could potentially submit a tender in response to this request for tenders, based on their qualibilities or experience;	•
5.	 The Tenderer discloses that [check one of the following, as applicable: a) The Tenderer has arrived at the Tender independently from, and without consultation, comagreement or arrangement with, any competitor; b) the Tenderer has entered into consultations, communications, agreements or arrangement more competitors regarding this request for tenders, and the Tenderer discloses, in document(s), complete details thereof, including the names of the competitors and the reasons for, such consultations, communications, agreements or arrangements; 	nts with one or
ĺ.	In particular, without limiting the generality of paragraphs (5)(a) or (5)(b) above, there has been no communication, 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 tender; or d) the submission of a tender which does not meet the specifications of the request for Tende specifically disclosed pursuant to paragraph (5)(b) above;	
7.	In addition, there has been no consultation, communication, agreement or arrangement with a regarding the quality, quantity, specifications or delivery particulars of the works or services to wh for tenders relates, except as specifically authorized by the procuring authority or as specific pursuant to paragraph (5)(b) above;	ich this request
3.	the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, direct to any competitor, prior to the date and time of the official tender opening, or of the awarding of whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to p above.	of the Contract,
	NameTitle_ Date	
	[Name, title and signature of authorized agent of Tenderer and Date].	

C. <u>SELF - DECLARATION FORMS</u>

FORM SD1

(Signature)

......(Title)

(Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE

I,	of P. O. Box being a resident of in the Republic of do hereby make a statement as follows: -
1.	THAT I am the Chief Executive/Managing Director/Principal Officer/Director of
2.	THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of
3.	THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of (name of the procuring entity)
4.	THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
5.	THAT what is deponed to herein above is true to the best of my knowledge information and belief.
	(Title) (Signature) (Date)
	Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I	. (person) on behalf of (Name of the Business/
<i>Company/Firm</i>)	declare that I have read and fully understood the
contents of the Public Procurement & Asset Disposal Act	
participating in Public Procurement and Asset Disposal and	
I do hereby commit to abide by the provisions of the Code of I	Ethics for persons participating in Public Procurement and
Asset Disposal.	r r r r r r r s r s r s r s r s r s r s
1	
Name of Authorized signatory	Sign
Position	
Office address	. Telephone
E-mail	
N. C.I. E. /C	
Name of the Firm/Company	
Date	(Company Seal/Rubber
2 mg	(company sour reaccor
Stamp where applicable)	
Witness	
Name	Sign
Date	

D. APPENDIX 1-FRAUDAND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

2. The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (no. 33 of 2015) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

3. Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act (no. 33 of 2015) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior: -

- 1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
- 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
- 3) Without limiting the generality of the subsection (1) and (2), the person shall be:
 - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be voidable;
- 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement:
 - a) shall not take part in the procurement proceedings;
 - b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
- c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.
- 6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
- 7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
 - i) "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

- iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v) "obstructive practice" is:
 - deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
 - "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
- f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

¹ For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]

Bei	neficiary:
Red	quest for Tenders No:
Da	te:
	NDER GUARANTEE No.:
Gu	arantor:
1.	We have been informed that
2.	Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
3.	At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of() upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:
(a)	has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or
b)	having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.
4.	This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.
5.	Consequently, any demand for payment under this guarantee must be received by us at the office indicated above onor before that date.
	$\overline{[signature(s)]}$

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

ΓEN	NDER GUARANTEE No.:				
1.	dated [Date of submission of	er] (hereinafter called "the tenderer") has submitted its tender tender] for the			
2.	Company] having our registered office	sents that WE			
	Sealed with the Common Seal of the sa	id Guarantor thisday of 20			
3.	NOW, THEREFORE, THE CONDIT	ION OF THIS OBLIGATION is such that if the Applicant:			
		ng the period of Tender validity set forth in the Principal's Letter y Period"), or any extension thereto provided by the Principal; or			
	Validity Period or any extension Contract agreement; or (ii) has	cceptance of its Tender by the Procuring Entity during the Tender sion thereto provided by the Principal; (i) failed to execute the failed to furnish the Performance Security, in accordance with the of the Procuring Entity's Tendering document.			
	receipt of the Procuring Entity's substantiate its demand, provided that	nediately pay to the Procuring Entity up to the above amount upon first written demand, without the Procuring Entity having to at in its demand the Procuring Entity shall state that the demand the above events, specifying which event(s) has occurred.			
4.	This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copy of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.				
5.	Consequently, any demand for payr indicated above on or before that date	ment under this guarantee must be received by us at the office te.			
	[Date]	[Signature of the Guarantor]			
	[Witness]	[Seal]			

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

TENDER-SECURING DECLARATION FORM

	er No:[insert date (as day, month and year) of Tender Submission]			
	[insert complete name of Purchaser] I/We, the undersigned, declare that:			
	I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.			
2	I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we – (a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.			
3.	I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of: a) our receipt of a copy of your notification of the name of the successful Tenderer; or b) thirty days after the expiration of our Tender.			
4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time the Tender Securing Declaration shall be in the names of all future partners as named in the letter of inter-				
l.	Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.			
l.				
l.	the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.			

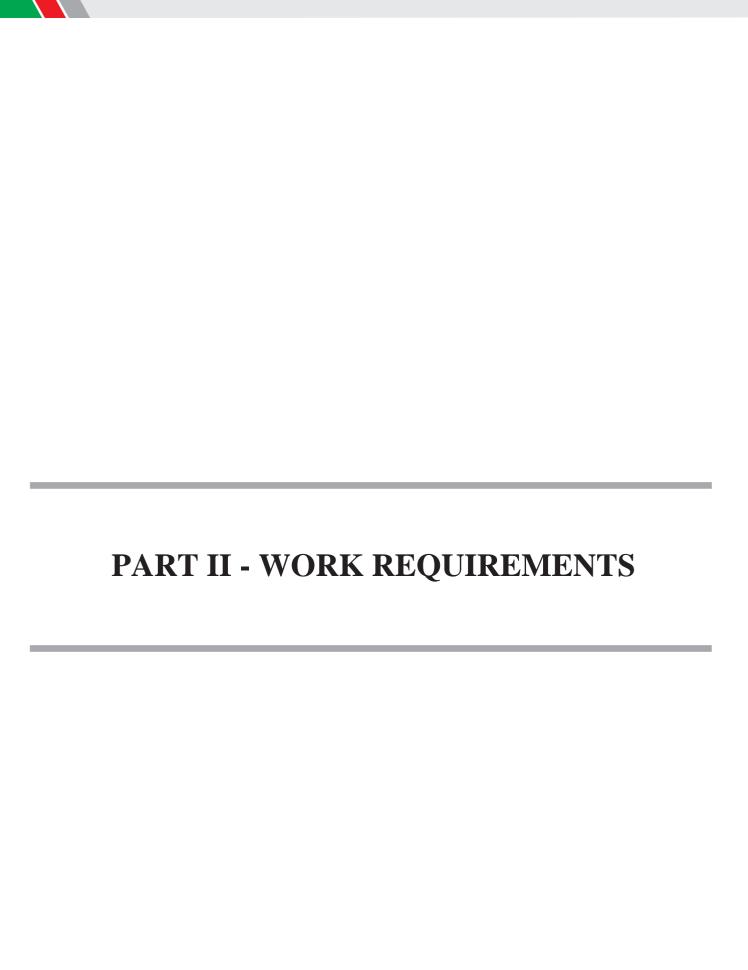
Appendix to Tender

Schedule of Currency requirements

Summary of currencies of the Tender for	ſii	nsert name of	Section of	f the W	orks i

Name of currency	Amounts payable
Local currency:	
Foreign currency #1:	
Foreign currency #2:	
Foreign currency #3:	
Provisional sums expressed in local currency	[To be entered by the Procuring Entity]

SUMMARISED EVALUATION CRITERIA



SECTION V - DRAWINGS

A list of drawings should be inserted here. The actual drawings including Site plans should be annexed in a separate booklet.

SECTION VI - SPECIFICATIONS

Notes for preparing Specifications

- 1. Specifications must be drafted to present a clear and precise statement of the required standards of materials, and workmanship for tenderers to respond realistically and competitively to the requirements of the Procuring Entity and ensure responsiveness of tenders. The Specifications should require that all materials, plant, and other supplies to be permanently incorporated in the Works be new, unused, of the most recent or current models, and incorporating all recent improvements in design and materials unless provided otherwise in the Contract. Where the Contractor is responsible for the design of any part of the permanent Works, the extent of his obligations must be stated.
- 2. Specifications from previous similar projects are useful and may not be necessary to re-write specifications for every Works Contract.
- 3. There are considerable advantages in standardizing **General Specifications** for repetitive Works in recognized public sectors, such as highways, urban housing, irrigation and water supply. The General Specifications should cover all classes of workmanship, materials and equipment commonly involved in constructions, although not necessarily to be used in a particular works contract. Deletions or addenda should then adapt the General Specifications to the particular Works.
- 4. Care must be taken in drafting Specifications to ensure they are not restrictive. In the Specifications of standards for materials, plant and workmanship, existing Kenya Standards should be used as much as possible, otherwise recognized international standards may also be used.
- 5. The Procuring Entity should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in tender documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential tenderers.
- 6. The Procuring Entity should provide a description of the selected parts of the Works with appropriate reference to Drawings, Specifications, Bills of Quantities, and Design or Performance criteria, stating that the alternative solutions shall be at least structurally and functionally equivalent to the basic design parameters and Specifications.
- 1. Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology, and other relevant details. Technical alternatives permitted in this manner shall be considered by the Procuring Entity each on its own merits and independently of whether the tenderer has priced the item as described in the Procuring Entity's design included with the tender documents.

SECTION VII- BILLS OF QUANTITIES

1. Objectives

The objectives of the Bill of Quantities are:

- a) to provide sufficient information on the quantities of Works to be performed to enable tenders to be prepared efficiently and accurately; and
- b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and contents of the Bill of Quantities should be as simple and brief as possible.

2. Day work Schedule

A Day work Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the Procuring Entity of the realism of rates quoted by the Tenderers, the Day work Schedule should normally comprise the following:

- a) A list of the various classes of labor, materials, and Constructional Plant for which basic day work rates or prices are to be inserted by the Tenderer, together with a statement of the conditions under which the Contractor shall be paid for work executed on a day work basis.
- b) Nominal quantities for each item of day work, to be priced by each Tenderer at day work rates as Tender. The rate to be entered by the Tenderer against each basic day work item should include the Contractor's profit, overheads, supervision, and other charges.

3. Provisional Sums

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary priced Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Special Conditions of Contract should state the manner in which they shall be used, and under whose authority (usually the Project Manager's).

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Procuring Entity to select such specialized contractors. To provide an element of competition among the Tenderers in respect of any facilities, amenities, attendance, etc., to be provided by the successful Tenderer as prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Tenderer to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing a Bill of Quantities are intended only as information for the Procuring Entity or the person drafting the tendering document. They should not be included in the final tendering document.

4. The Bills of Quantities

The Bills of Quantities should be divided generally into the following sections:

- a) Preambles
- b) Preliminary items
- c) Work Items
- c) Daywork Schedule; and
- d) Provisional items
- e) Summary.

5. The Summary to the Bills of Quantities will take this form or some other form but including these items.

SUMMARY ITEMS	Page	Amount
Bill No. 1: Preliminary Items		
Bill No. 2: Work Items		
Bill No 3: Daywork Summary		
Bill No 4: Provisional Sums		
Subtotal of Bills No 1-4		
Allow for any Discounts i		
TOTAL TENDER PRICE Carried forward to Form of Tender		

PART III -	COND	ITIONS	OF	CONTR	ACT
	AND C	CONTRA	CT 1	FORMS	

SECTION VIII - GENERAL CONDITIONS OF CONTRACT

These General Conditions of Contract (GCC), read in conjunction with the Special Conditions of Contract (SCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

These General Conditions of Contract have been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

The GCC can be used for both smaller admeasurement contracts and lump sum contracts.

General Conditions of Contract

A. General

1. Definitions

- 1.1 Bold face type is used to identify defined terms.
 - a) **The Accepted Contract** Amount means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
 - b) **The Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
 - c) **The Adjudicator** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.
 - d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
 - e) **Compensation Events** are those defined in GCC Clause 42 hereunder.
 - f) **The Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 53.1.
 - g) **The Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.
 - h) **The Contractor** is the party whose Bid to carry out the Works has been accepted by the Procuring Entity.
 - i) **The Contractor's Bid** is the completed bidding document submitted by the Contractor to the Procuring Entity.
 - j) **The Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
 - k) **Days** are calendar days; months are calendar months.
 - 1) **Day work**s 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.
 - m) **ADefect** is any part of the Works not completed in accordance with the Contract.
 - n) **The Defects** Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor.
 - o) **The Defects Liability Period** is the period **named in the SCC** pursuant to Sub-Clause 34.1 and calculated from the Completion Date.
 - p) **Drawings** means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
 - q) **The Procuring Entity** is the party who employs the Contractor to carry out the Works, **as specified in the SCC**, who is also the Procuring Entity.
 - r) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

- s) **"In writing" or "written"** means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- t) The Initial Contract Price is the Contract Price listed in the Procuring Entity's Letter of Acceptance.
- u) **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 SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- v) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- w) **Plant i**s any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- x) **The Project Manager** is the person **named in the SCC** (or any other competent person appointed by the Procuring Entity 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.
- y) **SCC** means Special Conditions of Contract.
- z) The Site is the area of the works as defined as such in the SCC.
- aa) **Site Investigation Reports** are those that were included in the bidding document and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- bb) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- cc) **The Start Date** is **given in the SCC**. 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.
- dd) **A Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- ee) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- ff) **A Variation** is an instruction given by the Project Manager which varies the Works.
- gg) **The Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, **as defined in the SCC**.

2 Interpretation

- 21 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- 22 If sectional completion is specified in the SCC, references in the GCC 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).
- 23 The documents forming the Contract shall be interpreted in the following order of priority:
 - a) Agreement,
 - b) Letter of Acceptance,
 - c) Contractor's Bid,
 - d) Special Conditions of Contract,
 - e) General Conditions of Contract, including Appendices,
 - f) Specifications,
 - g) Drawings,
 - h) Bill of Quantities⁶, and
 - i) any other document **listed in the SCC** as forming part of the Contract.

 $^{^6}$ In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."

3. Language and Law

- 3.1 The language of the Contract is English Language and the law governing the Contract are the Laws of Kenya.
- 32 Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in the Procuring Entity's Country when
- a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
- b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

4. Project Manager's Decisions

4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.

5. Delegation

5.1 Otherwise **specified in the SCC**, the Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may revoke any delegation after notifying the Contractor.

6. Communications

61 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 Procuring Entity in writing. Subcontracting shall not alter the Contractor's obligations.

8. Other Contractors

81 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as **referred to in the SCC.** The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

9. Personnel and Equipment

- 9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.
- 92 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 days and has no further connection with the work in the Contract.
- 93 If the Procuring Entity, Project Manager or Contractor determines, that any employee of the Contractor be determined to have engaged in Fraud and Corruption during the execution of the Works, then that employee shall be removed in accordance with Clause 9.2 above.

10. Procuring Entity's and Contractor's Risks

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

11. Procuring Entity's Risks

- 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Procuring Entity'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
 - i) 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
 - ii) negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.
 - b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 112 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Procuring Entity's risk except loss or damage due to
 - aa) a Defect which existed on the Completion Date,
 - bb) an event occurring before the Completion Date, which was not itself a Procuring Entity's risk, or
 - cc) the activities of the Contractor on the Site after the Completion Date.

12. Contractor's Risks

121 From the Starting Date until the Defects Liability 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 Procuring Entity's risks are Contractor's risks.

13. Insurance

- 13.1 The Contractor shall provide, in the joint names of the Procuring Entity 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 SCC** 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.
- 132 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.
- 133 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity 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.
- 134 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 135 Both parties shall comply with any conditions of the insurance policies.

14. Site Data

14.1 The Contractor shall be deemed to have examined any Site Data **referred to in the SCC**, supplemented by any information available to the Contractor.

15. Contractor to Construct the Works

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

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

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

17. Approval by the Project Manager

- 17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.
- 172 The Contractor shall be responsible for design of Temporary Works.
- 173 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 174 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 175 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.

18. Safety

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

19. Discoveries

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

20. Possession of the Site

20.1 The Procuring Entity 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 SCC**, the Procuring Entity shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

21. Access to the Site

21.1 The Contractor shall allow the Project Manager and any person authorized 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.

22. Instructions, Inspections and Audits

- 22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 222 The Contractor shall keep, and shall make all reasonable efforts to cause its Subcontractors and subconsultants to keep, accurate and systematic accounts and records in respect of the Works in such form and details as will clearly identify relevant time changes and costs.
- 223 The Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Procuring Entity and/or persons appointed by the Public Procurement Regulatory Authority to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Public Procurement Regulatory Authority. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 25.1 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Public Procurement Regulatory Authority's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Public Procurement Regulatory Authority's prevailing sanctions procedures).

23. Appointment of the Adjudicator

- 23.1 The Adjudicator shall be appointed jointly by the Procuring Entity and the Contractor, at the time of the Procuring Entity's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 14 days of receipt of such request.
- 232 Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.

24. Settlement of Claims and Disputes

241 Contractor's Claims

- 24.1.1 If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give Notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 30 days after the Contractor became aware, or should have become aware, of the event or circumstance.
- 24.1.2 If the Contractor fails to give notice of a claim within such period of 30 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub- Clause shall apply.
- 24.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
- 24.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record- keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.
- 24.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:
 - a) this fully detailed claim shall be considered as interim;
 - b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
 - c) the Contractor shall send a final claim within 30 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.
- 24.1.6 Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.
- 24.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause
- 24.1.8 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or

- after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
- 24.1.9 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 24.1.10 If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 24.4 [Arbitration].
- 24.1.11 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause 24.3.

242 Amicable Settlement

24.2.1 Where a notice of a claim has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a notice of a claim in accordance with Sub-Clause 24.1 above should move to commence arbitration after the fifty-sixth day from the day on which a notice of a claim was given, even if no attempt at an amicable settlement has been made.

243 Matters that may be referred to arbitration

- 24.3.1 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:
 - a) The appointment of a replacement Project Manager upon the said person ceasing to act.
 - b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
 - c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
 - e) Any dispute arising in respect of war risks or war damage.
 - f) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

244 Arbitration

- 24.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 24.3 shall be finally settled by arbitration.
- 24.4.2 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 24.4.3 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 24.4.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
- 24.4.5 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 24.4.6 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
- 24.4.7 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.
- 24.4.8 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of

the Works.

24.4.9 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

245 Arbitration with National Contractors

- 24.5.1 If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;
 - i) Architectural Association of Kenya
 - ii) Institute of Quantity Surveyors of Kenya
 - iii) Association of Consulting Engineers of Kenya
 - iv) Chartered Institute of Arbitrators (Kenya Branch)
 - v) Institution of Engineers of Kenya
- 24.5.2 The institution written to first by the aggrieved party shall take precedence over all other institutions.

246 Alternative Arbitration Proceedings

24.6.1 Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

247 Failure to Comply with Arbitrator's Decision

- 24.7.1 The award of such Arbitrator shall be final and binding upon the parties.
- 24.7.2 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

248 Contract operations to continue

- 24.8.1 Notwithstanding any reference to arbitration herein,
 - a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
 - b) the Procuring Entity shall pay the Contractor any monies due the Contractor.

25. Fraud and Corruption

- 25.1 The Government requires compliance with the country's Anti-Corruption laws and its prevailing sanctions policies and procedures as set forth in the Constitution of Kenya and its Statutes.
- 252 The Procuring Entity requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

B. Time Control

26. Program

- 261 Within the time stated in the SCC, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.
- 262 An update of the Program shall be a program 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.
- 263 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer

than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.

264 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

27. Extension of the Intended Completion Date

- 27.1 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.
- 272 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 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.

28. Acceleration

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

29. Delays Ordered by the Project Manager

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

30. Management Meetings

- 30.1 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.
- 302 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. 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.

31. Early Warning

- 31.1 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.
- 312 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.

C. Quality Control

32. Identifying Defects

321 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

33. Tests

33.1 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.

34. Correction of Defects

- 34.1 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 SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 342 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.

35. Uncorrected Defects

35.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

36. Contract Price⁷

361 The Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

37. Changes in the Contract Price⁸

- 37.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change. The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.
- 372 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.

38. Variations

- 38.1 All Variations shall be included in updated Programs9 produced by the Contractor.
- 382 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.
- 383 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.
- 38.4 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.

8In lump sum contracts, replace entire GCC Clause 37 with new GCC Sub-Clause 37.1, as follows:

In lump sum contracts, replace GCC Sub-Clauses 36.1 as follows:

^{36.1} The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for materials on site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

The Activity Schedule shall be amended by the Contractor to accommodate changes of Program 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.

 $^{^9}$ In lump sum contracts, add "and Activity Schedules" after "Programs." 10 In lump sum contracts, delete this paragraph.

- 385 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning
- 386 If the work in the Variation corresponds to 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 39.1 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 for the relevant items of work
- 38.7 Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;
 - a) the proposed change(s), and a description of the difference to the existing contract requirements;
 - b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and
 - c) a description of any effect(s) of the change on performance/functionality.

388 The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

- a) accelerate the contract completion period; or
- b) reduce the Contract Price or the life cycle costs to the Procuring Entity; or
- c) improve the quality, efficiency, safety or sustainability of the Facilities; or
- d) yield any other benefits to the Procuring Entity, without compromising the functionality of the Works.

389 If the value engineering proposal is approved by the Procuring Entity and results in:

- a) a reduction of the Contract Price; the amount to be paid to the Contractor shall be the **percentage specified** in the SCC of the reduction in the Contract Price; or
- b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Contractor shall be the full increase in the Contract Price.

39. Cash FlowForecasts

39.1 When the Program¹¹, 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.

40. Payment Certificates

- 40.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 402 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 403 The value of work executed shall be determined by the Project Manager.
- 404 The value of work executed shall comprise the value of the quantities of work in the Bill of Quantities that have been completed 12.
- 405 The value of work executed shall include the valuation of Variations and Compensation Events.
- 40.6 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.
- 407 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (which would be the tender price), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: (corrected tender price tender price)/tender price X 100.

41. Payments

- 41.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Procuring Entity 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.
- 412 If an amount certified is increased in a later certificate or 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.
- 413 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.
- 414 Items of the Works for which no rate or price has been entered in shall not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

42. Compensation Events

- 42.1 The following shall be Compensation Events:
 - d) The Procuring Entity does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.
 - e) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
 - f) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
 - g) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
 - h) The Project Manager unreasonably does not approve a subcontract to be let.
 - i) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter 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.
 - j) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons.
 - k) Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
 - 1) The advance payment is delayed.
 - m) The effects on the Contractor of any of the Procuring Entity's Risks.
 - n) The Project Manager unreasonably delays issuing a Certificate of Completion.
- 422 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.
- 423 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 shall assume that the Contractor shall react competently and promptly to the event.

¹¹ In lump sum contracts, add "or Activity Schedule" after "Program."

¹²In lump sum contracts, replace this paragraph with the following: "The value of work executed shall comprise the value of completed activities in the Activity Schedule."

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

43. Tax

43.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 30 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 GCC Clause 44.

44. Currency y of Payment

44.1 All payments under the contract shall be made in Kenya Shillings

45. Price Adjustment

45.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC.** If so provided, the amounts certified in each payment certificate, before 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 specified below applies:

P = A + B Im/Io

where:

P is the adjustment factor for the portion of

the Contract Price payable.

A and B are coefficients¹³ **specified in the SCC**, representing the non-adjustable and adjustable portions, respectively, of the Contract Price payable and Im is the index prevailing at the end of the month being invoiced and IOC is the index prevailing 30 days before Bid opening for inputs payable.

452 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.

46. Retention

- 461 The Procuring Entity shall retain from each payment due to the Contractor the proportion stated in the SCC until Completion of the whole of the Works.
- 462 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 53.1, 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. The Contractor may substitute retention money with an "on demand" Bank guarantee.

47. Liquidated Damages

- 47.1 The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day stated in the SCC 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 SCC. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.
- 472 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 GCC Sub-Clause 41.1.

48. Bonus

48.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** 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.

49. Advance Payment

- 49.1 The Procuring Entity shall make advance payment to the Contractor of the amounts stated in the SCC by the date stated in the SCC, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity 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 shall not be charged on the advance payment.
- 492 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization 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.
- 493 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.

50. Securities

50.1 The Performance Security shall be provided to the Procuring Entity no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the SCC**, by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 day from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.

51. Dayworks

- 51.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 512 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 days of the work being done.
- 513 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

52. Cost of Repairs

521 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.

E. Finishing the Contract

53. Completion

53.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

54. Taking Over

54.1 The Procuring Entity shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

55. Final Account

55.1 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 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 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.

¹³The sum of the two coefficients A and B should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the non-adjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other non-adjustable components. The sum of the adjustments for each currency are added to the Contract Price.

56. Operating and Maintenance Manuals

- 561 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.
- 562 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC pursuant to GCC Sub-Clause 56.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount **stated in the SCC** from payments due to the Contractor.

57. Termination

- 57.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 572 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
 - a) the Contractor stops work for 30 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized 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 30 days;
 - c) the Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction oramalgamation;
 - d) a payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 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 SCC**; or
 - h) if the Contractor, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2 a of the Appendix A to the GCC, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) days written notice to the Contractor, terminate the Contract and expel him from the Site.
- 573 Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.
- 574 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.
- 575 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 GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.

58. Payment upon Termination

- 581 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 specified in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.
- 582 If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, 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.

59. Property

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

60. Release from Performance

60.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity 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.

SECTION IX - SPECIAL CONDITIONS OF CONTRACT

Except where otherwise specified, all Special Conditions of Contract should be filled in by the Procuring Entity prior to issuance of the bidding document. Schedules and reports to be provided by the Procuring Entity should be annexed.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract		
	A. General		
GCC 1.1 (q)	The Procuring Entity is [insert name, address, and name of authorized representative].		
GCC 1.1 (u)	The Intended Completion Date for the whole of the Works shall be [insert date]		
	[If different dates are specified for completion of the Works by section ("sectional completion" or milestones), these dates should be listed here]		
GCC 1.1 (x)	The Project Manager is [insert name, address, and name of authorized representative].		
GCC 1.1 (z)	The Site is located at [insert address of Site] and is defined in drawings No. [insert numbers]		
GCC 1.1 (cc)	The Start Date shall be [insert date].		
GCC 1.1 (gg)	The Works consist of [insert brief summary, including relationship to other contracts under the Project].		
GCC 2.2	Sectional Completions are: [insert nature and dates, if appropriate]		
GCC 5.1	The Project manager [may or may not] delegate any of his duties and responsibilities.		
GCC 8.1	Schedule of other contractors: [insert Schedule of Other Contractors, if appropriate]		
GCC 9.1	 Key Personnel GCC 9.1 is replaced with the following: 9.1 Key Personnel are the Contractor's personnel named in this GCC 9.1 of the Special Conditions of Contract. The Contractor shall employ the Key Personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of Key Personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid. [insert the name/s of each Key Personnel agreed by the Procuring Entity prior to Contract signature.] 		
GCC 13.1	The minimum insurance amounts and deductibles shall be:		
	(a) for loss or damage to the Works, Plant and Materials: [insert amounts].		
	(b) For loss or damage to Equipment: [insert amounts].		
	(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract [insert amounts].		
	(d) for personal injury or death:		
	(i) of the Contractor's employees: [amount].		
	(ii) of other people: [amount].		
GCC 14.1	Site Data are: [list Site Data]		
GCC 20.1	The Site Possession Date(s) shall be: [insert location(s) and date(s)]		

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract		
GCC 23.1 & GCC 23.2	Appointing Authority for the Adjudicator: [insert name of Authority].		
G00 2012	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: [insert hourly fees and reimbursable expenses].		
B. Time Contr	ol		
GCC 26.1	The Contractor shall submit for approval a Program for the Works within [number] days from the date of the Letter of Acceptance.		
GCC 26.3	The period between Program updates is [insert number] days.		
	The amount to be withheld for late submission of an updated Program is [insert amount].		
C. Quality Cor	ntrol		
GCC 34.1	The Defects Liability Period is: [insert number] days.		
	[The Defects Liability Period is usually limited to 12 months, but could be less in very simple cases]		
D. Cost Contro	ol .		
GCC 38.9	If the value engineering proposal is approved by the Procuring Entity the amount to be paid to the Contractor shall be% (insert appropriate percentage. The percentage is normally up to 50%) of the reduction in the Contract Price.		
GCC 44.1	The currency of the Procuring Entity's Country is: [insert name of currency of the Procuring Entity's Country].		
GCC 45.1	The Contract [insert "is" or "is not"] subject to price adjustment in accordance with GCC Clause 45, and the following information regarding coefficients [specify "does" or "does not"] apply.		
	[Price adjustment is mandatory for contracts which provide for time of completion exceeding 18 months]		
	The coefficients for adjustment of prices are:		
	(a) [insert percentage] percent nonadjustable element (coefficient A).		
	(ib) [insert percentage] percent adjustable element (coefficient B).		
	(c) The Index I for shall be [insert index].		
GCC 46.1	The proportion of payments retained is: [insert percentage]		
	[The retention amount is usually close to 5 percent and in no case exceeds 10 percent.]		
GCC 47.1	The liquidated damages for the whole of the Works are [insert percentage of the final Contract Price] per day. The maximum amount of liquidated damages for the whole of the Works is [insert percentage] of the final Contract Price.		
	[Usually liquidated damages are set between 0.05 percent and 0.10 percent per day, and the total amount is not to exceed between 5 percent and 10 percent of the Contract Price. If Sectional Completion and Damages per Section have been agreed, the latter should be specified here]		
GCC 48.1	The Bonus for the whole of the Works is <i>[insert percentage of final Contract Price]</i> per day. The maximum amount of Bonus for the whole of the Works is <i>[insert percentage]</i> of the final Contract Price.		
	[If early completion would provide benefits to the Procuring Entity, this clause should remain;		

Number of	Amendments of, and Supplements to, Clauses in the General Conditions of Contract				
GC Clause					
	otherwise delete. The Bonus is usually numerically equal to the liquidated damages.]				
GCC 49.1	The Advance Payments shall be: $[insert\ amount(s)]$ and shall be paid to the Contractor no later than $[insert\ date(s)]$.				
GCC 50.1	The Performance Security amount is [insert amount(s) denominated in the types and proportions of the currencies in which the Contract Price is payable, or in a freely convertible currency acceptable to the Procuring Entity] (a) Performance Security – Bank Guarantee: in the amount(s) of [insert related figure(s)] percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted				
	Contract Amount. (b) Performance Security – Performance Bond: in the amount(s) of [insert related figure(s)] percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.				
E. Finishing the	e Contract				
GCC 56.1	The date by which operating and maintenance manuals are required is [insert date].				
	The date by which "as built" drawings are required is [insert date].				
GCC 56.2	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required in GCC 58.1 is [insert amount in local currency].				
GCC 57.2 (g)	The maximum number of days is: [insert number; consistent with Clause 47.1 on liquidated damages].				
GCC 58.1	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is [insert percentage].				
	•				

FORM No 1: NOTIFICATION OF INTENTION TO AWARD

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to
the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

FORMAT

- 1. For the attention of Tenderer's Authorized Representative
 - *i)* Name: [insert Authorized Representative's name]
 - ii) Address: [insert Authorized Representative's Address]
 - *iii)* Telephone: [insert Authorized Representative's telephone/fax numbers]
 - *iv)* Email Address: [insert Authorized Representative's email address]

[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]

2. Date of transmission: [email] on [date] (local time)

This Notification is sent by (Name and designation)

- 3. <u>Notification of Intention to Award</u>
 - *i)* Procuring Entity: [insert the name of the Procuring Entity]
 - *ii)* Project: [insert name of project]
 - *iii)* Contract title: [insert the name of the contract]
 - *iv)* Country: [insert country where ITT is issued]
 - v) ITT No: [insert ITT reference number from Procurement Plan]

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period, you may:

4. Request a debriefing in relation to the evaluation of your tender

Submit a Procurement-related Complaint in relation to the decision to award the contract.

- a) The successful tenderer
 - i) Name of successful Tender____
 - ii) Address of the successful Tender _____
 - iii) Contract price of the successful Tender Kenya Shillings _____ (in
- b) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

SNo	Name of Tender	Tender Price as read out	Tender's evaluated price (Note a)	One Reason Why not Evaluated
1				
2				
3				
4				
5				

(Note a) State NE if not evaluated

5. How to request a debriefing

- a) DEADLINE: The deadline to request a debriefing expires at midnight on [insert date] (local time).
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
 - i) Attention: [insert full name of person, if applicable]
 - ii) Title/position: [insert title/position]
 - ii) Agency: [insert name of Procuring Entity]
 - iii) Email address: [insert email address]
- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.
- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [insert date] (local time).
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:
 - i) Attention: [insert full name of person, if applicable]
 - ii) Title/position: [insert title/position]
 - iii) Agency: [insert name of Procuring Entity]
 - iv) Email address: [insert email address]
- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website info@ppra.go.ke or complaints@ppra.go.ke.
 - You should read these documents before preparing and submitting your complaint.
- e) There are four essential requirements:
 - i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
 - ii) The complaint can only challenge the decision to award the contract.

- ii) You must submit the complaint within the period stated above.
- iv) You must include, in your complaint, all of the information required to support your complaint.

7. Standstill Period

- i) DEADLINE: The Standstill Period is due to end at midnight on [insert date] (local time).
- ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.
- iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

If you have any questions regarding this Notification please do not hesitate to contact us. On behalf of the Procuring Entity:

Signature:	Name:
Title/position:	Telephone: Email:

FORM NO. 2 - REQUEST FOR REVIEW

FORM FOR REVIEW(r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION NOOF20
BETWEEN
APPLICANT
AND
RESPONDENT (Procuring Entity)
Request for review of the decision of the
REQUEST FOR REVIEW
I/Wep. O. Box NoTel. NoEmail, hereby request the Public Procurement Administrative Review Board to review the whole/part of the above mentioned decision on the following grounds , namely:
1.
2.
By this memorandum, the Applicant requests the Board for an order/orders that:
1.
2.
SIGNED(Applicant) Dated onday of/20
FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board onday of20
SIGNED
Board Secretary

of

FORM NO 3: LETTER OF AWARD

[letterhead paper of the Procuring Entity] [date]

To: [name and address of the Contractor]

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature:
Name and Title of Signatory:
Name of Procuring Entity
Attachment: Contract Agreement

FORM NO 4: CONTRACT AGREEMENT

THIS	AGREEMENT made theday of, 20, b of(hereinafter "the Procuring"), of the one part, and of(hereinafter "the Procuring")	oetween ng
Entity "the C	"), of the one part, andof(here ontractor"), of the other part:	einafter
WHE execu Work	REAS the Procuring Entity desires that the Works known assh ged by the Contractor, and has accepted a Tender by the Contractor for the execution and completion and the remedying of any defects therein,	ould be of these
The P	rocuring Entity and the Contractor agree as follows:	
1.	In this Agreement words and expressions shall have the same meanings as are respectively assigned to the Contract documents referred to.	o them in
2.	The following documents shall be deemed to form and be read and construed as part of this Agreem Agreement shall prevail over all other Contract documents.	ent. This
	a) the Letter of Acceptance	
	b) the Letter of Tender	
	c) the addenda Nos(if any)	
	d) the Special Conditions of Contract	
	e) the General Conditions of Contract;	
	f) the Specifications	
	g) the Drawings; andh) the completed Schedules and any other documents forming part of the contract.	
3.	In consideration of the payments to be made by the Procuring Entity to the Contractor as specific Agreement, the Contractor hereby covenants with the Procuring Entity to execute the Works and to defects therein in conformity in all respects with the provisions of the Contract.	
4.	The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and compathe Works and the remedying of defects therein, the Contract Price or such other sum as may become under the provisions of the Contract at the times and in the manner prescribed by the Contract.	
IN W Kenya	TNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the a on the day, month and year specified above.	Laws of
Signe	d and sealed by(for the Procuring Entity)	
Signe	d and sealed by(for the Contractor).	

FORM NO. 5 - PERFORMANCE SECURITY

$[Option\ 1-Unconditional\ Demand\ Bank\ Guarantee]$

[Gu	arantor letterhead]	
Ben	eficiary:[insert name and Address of Procuring Entity] Date:	
	[Insert date of issue]	
Gua	arantor: [Insert name and address of place of issue, unless indicated in the letterhead]	
1.	We have been informed that	
2.	Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.	
3.	At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum sums not exceeding in total an amount of	
4.	This guarantee shall expire, no later than the Day of, 2 ² , and any demand for payment under it must be received by us at the office indicated above on or before that date.	
5.	The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."	
	[Name of Authorized Official, signature(s) and seals/stamps]. Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.	

¹The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency of the Contract or a freely convertible currency acceptable to the Beneficiary.

²Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM No. 6 - PERFORMANCE SECURITY

[Option 2– Performance Bond]

[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]

			VIFT identifier code]	ling out a gas a gas d A d	duese of Due cyming Entity I Date.
Beneficiary:					aress of Procuring Entity Date:
DE	DEOD	PMANCE ROND	No.:	[Insert date of issue].	
1 12	KI ON	MIANCE BOND			
Gu	aranto	or: [Insert name ar	nd address of place of i	ssue, unless indicated in the l	etterhead]
1.	and				(hereinafter called "the Contractor")] as Surety (hereinafter called
	"the	Surety"), are hel	d and firmly bound u	into	
	the p	e is payable, the Co	um well and truly to be	made in the types and proporti pind themselves, their heirs, ex	ons of currencies in which the Contract ecutors, administrators, successors and
2.	WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the			cordance with the documents, plans,	
3.	per oth Pro	form the said Cor erwise, it shall re ocuring Entity to b city's obligations the	ntract (including any a main in full force and be, in default under the ereunder, the Surety may	mendments thereto), then thing effect. Whenever the Contract Contract, the Procuring Entry promptly remedy the default,	ontractor shall promptly and faithfully is obligation shall be null and void; ractor shall be, and declared by the tity having performed the Procuring or shall promptly:
	1)	complete the Con	tract in accordance with	its terms and conditions; or	
	2)	Contract in according the Surety of the Entity and make defaults under the pay the cost of country and damages for The term "Balance".	dance with its terms are lowest responsive Tend available as work proge Contract or Contracts ompletion less the Bala which the Surety may be of the Contract Price.	nd conditions, and upon determined conditions, and upon determined determined the contract by gresses (even though there she is of completion arranged und note of the Contract Price; but the liable hereunder, the amount," as used in this paragraph, she	e Procuring Entity for completing the mination by the Procuring Entity and between such Tenderer, and Procuring hould be a default or a succession of er this paragraph) sufficient funds to not exceeding, including other costs set forth in the first paragraph hereof, hall mean the total amount payable by properly paid by Procuring Entity to
	3)			quired by Procuring Entity to not exceeding the amount of th	complete the Contract in accordance is Bond.
4.	The	e Surety shall not be	e liable for a greater sum	than the specified penalty of th	is Bond.
5.	Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named herein or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.				
6.		se presents to be se			d his seal, and the Surety has caused nature of his legal representative, this

SIGNED ON	_on behalf of Byin the capacity of In the
presence of	
SIGNED ON	on behalf of Byin the capacity of In the
presence of	

FORM NO. 7 - ADVANCE PAYMENT SECURITY

[Demand Bank Guarantee]

	reficiary:[Insert name and Address of Procuring Entity] te:[Insert date of issue]
AD	VANCE PAYMENTGUARANTEE No.: [Insert guarantee reference number] Guarantor:
	[Insert name and address of place of issue, unless indicated in the letterhead]
1.	We have been informed that (hereinafter called "the Contractor") has entered into Contract No dated with the Beneficiary, for the execution of
2.	Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum(in words) is to be made against an advance payment guarantee.
3.	At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of
	b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.
4.	A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account numberat
5.	The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the day of, 2, whichever is earlier. Consequently, plemand for payment under this guarantee must be received by us at this office on or before that date.
6.	The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guaranton before the expiry of the guarantee.
	[Name of Authorized Official, signature(s) and seals/stamps]
	Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

¹The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency of the advance payment as specified

in the Contract.

²Insert the expected expiration date of the Time for Completion. The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM NO. 8 - RETENTION MONEY SECURITY

[Demand Bank Guarantee] [Guarantor letterhead] _____[Insert name and Address of Procuring Entity] Beneficiary: Date: [Insert date of issue] **Advance payment guarantee no.** [Insert guarantee reference number] **Guarantor:** [Insert name and address of place of issue, unless indicated in the letterhead] We have been informed that ______ [insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture] (hereinafter called "the Contractor") has entered into Contract No. ______[insert reference number of the contract] dated______ with the Beneficiary, for the execution of ________ finsert name of contract and brief description of Works] (hereinafter called "the Contract"). 2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of /insert the second half of the Retention Moneyl is to be made against a Retention Money guarantee. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any 3. sum or sums not exceeding in total an amount of [insert amount in figures]_____([insert amount in words______]) upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate 4. from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has

been credited to the Contractor on its account number at [insert name

The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

and address of Applicant's bank].

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:

- *Directly or indirectly holding 25% or more of the shares.*
- Directly or in directly holding 25% or more of the voting rights.
- Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.

Tender Reference No.:	[insert identification		
no] Name of the Assignment:	[insert name of the assignment] to:		
[insert complete name of Procuring Entity]			
In response to your notification of award dated additional information on beneficial ownership: options that are not applicable]	[insert date of notification of award] to furnish[select one option as applicable and delete the		

I) We here by provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer (Yes / No)
[include full name (last, middle, first), nationality, country of residence]			

¹The Guarantor shall insert an amount representing the amount of the second half of the Retention Money.

Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

ii)	We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.
OR	
	eclare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If option is selected, the Tenderer shall provide explanation on why it is unable to identify any Beneficial Owner]

Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights.

Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer]"

Name of the Tenderer:*[insert complete name of the Tenderer]
Name of the person duly authorized to sign the Tender on behalf of the Tenderer: ** [insert complete name of person duly authorized to sign the Tender]
Title of the person signing the Tender: [insert complete title of the person signing the Tender]
Signature of the person named above:[insert signature of person whose name and capacity are shown above]
Date signed[insert date of signing] day of[Insert month], [insert year]



REPUBLIC OF KENYA DEPARTMENT OF PUBLIC WORKS

SPECIFICATIONS AND BILLS OF QUANTITIES

FOR

PROPOSED COMPLETION WORKS OF PERIMETER WALL

FOR MATILI TECHNICAL TRAINING INSTITUTE IN BUNGOMA COUNTY

TENDER NO....

PREPARED BY.

County Quantity Surveyor P.O Box 763 Bungoma.

County Elect./Mech. Engineer P.O Box 763 Bungoma. County Architect P.O Box 763 Bungoma.

County structural Engineer P.O Box 763 Bungoma.

Issued By:

County Works Officer
Department of Public Works
P.O. Box 763
Bungoma

REPUBLIC OF KENYA

COUNTY GOVERNMENT OF BUNGOMA

MINISTRY OF INFRASTRUCTURE AND PUBLIC WORKS

DEPARTMENT OF PUBLIC WORKS

BILLS OF QUANTITIES

SUPPLIED AS PART OF THE CONTRACT

FOR

PROPOSED COMPLETION WORKS OF TUITION BLOCK FOR MATILI TECHNICAL TRAINING INSTITUTE IN BUNGOMA COUNTY

ISSUED BY:	QUANTITI	ES AND CONTRACT	ΓS SECTION	
	P. O. BOX	763, BUNGOMA.		
The contract for the above r	by the undersigned part page and the General	rties, refer to these Bill Specification dated 19	ls of Quantities consistin 1976, together with any a	mendments
CONTRACTOR				
Date		Date		

SPECIAL NOTES

The contractor is required to check the numbers of the pages of the Bills of Quantities together with all collections and summaries and should be find any missing or in duplicate or the figures indistinct, he must inform the County Works Officer, Ministry of Public Works, P. O. Box 763, and BUNGOMA.

Should the contractor be in doubt about the precise meaning of any items or figure, for any reason whatsoever, he must inform the County Works Officer, Ministry of Public Works, Bungoma in order that the correct meaning may be decided before the date for submission of Tenders.

No liability will be admitted, no claim allowed, in respect of errors in the contractor's Tender due to mistakes in the Bills of Quantities which should have been rectified in the manner described above.



PROPOSED COMPLETION WORKS OF TUITION BLOCK FOR MATILI TECHNICAL TRAINING INSTITUTE IN BUNGOMA COUNTY

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REPUBLIC OF KENYA

STANDARD TENDER DOCUMENT

FOR

PROCUREMENT OF WORKS
(BUILDING AND ASSOCIATED
CIVIL ENGINEERING WORKS)

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INSTRUCTIONS TO TENDERERS

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INSTRUCTIONS TO TENDERERS.

1. 1. General

- 1.1 The Employer as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The successful tenderer will be expected to complete the Works by the Intended Completion Date specified in the tender documents.
- 1.2 All tenderers shall provide the Qualification Information, a statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or has not been associated in the past, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications, and other documents for the project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the Works, and any of its affiliates, shall not be eligible to tender.
- 1.3 In the event that pre-qualification of potential tenderers has been undertaken, only tenders from pre-qualified tenderers will be considered for award of Contract. These qualified tenderers should submit with their tenders any information updating their original pre-qualification applications or, alternatively, confirm in their tenders that the originally submitted pre-qualification information remains essentially correct as of the date of tender submission.
- 1.4 Where no pre-qualification of potential tenderers has been done, all tenderers shall include the following information and documents with their tenders, unless otherwise stated:
 - (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the tender to commit the tenderer:
 - (b) total monetary value of construction work performed for each of the last five years:
 - (c) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and names and addresses of clients who may be contacted for further information on these contracts;
 - (d) Major items of construction equipment proposed to carry out the Contract and an undertaking that they will be available for the Contract.
 - (e) qualifications and experience of key site management and technical personnel proposed for the Contract and an undertaking that they shall be available for the Contract.
 - (f) reports on the financial standing of the tenderer, such as profit and loss statements and auditor's reports for the past five years;
 - (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
 - (h) authority to seek references from the tenderer's bankers;
 - (i) information regarding any litigation, current or during the last five years, in which the tenderer is involved, the parties concerned and disputed amount; and

- (j) proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.
- 1.5 Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated:
 - (a) the tender shall include all the information listed in clause 1.4 above for each joint venture partner;
 - (b) the tender shall be signed so as to be legally binding on all partners;
 - (c) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (d) one of the partners will be nominated as being in charge, authorised to incur liabilities, and receive instructions for and on behalf of all partners of the joint venture; and
 - (e) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
- 1.6 To qualify for award of the Contract, tenderers shall meet the following minimum qualifying criteria;
 - (a) Annual volume of construction work of at least 1.5 times the estimated annual cash flow for the Contract:
 - (b) Experience as main contractor in the construction of at least two works of a nature and complexity equivalent to the Works over the last 5 years (to comply with this requirement, works cited should be at least 70 percent complete);
 - (c) Proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed as required for the Works;
 - (d) A Contract manager with at least five years' experience in works of an equivalent nature and volume, including no less than three years as Manager; and
 - (e) Liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than 4 months of the estimated payment flow under this Contract.
- 1.7 The figures for each of the partners of a joint venture shall be added together to determine the tenderer's compliance with the minimum qualifying criteria of clause 1.6 (a) and (e); however, for a joint venture to qualify, each of its partners must meet at least 25 percent of minimum criteria 1.6 (a), (b) and (e) for an individual tenderer, and the partner in charge at least 40 percent of those minimum criteria. Failure to comply with this requirement will result in rejection of the joint venture's tender. Subcontractors' experience and resources will not be taken into account in determining the tenderer's compliance with the qualifying criteria, unless otherwise stated.
- 1.8 Each tenderer shall submit only one tender, either individually or as a partner in a joint venture. A tenderer who submits or participates in more than one tender (other than as a

- subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the tenderer's participation to be disqualified.
- 1.9 The tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.
- 1.10 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.

2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed below and any addenda issued in accordance with Clause 2.4.
 - (a) These Instructions to Tenderers
 - (b) Form of Tender and Qualification Information
 - (c) Conditions of Contract
 - (d) Appendix to Conditions of Contract
 - (e) Specifications
 - (f) Drawings
 - (g) Bills of Quantities
 - (h) Forms of Securities
- 2.2 The tenderer shall examine all Instructions, Forms to be filled and Specifications in the tender documents. Failure to furnish all information required by the tender documents, or submission of a tender not substantially responsive to the tendering documents in every respect will be at the tenderer's risk and may result in rejection of his tender.
- 2.3 A prospective tenderer requiring any clarification of the tendering documents may notify the Employer in writing or by cable, telex or facsimile at the address indicated in the letter of invitation to tender. The Employer will only respond to requests for clarification received earlier than seven days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.
- 2.4 Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing or by cable, telex or facsimile to all tenderers. Prospective tenderers shall acknowledge receipt of each addendum in writing to the Employer.
- 2.5 To give prospective tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend, as necessary, the deadline for submission of tenders, in accordance with Clause 4.2 herebelow.

3. Preparation of Tenders

- 3.1 All documents relating to the tender and any correspondence shall be in English language.
- 3.2 The tender submitted by the tenderer shall comprise the following:

- (a) These Instructions to Tenderers, Form of Tender, Conditions of Contract, Appendix to Conditions of Contract and Specifications;
- (b) Tender Security;
- (c) Priced Bill of Quantities;
- (d) Qualification Information Form and Documents;
- (e) Alternative offers where invited; and
- (f) Any other materials required to be completed and submitted by the tenderers.
- 3.3 The tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause relevant to the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the tenderer.
- 3.4 The rates and prices quoted by the tenderer shall only be subject to adjustment during the performance of the Contract if provided for in the Appendix to Conditions of Contract and provisions made in the Conditions of Contract.
- 3.5 The unit rates and prices shall be in Kenya Shillings.
- 3.6 Tenders shall remain valid for a period of **90 days** from the date of submission. However in exceptional circumstances, the Employer may request that the tenderers extend the period of validity for a specified additional period. The request and the tenderers' responses shall be made in writing. A tenderer may refuse the request without forfeiting the Tender Security. A tenderer agreeing to the request will not be required or permitted to otherwise modify the tender, but will be required to extend the validity of Tender Security for the period of the extension, and in compliance with Clause 3.7 3.11 in all respects.
- 3.7 The tenderer shall furnish, as part of the tender, a Tender Security for the amount specified in the invitation to tender. This shall be in the form of a bank draft or a bank guarantee from an established and reputable bank approved by the Employer.
- 3.8 The format of the Tender Security should be in accordance with the form of Tender Security included in Section G Standard forms or any other form acceptable to the Employer . Tender Security shall be valid for 30 days beyond the validity of the tender.
- 3.9 Any tender not accompanied by an acceptable Tender Security shall be rejected. The Tender Security of a joint venture must define as "Tenderer" all joint venture partners and list them in the following manner: a joint venture consisting of"....", and "...."
- 3.10 The Tender Securities of unsuccessful tenderers will be returned within 28 days of the end of the tender validity period specified in Clause 3.6.
- 3.11 The Tender Security of the successful tenderer will be discharged when the tenderer has signed the Contract Agreement and furnished the required Performance Security.

- 3.12 The Tender Security may be forfeited
 - (a) If the tenderer withdraws the tender after tender opening during the period of tender validity;
 - (b) If the tenderer does not accept the correction of the tender price, pursuant to Clause 5.7;
 - (c) In the case of a successful tenderer, if the tenderer fails within the specified time limit to
 - (i) Sign the Agreement, or
 - (ii) Furnish the required Performance Security.
- 3.13 Tenderers shall submit offers that comply with the requirements of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. Alternatives will not be considered, unless specifically allowed in the invitation to tender. If so allowed, tenderers wishing to offer technical alternatives to the requirements of the tendering documents must also submit a tender that complies with the requirements of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. In addition to submitting the basic tender, the tenderer shall provide all information necessary for a complete evaluation of the alternative, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated tender conforming to the basic technical requirements shall be considered.
- 3.14 The tenderer shall prepare one original of the documents comprising the tender documents as described in Clause 3.2 of these Instructions to Tenderers, bound with the volume containing the Form of Tender, and clearly marked "ORIGINAL". In addition, the tenderer shall submit copies of the tender, in the number specified in the invitation to tender, and clearly marked as "COPIES". In the event of discrepancy between them, the original shall prevail.
- 3.15 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the tenderer, pursuant to Clause 1.5 (a) or 1.6 (b), as the case may be. All pages of the tender where alterations or additions have been made shall be initialled by the person or persons signing the tender.

4. Submission of Tenders

- 4.1 The tenderer shall seal the original and all copies of the tender in two inner envelopes and one outer envelope, duly marking the inner envelopes as "**ORIGINAL**" and "**COPIES**" as appropriate. The inner and outer envelopes shall:
 - (a) be addressed to the Employer at the address provided in the invitation to tender;
 - (b) bear the name and identification number of the Contract as defined in the invitation to tender; and
 - (c) provide a warning not to open before the specified time and date for tender opening.

- 4.2 Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to tender. However, the Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with Sub-Clause 2.5 in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline will then be subject to the new deadline.
- 4.3 Any tender received after the deadline prescribed in clause 4.2 will be returned to the tenderer un-opened.
- 4.4 Tenderers may modify or withdraw their tenders by giving notice in writing before the deadline prescribed in clause 4.2. Each tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with clause 3.13 and 4.1, with the outer and inner envelopes additionally marked "MODIFICATION" and "WITHDRAWAL", as appropriate. No tender may be modified after the deadline for submission of tenders.
- 4.5 Withdrawal of a tender between the deadline for submission of tenders and the expiration of the period of tender validity specified in the invitation to tender or as extended pursuant to Clause 3.6 may result in the forfeiture of the Tender Security pursuant to Clause 3.11.
- 4.6 Tenderers may only offer discounts to, or otherwise modify the prices of their tenders by submitting tender modifications in accordance with Clause 4.4 or be included in the original tender submission.

5. Tender Opening and Evaluation

- 5.1 The tenders will be opened by the Employer, including modifications made pursuant to Clause 4.4, in the presence of the tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender. Envelopes marked "WITHDRAWAL" shall be opened and read out first. Tenderers' and Employer's representatives who are present during the opening shall sign a register evidencing their attendance.
- 5.2 The tenderers' names, the tender prices, the total amount of each tender and of any alternative tender (if alternatives have been requested or permitted), any discounts, tender modifications and withdrawals, the presence or absence of Tender Security, and such other details as may be considered appropriate, will be announced by the Employer at the opening. Minutes of the tender opening, including the information disclosed to those present will be prepared by the Employer.
- 5.3 Information relating to the examination, clarification, evaluation, and comparison of tenders and recommendations for the award of Contract shall not be disclosed to tenderers or any other persons not officially concerned with such process until the award to the successful tenderer has been announced. Any effort by a tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.
- 5.4 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may ask any tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile but no change in the price or substance of the tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered in the evaluation of the tenders in accordance with Clause 5.7.

- Prior to the detailed evaluation of tenders, the Employer will determine whether each tender (a) meets the eligibility criteria defined in Clause 1.7;(b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the tendering documents. A substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tendering documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the works; (b) which limits in any substantial way, inconsistent with the tendering documents, the Employer's rights or the tenderer's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other tenderers presenting substantially responsive tenders.
- 5.6 If a tender is not substantially responsive, it will be rejected, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.
- 5.7 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
 - (a) where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
 - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
 - (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities, the amount as stated in the Form of Tender shall prevail.
 - (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the corrected Builder's Work (i.e. Corrected tender sum less P.C. and Provisional Sums)
 - (e) The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
 - (f) the amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and, with concurrence of the tenderer, shall be considered as binding upon the tenderer. If the tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security may be forfeited in accordance with clause 3.11.
- 5.8 The Employer will evaluate and compare only the tenders determined to be substantially responsive in accordance with Clause 5.5.
- 5.9 In evaluating the tenders, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:
 - (a) making any correction for errors pursuant to clause 5.7;
 - (b) excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities, but including Dayworks where priced competitively.

- (c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with clause 3.12; and
- (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with clause 4.6
- 5.10 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in tender evaluation.
- 5.11 The tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.
- 5.12 Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding Provisional Sums to an non-indigenous sub-contractor.

6. Award of Contract

- 6.1 Subject to Clause 6.2, the award of the Contract will be made to the tenderer whose tender has been determined to be substantially responsive to the tendering documents and who has offered the lowest evaluated tender price, provided that such tenderer has been determined to be (a) eligible in accordance with the provision of Clauses 1.2, and (b) qualified in accordance with the provisions of clause 1.7 and 1.8.
- 6.2 Notwithstanding clause 6.1 above, the Employer reserves the right to accept or reject any tender, and to cancel the tendering process and reject all tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the action.
- 6.3 The tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum (hereinafter and in all Contract documents called the "Contract Price")that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract.
 - The notification of award will constitute the formation of the Contract, subject to the tenderer furnishing the Performance Security in accordance with Clause 6.6 and signing the Agreement in accordance with Clause 6.4.
- The Agreement will incorporate all agreements between the Employer and the successful tenderer. It will be signed by the Procuring Entity and sent to the successful tenderer, within 30 days following the notification of award. Within 21 days of receipt the successful tenderer will sign the Agreement and return it to the Employer.

- 6.5 Within 21 days after receipt of the Letter of Acceptance, the successful tenderer shall deliver to the Employer a Performance Security in the amount stipulated in the Appendix to Conditions of Contract and in the form stipulated in the Tender documents. The Performance Security shall be in the form of a Bank Guarantee, and shall be issued at the tenderer's option, by a reputable bank located in Kenya and acceptable to the Employer.
- 6.6 Failure of the successful tenderer to comply with the requirements of clause 6.5 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender Security.
- 6.7 Upon the furnishing by the successful tenderer of the Performance Security, the Employer will promptly notify the other tenderers that their tenders have been unsuccessful.

SECTION B: CONDITIONS OF CONTRACT

CONDITIONS OF CONTRACT

1. Definitions

- 1.1 In this Contract, except where context otherwise requires, the following terms shall be interpreted as indicated;
 - "Bill of Quantities" means the priced and completed Bill of Quantities forming part of the tender.
 - "Compensation Events" are those defined in Clause 24 hereunder.
 - "The Completion Date" means the date of completion of the Works as certified by the Project Manager, in accordance with Clause 31.
 - "The Contract" means the agreement entered into between the Employer and the Contractor as recorded in the Agreement Form and signed by the parties including all attachments and appendices thereto and all documents incorporated by reference therein to execute, complete, and maintain the Works.
 - "The Contractor" refers to the person or corporate body whose tender to carry out the Works has been accepted by the Employer.
 - "The Contractor's Tender" is the completed tendering document submitted by the Contractor to the Employer.
 - "The Contract Price" is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
 - "Days" are calendar days; "Months" are calendar months.
 - "A Defect" is any part of the Works not completed in accordance with the Contract.
 - "The Defects Liability Certificate" is the certificate issued by Project Manager upon correction of defects by the Contractor.
 - "The Defects Liability Period" is the period named in the Contract Data and calculated from the Completion Date.
 - "**Drawings**" include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
 - "Dayworks" are Work inputs subject to payment on a time basis for labour and the associated materials and plant.
 - **"Employer",** or the **"Procuring entity"** as defined in the Public Procurement Regulations (i.e. Central or Local Government administration, Universities, Public Institutions and Corporations, etc) is the party who employs the Contractor to carry out the Works.
 - **"Equipment"** is the Contractor's machinery and vehicles brought temporarily to the Site for the execution of the Works.

- "The Intended Completion Date" is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- "Materials" are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- "Plant" is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- "Project Manager" is the person named in the Appendix to 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 and shall be an "Architect" or a "Quantity Surveyor" registered under the Architects and Quantity Surveyors Act Cap 525 or an "Engineer" registered under Engineers Registration Act Cap 530.
- "Site" is the area defined as such in the Appendix to Condition of Contract.
- "Site Investigation Reports" are those reports that may be included in the tendering documents which are factual and interpretative about the surface and subsurface conditions at the Site.
- "Specifications" means the Specifications of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- "Start Date" is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with the Site possession date(s).
- "A Subcontractor" is a person or corporate body who has a Contract with the Contractor to carry out a part of the Work in the Contract, which includes Work on the Site.
- "Temporary works" are works designed, constructed, installed, and removed by the Contractor which are needed for construction or installation of the Works.
- "A Variation" is an instruction given by the Project Manager which varies the Works.
- "The Works" are what the Contract requires the Contractor to construct, install, and turnover to the Employer, as defined in the Appendix to Conditions of Contract.

2. Interpretation

- 2.1 In interpreting these 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 in English Language unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2 If sectional completion is specified in the Appendix to Conditions of Contract, reference in the 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 Intended Completion Date for the whole of the Works).

- 2.3 The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;
 - (1) Agreement,
 - (2) Letter of Acceptance,
 - (3) Contractor's Tender,
 - (4) Appendix to Conditions of Contract,
 - (5) Conditions of Contract,
 - (6) Specifications,
 - (7) Drawings,
 - (8) Bill of Quantities,
 - (9) Any other documents listed in the Appendix to Conditions of Contract as forming part of the Contract.

Immediately after the execution of the Contract, the Project Manager shall furnish both the Employer and the Contractor with two copies each of all the Contract documents. Further, as and when necessary the Project Manager shall furnish the Contractor [always with a copy to the Employer] with three [3] copies of such further drawings or details or descriptive schedules as are reasonably necessary either to explain or amplify the Contract drawings or to enable the Contractor to carry out and complete the Works in accordance with these Conditions.

3. Language and Law

3.1 Language of the Contract and the law governing the Contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

4 Project Manager's Decisions

4.1 Except where otherwise specifically stated, 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 others after notifying the Contractor.

6 Communications

6.1 Communication between parties 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 Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities etc. as listed in the Appendix to Conditions of Contract and also with the Employer, as per the directions of the Project Manager. The Contractor shall also provide facilities and services for them. The Employer may modify the said List of Other Contractors etc., and shall notify the Contractor of any such modification.

9 Personnel

9.1 The Contractor shall employ the key personnel named in the Qualification Information, to carry out the functions stated in the said Information 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 Qualification Information. 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 days and has no further connection with the Work in the Contract.

10 Works

10.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings. The Works may commence on the Start Date and shall be carried out in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

11 Safety and Temporary Works

- 11.1 The Contractor shall be responsible for the design of temporary works. However before erecting the same, he shall submit his designs including specifications and drawings to the Project Manager and to any other relevant third parties for their approval. No erection of temporary works shall be done until such approvals are obtained.
- 11.2 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary works and all drawings prepared by the Contractor for the execution of the temporary or permanent Works, shall be subject to prior approval by the Project Manager before they can be used.
- 11.3 The Contractor shall be responsible for the safety of all activities on the Site.

12. Discoveries

12.1 Anyth ing of historical or other interest or of significant value unexpectedly discovered on 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.

13. Work Program

Within the time stated in the Appendix to Conditions of Contract, the Contractor shall submit to the Project Manager for approval a program showing the general methods, arrangements, order, and timing for all the activities in the Works. An update of the program shall be a program 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.

The Contractor shall submit to the Project Manager for approval an updated program at intervals no longer than the period stated in the Appendix to Conditions of Contract. If the Contractor does not submit an updated program within this period, the Project Manager may withhold the amount stated in the said Appendix from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue program has been submitted. The Project Manager's approval of the program shall not alter the Contractor's obligations. The Contractor may revise the program and submit it to the Project Manager again at any time. A revised program shall show the effect of Variations and Compensation Events.

14. Possession of Site

14.1 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 Appendix to Conditions of Contract, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

15. Access to Site

15.1 The Contractor shall allow the Project Manager and any other 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.

16. Instructions

16.1 The Contractor shall carry out all instructions of the Project Manager which are in accordance with the Contract.

17. Extension or Acceleration of Completion Date

- 17.1 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. The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager in writing 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 caused by such failure shall not be considered in assessing the new (extended) Completion Date.
- 17.2 No bonus for early completion of the Works shall be paid to the Contractor by the Employer.

18. Management Meetings

18.1 A Contract management meeting shall be held monthly and attended by the Project Manager and the Contractor. Its business shall be to review the plans for the remaining Work and to deal with matters raised in accordance with the early warning procedure. The Project Manager shall record the minutes of management meetings and provide copies of the same to those attending the meeting and 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.

19. Early Warning

- 19.1 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.
- 19.2 The Contractor shall cooperate with the Project Manager in making and considering proposals on 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 instructions of the Project Manager.

20. Defects

- 20.1 The Project Manager shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection 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. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor, However, if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.
- 20.2 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 Appendix to Conditions of Contract. The Defects Liability Period shall be extended for as long as defects remain to be corrected.
- 20.3 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. 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 by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

21. Bills Of Quantities

- 21.1 The Bills of Quantities shall contain items for the construction, installation, testing and commissioning of the Work to be done by the Contractor. The Contractor will be paid for the quantity of the Work done at the rate in the Bills of Quantities for each item.
- 21.2 If the final quantity of the Work done differs from the quantity in the Bills of Quantities for the particular item by more than 25 percent and provided the change exceeds 1 percent of the Initial Contract price, the Project Manager shall adjust the rate to allow for the change.
- 21.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bills of Quantities.

22. Variations

- 22.1 All variations shall be included in updated programs produced by the Contractor.
- 22.2 The Contractor shall provide the Project Manager with a quotation for carrying out the variations when requested to do so. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period as may be stated by the Project Manager and before the Variation is ordered.
- 22.3 If the work in the variation corresponds with an item description in the Bills of Quantities and if in the opinion of the Project Manager, the quantity of work is not above the limit stated in Clause 21.2 or the timing of its execution does not cause the cost per unit of quantity to change, the rate in the Bills 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 Bills of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 22.4 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.
- 22.5 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.
- 22.6 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- 22.7 When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast.

23. Payment Certificates, Currency of Payments and Advance Payments

- 23.1 The Contractor shall submit to the Project Manager monthly applications for payment giving sufficient details of the Work done and materials on Site and the amounts which the Contractor considers himself to be entitled to. The Project Manager shall check the monthly application and certify the amount to be paid to the Contractor within 14 days. The value of Work executed and payable shall be determined by the Project Manager.
- 23.2 The value of Work executed shall comprise the value of the quantities of the items in the Bills of Quantities completed, materials delivered on Site, variations and compensation events. Such materials shall become the property of the Employer once the Employer has paid the Contractor for their value. Thereafter, they shall not be removed from Site without the Project Manager's instructions except for use upon the Works.
- 23.3 Payments shall be adjusted for deductions for retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes a late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis of number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue.

- 23.4 If an amount certified is increased in a later certificate or as a result of an award by 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.
- 23.5 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.
- 23.6 The Contract Price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya Shillings and foreign currency in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate of exchange for the calculation of the amount of foreign currency payment shall be the rate of exchange indicated in the Appendix to Conditions of Contract. If the Contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services the Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services. The Employer and the Project Manager shall be notified promptly by the Contractor of an changes in the expected foreign currency requirements of the Contractor during the execution of the Works as indicated in the Schedule of Foreign Currency Requirements and the foreign and local currency portions of the balance of the Contract Price shall then be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.
- 23.7 In the event that an advance payment is granted, the following shall apply:
 - a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of 10% (ten percent) of the original amount of the Contract. The advance shall not be subject to retention money.
 - b) No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.
 - c) Reimbursement of the lump sum advance shall be made by deductions from the Interim payments and where applicable from the balance owing to the Contractor. Reimbursement shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

The amount to be repaid by way of successive deductions shall be calculated by means of the formula:

$$R = \frac{A(x^1 - x^{11})}{80 - 20}$$

Where:

R = the amount to be reimbursed

A = the amount of the advance which has been granted

- X^1 = the amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will exceed 20% but not exceed 80%.
- X^{11} = the amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.
- d) with each reimbursement the counterpart of the directly liable guarantee may be reduced accordingly.

24. Compensation Events

- 24.1 The following issues shall constitute Compensation Events:
 - (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Appendix to Conditions of Contract.
 - (b) The Employer modifies the List of Other Contractors, etc., 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 the 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 Letter of Acceptance from the information issued to tenderers (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 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 effects on the Contractor of any of the Employer's risks.
 - (j) The Project Manager unreasonably delays issuing a Certificate of Completion.
 - (k) Other compensation events described in the Contract or determined by the Project Manager shall apply.
- 24.2 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.

- 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.
- 24.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having co-operated with the Project Manager.
- 24.5 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Appendix to Conditions of Contract.
- 24.6 The Contractor shall give written notice to the Project Manager of his intention to make a claim within thirty days after the event giving rise to the claim has first arisen. The claim shall be submitted within thirty days thereafter.

Provided always that should the event giving rise to the claim of continuing effect, the Contractor shall submit an interim claim within the said thirty days and a final claim within thirty days of the end of the event giving rise to the claim.

25. Price Adjustment

- 25.1 The Project Manager shall adjust the Contract Price if taxes, duties and other levies are changed between the date 30 days before the submission of tenders for the Contract and the date of Completion. The adjustment shall be the change in the amount of tax payable by the Contractor.
- 25.2 The Contract Price shall be deemed to be based on exchange rates current at the date of tender submission in calculating the cost to the Contractor of materials to be specifically imported (by express provisions in the Contract Bills of Quantities or Specifications) for permanent incorporation in the Works. Unless otherwise stated in the Contract, if at any time during the period of the Contract exchange rates shall be varied and this shall affect the cost to the Contractor of such materials, then the Project Manager shall assess the net difference in the cost of such materials. Any amount from time to time so assessed shall be added to or deducted from the Contract Price, as the case may be.
- 25.3 Unless otherwise stated in the Contract, the Contract Price shall be deemed to have been calculated in the manner set out below and in sub-clauses 25.4 and 25.5 and shall be subject to adjustment in the events specified thereunder;
 - (i) The prices contained in the Contract Bills of Quantities shall be deemed to be based upon the rates of wages and other emoluments and expenses as determined by the Joint Building Council of Kenya (J.B.C.) and set out in the schedule of basic rates issued 30 days before the date for submission of tenders. A copy of the schedule used by the Contractor in his pricing shall be attached in the Appendix to Conditions of Contract.
 - (ii) Upon J.B.C. determining that any of the said rates of wages or other emoluments and expenses are increased or decreased, then the Contract Price shall be increased or

decreased by the amount assessed by the Project Manager based upon the difference, expressed as a percentage, between the rate set out

in the schedule of basic rates issued 30 days before the date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of labour incorporated within the amount of Work remaining to be executed at the date of publication of such increase or decrease.

- (iii) No adjustment shall be made in respect of changes in the rates of wages and other emoluments and expenses which occur after the date of Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.
- 25.4 The prices contained in the Contract Bills of Quantities shall be deemed to be based upon the basic prices of materials to be permanently incorporated in the Works as determined by the J.B.C. and set out in the schedule of basic rates issued 30 days before the date for submission of tenders. A copy of the schedule used by the Contractor in his pricing shall be attached in the Appendix to Conditions of Contract.
- 25.5 Upon the J.B.C. determining that any of the said basic prices are increased or decreased then the Contract Price shall be increased or decreased by the amount to be assessed by the Project Manager based upon the difference between the price set out in the schedule of basic rates issued 30 days before the date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of the relevant materials which have not been taken into account in arriving at the amount of any interim certificate under clause 23 of these Conditions issued before the date of publication of such increase or decrease.
- 25.6 No adjustment shall be made in respect of changes in basic prices of materials which occur after the date for Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.
- 25.7 The provisions of sub-clause 25.1 to 25.2 herein shall not apply in respect of any materials included in the schedule of basic rates.

26. Retention

26.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the Appendix to Conditions of Contract until Completion of the whole of the Works. On Completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and the remaining half when the Defects Liability Period has passed and the Project Manager has certified that all defects notified to the Contractor before the end of this period have been corrected.

27. Liquidated Damages

- 27.1 The Contractor shall pay liquidated damages to the Employer at the rate stated in the Appendix to Conditions of Contract for each day that the actual Completion Date is later than the Intended Completion Date. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not alter the Contractor's liabilities.
- 27.2 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 rate specified in Clause 23.30

28. Securities

28.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a reputable bank acceptable to the Employer, and denominated in Kenya Shillings. The Performance Security shall be valid until a date 30 days beyond the date of issue of the Certificate of Completion.

29. Dayworks

- 29.1 If applicable, the Dayworks rates in the Contractor's tender 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.
- 29.2 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 days of the Work being done.
- 29.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

30. Liability and Insurance

- 30.1 From the Start Date until the Defects Correction Certificate has been issued, the following are the 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;
 - (i) 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
 - (ii) 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.
 - (b) 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 Employer's design, or due to war or radioactive contamination directly affecting the place where the Works are being executed.
- 30.2 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 the Employer's risk except loss or damage due to;
 - (a) a defect which existed on or before the Completion Date.
 - (b) an event occurring before the Completion Date, which was not itself the Employer's risk
 - (c) the activities of the Contractor on the Site after the Completion Date.

30.3 From the Start 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 risk are Contractor's risks.

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 stated in the Appendix to Conditions of Contract for the following events;

- (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.
- 30.4 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 required to rectify the loss or damage incurred.
- 30.5 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 from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 30.6 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager. Both parties shall comply with any conditions of insurance policies.

31. Completion and taking over

31.1 Upon deciding that the Works are complete, the Contractor shall issue a written request to the Project Manager to issue a Certificate of Completion of the Works. The Employer shall take over the Site and the Works within seven [7] days of the Project Manager's issuing a Certificate of Completion.

32. Final Account

32.1 The Contractor shall issue the Project Manager with a detailed account of the total amount that the Contractor considers payable to him by the Employer 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 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 30 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. The Employer shall pay the Contractor the amount due in the Final Certificate within 60 days.

33. Termination

33.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following;

- (a) the Contractor stops work for 30 days when no stoppage of work is shown on the current program 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 30 days;
- (c) the Contractor is declared 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 30 days (for Interim Certificate) or 60 days (for Final Certificate) of issue.
- (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.
- 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 Clause 33.1 above, the Project Manager shall decide whether the breach is fundamental or not.
- 33.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 33.4 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. The Project Manager shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

34. Payment Upon Termination

- 34.1 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 and delivered to Site up to the date of the issue of the certificate. 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 by the Contractor.
- 34.2 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.
- 34.3 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on the Site, plant, equipment and temporary works.
- 34.4 The Contractor shall, during the execution or after the completion of the Works under this clause remove from the Site as and when required, within such reasonable time as the Project Manager may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to or hired by him, and in default the Employer may (without

being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.

Until after completion of the Works under this clause the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefor the Project Manager shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

35. Release from Performance

35.1 If the Contract is frustrated by the outbreak of war or by any other event entirely 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.

36. Corrupt gifts and payments of commission

The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract for the Employer.
- (b) Enter into this or any other contract with the Employer in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Employer.

Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement Regulations issued under The Exchequer and Audit Act Cap 412 of the Laws of Kenya.

37. Settlement Of Disputes

37.1 In case any dispute or difference shall arise between the Employer or the Project Manager on his behalf and the Contractor, either during the progress or after the completion or termination of the Works, such dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the Chairman or Vice Chairman of any of the following professional institutions;

- (i) Architectural Association of Kenya
- (ii) Institute of Quantity Surveyors of Kenya
- (iii) Association of Consulting Engineers of Kenya
- (iv) Chartered Institute of Arbitrators (Kenya Branch)
- (v) Institution of Engineers of Kenya

On the request of the applying party. The institution written to first by the aggrieved party shall take precedence over all other institutions.

- 37.2 The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising thereunder or in connection therewith, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.
- 37.3 Provided that no arbitration proceedings shall be commenced on any dispute or difference where notice of a dispute or difference has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 37.4 Notwithstanding the issue of a notice as stated above, the arbitration of such a dispute or difference shall not commence unless an attempt has in the first instance been made by the parties to settle such dispute or difference amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 37.5 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:
 - 37.5.1 The appointment of a replacement Project Manager upon the said person ceasing to
 - 37.5.2 Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions
 - 37.5.3 Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
 - 37.5.4 Any dispute or difference arising in respect of war risks or war damage.
- 37.6 All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Employer and the Contractor agree otherwise in writing.
- 37.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.

- 37.8 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 37.9 The award of such Arbitrator shall be final and binding upon the parties.

37.10 37.10

38. Alternative Dispute Resolution

- 38.1 In pursuant to clause 37 it shall be a condition that no dispute shall be referred to Arbitration until Alternative Dispute Resolution methods have been exhausted.
- 38.2 The persons to conduct Alternative Dispute Resolution shall be agreed upon by the parties to the contract.
- **38.3** The Alternative Dispute Resolution methods to apply shall be **Reconciliation**, **Mediation**, and **Adjudication**.

SECTION C: APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

The Project Manager is;

Name: COUNTY WORKS OFFICER DEPARTMENT OF PUBLIC WORKS – BUNGOMA COUTNY

Address: P.O. BOX 763-50200 BUNGOMA

Telephone:

The name (and identification number) of the Contract PROPOSED COMPLETION WORKS OF FOOD AND BEVERAGE BLOCK FOR MATILI TECHNICAL TRAINING INSTITUTE IN BUNGOMA COUNTY.

The Works consist of, Reinforced concrete, Walling, Roofing, Windows, Doors, Finishes, Mechanical works and Electrical works

The Start Date shall be AGREED WITH THE PROJECT MANAGER

The Intended Completion Date for the whole of the Works shall be`
20 WEEKS FROM DATE OF POSESESSION

20 WEEKS FROM DATE OF TOSESESSION

The following documents also form part of the Contract:

AS LISTED IN CLAUSE 2.3 OF CONDITIONS OF CONTRACT

The Contractor shall submit a revised program for the Works within SEVEN (7) days of delivery of the Letter of Acceptance.

The Site Possession Date shall be AGREED WITH THE PROJECT MANAGER

The Site is located at MATILI TECHNICAL TRAINING INSTITUTE IN BUNGOMA COUNTY.

The Defects Liability period is 180 days after handing over.

Other Contractors, utilities etc., to be engaged by the Employer on the Site Include those for the execution of;

- 1. PLUMBING & DRAINAGE WORKS
- 2. ELECTRICAL WORKS
- 3. CIVIL WORKS

The minimum insurance covers shall be;

• Contractors All Risk Insurance

The following events shall also be Compensation Events:

1. NONE (ONLY AS LISTED IN CLAUSE 24 OF THE CONDITIONS OF CONTRACT
2
3
4
The period between Program updates is FOURTEEN (14) days.
The amount to be withheld for late submission of an updated Program is Kshs 10,000.00
The proportion of payments retained is 10% percent.
The Price Adjustment Clause SHALL Not apply
The liquidated damages for the whole of the Works is Kshs. 10,000.00(per week)
The Performance Security shall be for the following minimum amounts equivalent as a percentage of the Contract Price: 5 percent (%)
The Completion Period for the Works is 20 Weeks.
The rate of exchange for calculation of foreign currency payments is not applicable
The schedule of basic rates used in pricing by the Contractor is as attached [Contractor to attach].

Advance Payment SHALL Not be granted.

Prices for **V.A.T should not** be included in the unit prices of billed items but should be given as a percentage at the **GRAND SUMMARY PAGE.**

The Bidder should submit **ONLY ONE** (1 NO.) **ORIGINAL COPY** of the Bills of Quantities and not Two (2 No.) as indicated in Clause 4.1 of the Instruction To Tenderer.

WITH HOLDING TAX of 3% shall be deducted from every payment due to the Contactor(s).

SECTION D:

DRAWINGS

DRAWINGS

As Listed below:

Attached find the drawing

SECTION E: STANDARD FORMS

STANDARD FORMS

- (i) Form of Tender
- (ii) Form of Agreement
- (iii) Form of Tender Security
- (iv) Performance Bank Guarantee
- (v) Qualification Information
- (vi) Tender Questionnaire
- (vii) Confidential Business Questionnaire
- (viii) Details of Sub-Contractors

FORM OF TENDER

of Quantities for stall and complete
mount in words]
nmence, and to the Appendix to
ll remain binding
n your written
ve.

FORM OF AGREEMENT

THI	S AGRE	EMENT, made the	day of	20	
betw	veen				of[or whose registered
offic	ce is situa	ated at]			
(here	einafter o	called "the Employer") of the	one part AND		of[or whose registered
		ated at]			
(her	einafter o	called "the Contractor") of the	e other part.		
		THE Employer is desirous that		es	
(nan	ne and ic	lentification number of Contro	act) (hereinafter called		
	_	ne Employer has accepted the of such Works and the remedy	•		
Ksh	s			[Amo	unt in figures],Kenya
Shil in w	lings ords].				[Amount
NOV	W THIS	AGREEMENT WITNESSET	TH as follows:		
1.		s Agreement, words and exprement in the Conditions of Contra			s as are respectively assigned
2.		following documents shall be ement i.e.	deemed to form and sha	ll be read and	I construed as part of this
	(i)	Letter of Acceptance			
	(ii)	Form of Tender			
	(iii)	Conditions of Contract Part	t I		
	(iv)	Conditions of Contract Part	t II and Appendix to Con	nditions of Co	ontract
	(v)	Specifications			
	(vi)	Drawings			

(vii)

Priced Bills of Quantities

- 3. In consideration of the payments to be made by the Employer tothe 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.
- 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.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The common Seal of						
Was hereunto affixed	Was hereunto affixed in the presence of					
Signed Sealed, and I	Delivere	ed by the said				
Binding Signature of	f Emplo	oyer				
Binding Signature of	f Contra	actor				
In the presence of	(i)	Name				
		Address				
		Signature				
	[ii]	Name				
		Address				
		Signature				

FORM OF TENDER SECURITY

WHER	REAS		(hereinafter called "the Tenderer") has submitted his
		for the cons	
		(name of Contract)	••••••
"the Er	nployer d Emplo	.(hereinafter called "the Bank"), are r") in the sum of Kshs	having our registered office at bound unto
THE C	CONDIT	TIONS of this obligation are:	
1.		tender opening the tenderer withdra instructions to tenderers	ws his tender during the period of tender validity specified
2.		enderer, having been notified of the of tender validity:	acceptance of his tender by the Employer during the
	(a)(b)	Tenderers, if required; or	of Agreement in accordance with the Instructions to mance Security, in accordance with the Instructions to
	demander Employ	d, without the Employer having to su	the above amount upon receipt of his first written abstantiate his demand, provided that in his demand the d by him is due to him, owing to the occurrence of one or occurred condition or conditions.
	_	-	nd including thirty (30) days after the period of tender should reach the Bank not later than the said date.
		[date[[signature of the Bank]
		[witness]	

PERFORMANCE BANK GUARANTEE

To:	(Name of	Employer)
	(Date)	(Address of Employer)
Dear Sir,		
WHEREAS pursuance of Contract No called "the Works");	(hereinaft dated	er called "the Contractor") has undertaken, into execute(hereinafter
	ognised bank for the sum	d Contract that the Contractor shall furnish you specified therein as security for compliance with
AND WHEREAS we have agree	eed to give the Contractor	such a Bank Guarantee:
Contractor, up to a total of Ksh Shillings undertake to pay you, upon you within the limits of Kenya Shill	r first written demand and lings_	arantor and responsible to you, on behalf of the nount of Guarantee in figures) Kenya(amount of Guarantee in words), and we without cavil or argument, any sum or sums(amount of Guarantee in words) as ads or reasons for your demand for the sum
We hereby waive the necessity with the demand.	of your demanding the sa	d debt from the Contractor before presenting us
to be performed thereunder or o	of any of the Contract docu ease us from any liability u	cation of the terms of the Contract or of the Works aments which may be made between you and the under this Guarantee, and we hereby waive notice
This guarantee shall be valid un	ntil the date of issue of the	Certificate of Completion.
SIGNATURE AND SE	AL OF THE GUARANTO	OR
Name of Bank		
Address		
Date		

QUALIFICATION INFORMATION

1. Individual Tenderers or Individual Members of Joint Ventures

1.1	Constitutio	nstitution or legal status of tenderer (attach copy or Incorporation Certificate)					
	Place of re	gistration:					
	Principal p	lace of business				_	
	Power of a	ttorney of signator	y of to	ender		_	
1.2	Total annu	al volume of const		on work performed in the	ne last fi	ve years	
Year			V	olume			
	-	Currency	Valu	ie			
1.3	-			or on works of a simila under way or commit			
Projec	t name	Name of client and contact person	t	Type of work performed and year of completion	Value Conti		

1.4 Major items of Contractor's Equipment proposed for carrying out the Works. List all information requested below. Refer also to Clause 1.7 (c) of the Instructions to Tenderers.

Item of	Description,	Condition(new,	Owned, leased
Equipment	Make and age	good, poor) and	(from whom?), or
	(years)	number available	to be purchased
			(from whom?)

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to clause 1.5 (e) of the Instructions to Tenderers and Clause 9.1 of the Conditions of Contract.

Position	Name	Years of experience (general)	Years of experience in proposed position

1.6 Proposed subcontracts and firms involved. Refer to Clause 7.1 of the Conditions of Contract.

Sections of the Works	Value of Subcontract	Subcontractor (name and address)	Experience in similar work

1.7	Financial reports for the last five years: balance sheets, profit and loss statements, auditor's reports, etc. List below and attach copies.			
1.8	Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of supportive documents.			
1.9	Name, address and telephone, telex and facsimile numbers of banks that may provide reference if contacted by the Employer.			
1.10	Statement of compliance with the requirements of Clause 1.2 of the Instructions to Tenderers.			

2 Joint Ventures

- 2.4 The information listed in 1.1 1.10 above shall be provided for each partner of the joint venture.
- 2.5 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture
- 2.6 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:
 - a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
 - c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

TENDER OUESTIONNAIRE

Please fill in block letters. 1. Full names of tenderer Full address of tenderer to which tender correspondence is to be sent (unless an agent has been 2. appointed below) 3. Telephone number (s) of tenderer 4. Telex address of tenderer 5. Name of tenderer's representative to be contacted on matters of the tender during the tender period Details of tenderer's nominated agent (if any) to receive tender notices. This is essential if the 6. tenderer does not have his registered address in Kenya (name, address, telephone, telex) Signature of Tenderer Make copy and deliver to: (Name of Employer)

CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2 (c) and 2(d) whichever applies to your type of business.

You are advised that it is a serious offence to give false information on this Form.

Give details of partners as follows:

•	•	The state of the s	Shares
Part 2(c) – Reg	gistered Compa	ny:	
Private or publ	ic		
State the nomin	nal and issued c	apital of the company-	
Nominal Kshs.			
Issued Kshs			
Give details of	all the directors	s as follows:	
Name in full	. Nationality. C	Citizenship Details*. Sh	ares.
1.			
2.			
3.	•••••		
4.			
Part 2 (d) – Inc	terest in the Fir	rm:	
this firm? Yes/	No	•••••	(Name of Employer) who has interest in
•••••	(Delete as nece	ssary).	
I certify that th	e above informa	ation is correct.	
 (Title)		(Signature)	

• Attach proof of citizenship

1 2 3.

DETAILS OF SUB-CONTRACTORS

If the Tenderer wishes to sublet any portions of the Works under any heading, he must give below details of the sub-contractors he intends to employ for each portion.

Failure to comply with this requirement may invalidate the tender.

(1)	Port	ion of Works to be sublet:	
	[i)	Full name of Sub-contractor and address of head office:	
	(ii)	Sub-contractor's experience of similar works carried out in the last 3 years with	
		Contract value:	
(2)	Port	ion of Works to sublet:	
	(i)	Full name of sub-contractor and address of head office:	
	(ii)	Sub-contractor's experience of similar works carried out in the last 3 years with contract value:	
		Signature of Tenderer)	Date

•

Statement of Compliance

I confirm compliance of all clauses of the General Conditions, General Specifications and Particular Specifications in this tender.

I confirm I have not made and will not make any payment to any person, which can be perceived as an inducement to win this tender.

Signed:	for and on behalf of the Tenderer
Date:	
Official Rubber Stamp:	

ITEM		DESCRIPTION	KSHS
	GENE	RAL PRELIMINARIES	
A.	PRICI	NG OF ITEMS OF PRELIMINARIES AND PREAMBLES	
		s will be inserted against items of Preliminaries in the actor's priced Bills of Quantities and Specification.	
	rates f Specifi requir	ontractor shall be deemed to have included in his prices or for the various items in the Bills of Quantities or ication for all costs involved in complying with all the ements for the proper execution of the whole of the works in intract.	
В.	ABBR	EVIATIONS	
		ghout these Bills, units of measurement and terms are viated and shall be interpreted as follows:-	
	C.M.	Shall mean cubic metre	
	S.M.	Shall mean square metre	
	L.M.	Shall mean linear metre	
	MM	Shall mean Millimetre	
	Kg.	Shall mean Kilogramme	
	No.	Shall mean Number	
	Prs.	Shall mean Pairs	
	B.S. the	Shall mean the British Standard Specification Published by	
		Shall mean the whole of the preceding description except as ed in the description in which it occurs.	
	m.s.	Shall mean measured separately.	
	a.b.d	Shall mean as before described.	
		Carried to collection	

ITEM	DESCRIPTION	KSHS
111111	DESCRIPTION	173113
A.	EXCEPTION TO THE STANDARD METHOD OF MEASUREMENT	
	Attendance ; Clause B19(a) of the Standard Method of Measurement is deleted and the following clause is substituted:-	
	Attendance on nominated Sub-Contractors shall be given as an item in each case shall be deemed to include: allowing use of standing scaffolding, mess rooms, sanitary accommodation and welfare facilities; provision of special scaffolding where necessary; providing space for office accommodation and for storage of plant and materials; providing light and water for their work: clearing away rubbish; unloading checking and hoisting: providing electric power and removing and replacing duct covers, pipe casings and the like necessary for the execution and testing of Sub-Contractors' work and being responsible for the accuracy of the same.	
В	Fix Only:-	
	"Fix Only" shall mean take delivery at nearest railway station (Unless otherwise stated), pay all demurrage charges, load and transport to site where necessary, unload, store, unpack, assemble as necessary, distribute to position, hoist and fix only.	
C	EMPLOYER	
	The "Employer" is	
D	The term "Employer" and "Government" wherever used in the contract document shall be synonymous PROJECT MANAGER	
	The term "P.M." wherever used in these Bills of Quantities shall be deemed to imply the Project Manager as defined in Condition 1 of the Conditions of Contract or such person or persons as may be duly authorised to represent him on behalf of the Government.	
Е	ARCHITECT The term "Architect" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is County Works Office, Department of Public Works, P.O. Box 763,	
F	BUNGOMA. QUANTITY SURVEYOR	
	The term "Quantity Surveyor" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is County Works Office, Department of Public Works, P.O. Box 763, BUNGOMA.	
G	ELECTRICAL ENGINEER	
	The term "Electrical Engineer" shall be deemed to mean "The P.M."	
	as defined above whose address unless otherwise notified is County Works Office, Department of Public Works, P.O. Box 763,	
	BUNGOMA.	
	Carried to collection	

P.M. Coursell BUN B STF The P.M. Coursell BUN C FOF The Ken Word Project obta Con The these Part Con part D BOI The app bour of the project of the proj	te term "Mechanical Engineer" shall be deemed to mean "The M." as defined above whose address unless otherwise notified is unty Works Office, Department of Public Works, P.O. Box 763, NGOMA. RUCTURAL ENGINEER The term "Structural Engineer" shall be deemed to mean "The M." as defined above whose address unless otherwise notified is unty Works Office, Department of Public Works, P.O. Box 763, NGOMA. RM OF CONTRACT The Form of Contract shall be as stipulated in the Republic of anya's Standard Tender Document for Procurement of Building brks (2000 Edition) a copy of which can be obtained from the object Manager's office. The Conditions of Contract can also be cained from the Project Manager's offices. Inditions of Contract The ese are numbered from 1 to 38 as set out in pages 14 to 31 of the ese tender documents. The ticulars of insertions to be made in the Appendix to the intract Agreement will be found in the Particular Preliminaries to of these Bills of Quantities	
The P.M Courself P	e term "Structural Engineer" shall be deemed to mean "The M." as defined above whose address unless otherwise notified is unty Works Office, Department of Public Works, P.O. Box 763, NGOMA. RM OF CONTRACT e Form of Contract shall be as stipulated in the Republic of nya's Standard Tender Document for Procurement of Building orks(2000 Edition) a copy of which can be obtained from the oject Manager's office. The Conditions of Contract can also be tained from the Project Manager's offices. Inditions of Contract esee are numbered from 1 to 38 as set out in pages 14 to 31 of ese tender documents. Ticulars of insertions to be made in the Appendix to the intract Agreement will be found in the Particular Preliminaries	
P.M. Coursell BUN C FOF The Ken Word Project obtained the Service of the Service	M." as defined above whose address unless otherwise notified is unty Works Office, Department of Public Works, P.O. Box 763, NGOMA. RM OF CONTRACT e Form of Contract shall be as stipulated in the Republic of nya's Standard Tender Document for Procurement of Building orks(2000 Edition) a copy of which can be obtained from the oject Manager's office. The Conditions of Contract can also be tained from the Project Manager's offices. Inditions of Contract esee are numbered from 1 to 38 as set out in pages 14 to 31 of ese tender documents. Ticulars of insertions to be made in the Appendix to the intract Agreement will be found in the Particular Preliminaries	
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Part Con part D BOI The app bou of the up to the second control t	ese tender documents. Triculars of insertions to be made in the Appendix to the entract Agreement will be found in the Particular Preliminaries	
D BOD The app bou of the up to	ntract Agreement will be found in the Particular Preliminaries	
The app bou of the up t		
app bou of tl up t	OND.	
that the Agr furr	e Contractor shall find and submit on the Form of Tender and proved bank or InsuranceCompany and who will be willing to be und the Government in and amount equal to five per cent (5%) the Contract amount for the due performances of the Contract to the date of completion as certified by the PROJECT ANAGER and who will when and if called upon, sign a Bond to at effect on the relevant standard form included herein. (without addition of any limitations) on the same day as the Contract reement is signed, by the Government, the Contractor shall mish within seven days another Surety to the approval of the vernment.	
E PLA	ANT, TOOLS AND VEHICLES	
requestiments	ow for providing all scaffolding, plant, tools and vehicles quired for the works except in so far as may be stated otherwise rein and except for such items specifically and only required for use of nominated Sub-Contractors as described herein. No other used for scaffolding, formwork or temporary works of any ad shall be used afterwards in the permanent work.	
		1

ITEM	DESCRIPTION	Nene
HEM		KSHS
	Allow for transport of workmen, materials, etc., to and from the site at such hours and by such routes as may be permitted by the competent authorities.	
В	MATERIALS AND WORKMANSHIP.	
	All materials and workmanship used in the execution of the work shall be of the best quality and description unless otherwise stated. The Contractor shall order all materials to be obtained from overseas immediately after the Contract is signed and shall also order materials to be obtained from local sources as early as necessary to ensure that they are onsite when required for use in the works. The Bills of Quantities shall not be used for the purpose of ordering materials.	
C	SIGN FOR MATERIALS SUPPLIED.	
	The Contractor will be required to sign a receipt for all articles and materials supplied by the PROJECT MANAGER at the time of taking deliver thereof, as having received them in good order and condition, and will thereafter be responsible for any loss or damage and for replacements of any such loss or damage with articles and/or materials which will be supplied by the PROJECT MANAGER at the current market prices including Customs Duty and V.A.T., all at the Contractor's own cost and expense, to the satisfaction of the PROJECT MANAGER	
D	STORAGE OF MATERIALS	
	The Contractor shall provide at his own risk and cost where directed on the site weather proof lock-up sheds and make good damaged or disturbed surfaces upon completion to the satisfaction of the PROJECT MANAGER Nominated Sub-Contractors are to be made liable for the cost of any storage accommodation provided especially for their use.	
E	SAMPLES	
	The Contractor shall furnish at his own cost any samples of materials or workmanship including concrete test cubes required for the works that may be called for by the PROJECT MANAGER for his approval until such samples are approved by the PROJECT MANAGER and the PROJECT MANAGER, may reject any materials or workmanship not in his opinion to be up to approved samples. The PROJECT MANAGER shall arrange for the testing of such materials as he may at his discretion deem desirable, but the testing shall be made at the expense of the Contractor and not at the expense of the PROJECT MANAGER. The Contractor shall pay for the testing in accordance with the current scale of testing charges laid down by the Ministry of Roads, Housing and Public Works.	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
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	The procedure for submitting samples of materials for testing and the method of marking for identification shall be as laid down by the PROJECT MANAGER The Contractor shall allow in his tender for such samples and tests except those in connection with nominated sub-contractors' work.	
A	GOVERNMENT ACTS REGARDING WORKPEOPLE ETC.	
	Allow for complying with all Government Acts, Orders and Regulations in connection with the employment of Labour and other matters related to the execution of the works. In particular the Contractor's attention is drawn to the provisions of the Factory Act 1950 and his tender must include for all costs arising or resulting from compliance with any Act, Order or Regulation relating to Insurances, pensions and holidays for workpeople or so the safety, health and welfare of the work people.	
	The Contractor must make himself fully acquainted with current Acts and Regulations, including Police Regulations regarding the movement, housing, security and control of labour, labour camps, passes for transport, etc. It is most important that the Contractor, before tendering, shall obtain from the relevant Authority the fullest information regarding all such regulations and/or restrictions which may affect the organisation of the works, supply and control of labour, etc., and allow accordingly in his tender. No claim in respect of want of knowledge in this connection will be entertained.	
В	SECURITY OF WORKS ETC.	
	The Contractor shall be entirely responsible for the security of all the works stores, materials, plant, personnel, etc., both his own and sub-contractors' and must provide all necessary watching, lighting and other precautions as necessary to ensure security against theft, loss or damage and the protection of the public.	
	The procedure for submitting samples of materials for testing and the method of marking for identification shall be as laid down by the PROJECT MANAGER The Contractor shall allow in his tender for such samples and tests except those in connection with nominated sub-contractors' work.	
В	PUBLIC AND PRIVATE ROADS.	
	Maintain as required throughout the execution of the works and make good any damage to public or private roads arising from or consequent upon the execution of theworks to the satisfaction of the local and other competent authority and the PROJECT MANAGER	
	Carried to collection	

ITE	M DESCRIPTION	KSHS
Α	EXISTING PROPERTY.	
	The Contractor shall take every precaution to avoid damage to all existing property including roads, cables, drains and other services and he will be held responsible for and shall make good all such damage arising from the execution of this contract at his own expense to the satisfaction of the PROJECT MANAGER	
В	VISIT SITE AND EXAMINE DRAWINGS.	
	The Contractor is recommended to examine the drawings and visit the site the location of which is described in the Particular Preliminaries hereof. He shall be deemed to have acquainted himself therewith as to its nature, position, means of access or any other matter which, may affect his tender. No claim arising from his failure to comply with this recommendation will be considered.	
C	ACCESS TO SITE AND TEMPORARY ROADS.	
	Means of access to the Site shall be agreed with the PROJECT MANAGER prior to commencement of the work and Contractor must allow for building any necessary temporary access roads (approximately 70 metres long) for the transport of the materials, plant and workmen as may be required for the complete execution of the works including the provision of temporary culverts, crossings, bridges, or any other means of gaining access to the Site. Upon completion of the works, the Contractor shall remove such temporary access roads; temporary culverts, bridges, etc., and make good and reinstate all works and surfaces disturbed to the satisfaction of the PROJECT MANAGERThe Contractor should also allow for relocating existing fence (approx. 30 metres long).	
D	AREA TO BE OCCUPIED BY THE CONTRACTOR	
	The area of the site which may be occupied by the Contractor for use of storage and for the purpose of erecting workshops, etc., shall be defined on site by the PROJECT MANAGER	
	Carried to collection	
A	OFFICE ETC. FOR THE PROJECT MANAGER	

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ITEM	DESCRIPTION	KSHS
В	The Contractor shall provide, erect and maintain where directed on site and afterwards dismantle the site office of the type noted in the Particular Preliminaries, complete with Furniture. He shall also provide a strong metal trunk complete with strong hasp and staple fastening and two keys. He shall provide, erect and maintain a lock-up type water or bucket closet for the sole use of the PROJECT MANAGER including making temporary connections to the drain where applicable to the satisfaction of Government and Medical Officer of Health and shall provide services of cleaner and pay all conservancy charges and keep both office and closet in a clean and sanitary condition from commencement to the completion of the works and dismantle and make good disturbed surfaces. The office and closet shall be completed before the Contractor is permitted to commence the works. The Contractor shall make available on the Site as and when required by the "PROJECT MANAGER" a modern and accurate level together with levelling staff, ranging rods and 50 metre metallic or linen tape. WATER AND ELECTRICITY SUPPLY FOR THE WORKS The Contractor shall provide at his own risk and cost all necessary water, electric light and power required for use in the works. The Contractor must make his own arrangements for connection to the nearest suitable water main and for metering the water used. He must also provide temporary tanks and meters are required at his own cost and clear away when no longer required and make good on completion to the entire satisfaction of the PROJECT MANAGER. The Contractor shall pay all charges in connection herewith. No guarantee is given or implied that sufficient water will be available from mains and the Contractor must make his own arrangements for augmenting this supply at his own cost. Nominated Subcontractors are to be made liable for the cost of any water or electric current used and for any installation provided especially for their own use. SANITATION OF THE WORKS The Sanitation of the works shall be arr	KSHS
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	Carried to collection	

ITEM	DESCRIPTION	KSHS
	The works shall be executed under the direction and to the entire satisfaction in all respects of the PROJECT MANAGER who shall at all times during normal working hours have access to the works and to the yards and workshops of the Contractor and sub-Contractors or other places where work is being prepared for the contract.	
В	PROVISIONAL SUMS.	
	The term "Provisional Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7(i) of the Standard Method of Measurement mentioned in Condition No. 16 of the conditions of Contract. Such sums are net and no addition shall be made to them for profit.	
C	PRIME COST (OR P.C.) SUMS.	
	The term "Prime Cost Sum" or "P.C. Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7 (ii) of the Standard Method of Measurement mentioned in Condition No. 16 of the conditions of Contract. Persons or firms nominated by the PROJECT MANAGER to execute work or to provide and fix materials or goods as stated in Condition No. 20 of the Conditions of Contract are described herein as Nominated Sub-Contractors.	
	Persons or firms so nominated to supply goods or materials are described herein as Nominated Suppliers.	
D	PROGRESS CHART. The Contractor shall provide within two weeks of Possession of Site and in agreement with the PROJECT MANAGER a Progress Chart for the whole of the works including the works of Nominated Sub-Contractors; one copy to be handed to the PROJECT MANAGER and a further copy to be retained on Site. Progress to be recorded and chart to be amended as necessary as the work proceeds.	
E	ADJUSTMENT OF P.C. SUMS.	
	In the final account all P.C. Sums shall be deducted and the amount properly expended upon the PROJECT MANAGER'S order in respect of each of them added to the Contract sum. The Contractor shall produce to the PROJECT MANAGER such quotations, invoices or bills, properly receipted, as may be necessary to show the actual details of the sums paid by the Contractor. Items of profit upon P.C. Sums shall be adjusted in the final account pro-rata to the amount paid. Items of "attendance" (as previously described) following P.C. Sums shall be adjusted prorata to the physical extent of the work executed (not pro-rata to the amount paid) and this shall apply even though the Contractor's priced Bill shows a percentage in the rate column in respect of them.	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
	Should the Contractor be permitted to tender and his tender be	КЗПЗ
	accepted of any work for which a P.C. Sum is included in these Bill	
	of Quantities profit and attendance will be allowed at the same	
	rate as it would be if the work were executed by a Nominated Sub-	
	Contractor.	
A	ADJUSTMENT OF PROVISIONAL SUMS.	
	In the final account all Provisional Sums shall be deducted and the value of the work properly executed in respect of them upon the PROJECT MANAGER's order added to the Contract Sum. Such work shall be valued as described for Variations in Conditions No. 22 of the Conditions of Contract, but should any part of the work be executed by a Nominated Sub-Contractor, the value of such work or articles for the work to be supplied by a Nominated Supplier, the value of such work or articles shall be treated as a	
	P.C. Sum and profit and attendance comparable to that contained in the priced Bills of Quantities for similar items added.	
	NOMINATED SUB-CONTRACTORS	
	When any work is ordered by the PROJECT MANAGER to be executed by nominated sub-contractors, the Contractor shall enter into sub-contracts as described in Condition No. 20 of the Conditions of Contract and shall thereafter be responsible for such sub-contractors in every respect. Unless otherwise described the Contractor is to provide for such Sub-Contractors any or all of the facilities described in these Preliminaries. The Contractor should price for these with the nominated Sub-contract Contractor's workconcerned in the P.C. Sums under the description "add for Attendance".	
	Notwithstanding the foregoing conditions, the Government reserves the right to place a "Direct Contract" for any goods or services required in the works which are covered by a P.C. Sum in the Bills of Quantities and to pay for the same direct. In any such instances, profit relative to the P.C. Sum the priced Bills of Quantities will be adjusted as described for P.C. Sums and allowed.	
D	ATTENDANCE UPON OTHER TRADESMEN, ETC.	
	The Contractor shall allow for the attendance of trade upon trade and shall afford any tradesmen or other persons employed for the execution of any work not included in this Contract every facility for carrying out their work and also for use of his ordinary scaffolding. The Contractor, however, shall not be required to erect any special scaffolding for them. The Contractor shall perform such cutting away for and making good after the work of such tradesmen or persons as may be ordered by the PROJECTMANAGER and the work will be measured and paid for to the extent executed at rates provided in these Bills.	
	Carried to collection	
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	Carried to collection	

ITEM	DESCRIPTION	KSHS
Α	INSURANCE	
	The Contractor shall insure as required in Conditions Nos. 22 and 23 of the Conditions of Contract. No payment on account of the work executed will be made to the Contractor until he has satisfied the PROJECT MANAGER either by production of an Insurance Policy or and Insurance Certificate that the provision of the foregoing Insurance Clauses have been complied with in all respects. Thereafter the PROJECT MANAGER shall from time to time ascertain that premiums are duly paid up by the Contractor who shall if called upon to do so, produce the receipted premium renewals for the PROJECT MANAGER's inspection.	
В	PROVISIONAL WORK	
	All work described as "Provisional" in these Bills of Quantities is subject to remeasurement in order to ascertain the actual quantity executed for which payment willbe made. All "Provisional" and other work liable to adjustment under this Contract shall left uncovered for a reasonable time to allow all measurements needed for such adjustment to be taken by the PROJECT MANAGER	
	Immediately the work is ready for measuring, the Contractor shall give notice to the PROJECT MANAGER. If the Contractor makes default in these respects he shall if the PROJECT MANAGER so directs uncover the work to enable all measurements to be taken and afterwards reinstate at his own expense.	
C	ALTERATIONS TO BILLS, PRICING, ETC.	
	Any unauthorised alteration or qualification made to the text of the Bills of Quantities may cause the Tender to be disqualified and will in any case be ignored. The Contractor shall be deemed to have made allowance in his prices generally to cover any items against which no price has been inserted in the priced Bills of Quantities. All items of measured work shall be priced in detail and the Tenders containing Lump Sums to cover trades or groups of work must be broken down to show the price of each item before they will be accepted.	
D	BLASTING OPERATIONS	
	Blasting will only be allowed with the express permission of the PROJECT MANAGER in writing. All blasting operations shall be carried out at the Contractor's sole risk and cost in accordance with any Government regulations in force for the time being, and any special regulations laid down by the PROJECT MANAGER governing the use and storage of explosives.	
	Carried to collection	
Α.	MATERIALS ARISING FROM EXCAVATIONS	

ITEM	DESCRIPTION	KSHS
	Materials of any kind obtained from the excavations shall be the property of the Government. Unless the PROJECT MANAGER directs otherwise such materials shall bedealt with as provided in the Contract. Such materials shall only be used in the works, in substitution of materials which the Contractor would otherwise have had to supply with the written permission of the PROJECT MANAGER Should such permission be given, the Contractor shall make due allowance for the value of the materials so used at a price to be agreed.	
В.	PROTECTION OF THE WORKS.	
	Provide protection of the whole of the works contained in the Bills of Quantities, including casing , casing up, covering or such other means as may be necessary to avoid damage to the satisfaction of the PROJECT MANAGER and remove such protection when no longer required and make good any damage which may nevertheless have been done at completion free of cost to the Government.	
C	REMOVAL OF RUBBISH ETC.	
	Removal of rubbish and debris from the Buildings and site as it accumulates and at the completion of the works and remove all plant, scaffolding and unused materials at completion.	
D	WORKS TO BE DELIVERED UP CLEAN	
	Clean and flush all gutters, rainwater and waste pipes, manholes and drains, wash (except where such treatment might cause damage) and clean all floors, sanitary fittings, glass inside and outside and any other parts of the works and remove all marks, blemishes, stains and defects from joinery, fittings and decorated surfaces generally, polish door furniture and bright parts of metalwork and leave the whole of the buildings watertight, clean, perfect and fit for occupation to the approval of the PROJECT MANAGER	
E	GENERAL SPECIFICATION.	
	For the full description of materials and workmanship, method of execution of the work and notes for pricing, the Contractor is referred to the Ministry of Roads and Public Works and Housing General Specification dated 1976 or any subsequent revision thereof which is issued as a separate document, and which shall be allowed in all respects unless it conflicts with the General Preliminaries, Trade Preambles or other items in these Bills of Quantities.	
	Carried to collection	

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ITEM	DESCRIPTION	KSHS
	The Contractor's attention is drawn to legal notice No. 237 of October, 1971, which requires payment by the Contractor of a Training Levy at the rate of 1/4 % of the Contract sum on all contracts of more than Kshs. 50,000.00 in value.	
В	MATERIALS ON SITE	
	This includes the materials of the Main Contractor, Nominated Sub-Contractors and Nominated Suppliers.	
С	HOARDING	
	The Contractor shall enclose the site (approx.150M long) of the works under construction with a hoarding 2400 mm high consisting of iron sheets on 100 x 50 mm timber posts firmly secured at 1800 mm centres with two 75 x 50 mm timber rails. The Contractor is in addition required to take all precautions necessary for the safe custody of the works, materials, plant, public and Employer's property on the site.	
D	CONTRACTOR'S SUPERINTENDENCE/SITE AGENT	
	The Contractor shall constantly keep on the works a literate English speaking Agent or Representative, competent and experienced in the kind of work involved who shall give his whole experience in the kind of work involved and shall give his whole time to the superintendence of the works. Such Agent or Representative shall receive on behalf of the Contractor all directions and instructions from the Project Manager and such directions shall be deemed to have been given to the Contractor in accordance with the Conditions of Contract.	
	Carried to collection	
Α	<u>COLLECTION</u> Brought Forward From Page GP/1	
В	Brought Forward From Page GP/2	
С	Brought Forward From Page GP/3	
D	Brought Forward From Page GP/4	
E	Brought Forward From Page GP/5	
F	Brought Forward From Page GP/6	
G	Brought Forward From Page GP/7	
Н	Brought Forward From Page GP/8	
I	Brought Forward From Page GP/9	
J	Brought Forward From Page GP/10	
K	Brought Forward From Page GP/11	
L	Brought Forward From Page GP/12	
	TOTAL FOR GENERAL PRELIMINARIES	

PARTICULAR PRELIMINARIES

Item	DESCRIPTION	Kshs.	Cts
A	PRICING ITEMS OF PRELIMINARIES		
	Prices SHALL BE INSERTED against items of "preliminaries" in the tenderer's priced Bills of Quantities. The contractor is advised to read and understand all preliminary items.		
В	DESCRIPTION OF THE WORKS		
	The works to be carried out under this contract basically involve Substructures, Reinforced Concrete Frame, Roofing, opening, Finishes'		
C	FLOOR AREAS		
	The total gross floor areas are approximated as follows: - square Metres		
	The overall floor area is given <i>without warranty</i> but for guidance only.		
D	MEASUREMENTS		
	In the event of any discrepancies arising between the Bills of Quantities and the actual works, the site measurements shall generally take precedence. However, such discrepancies between any contract documents shall immediately be referred to the ENGINEER in accordance with Clause 13 of the Conditions of Contract. The discrepancies shall then be treated as a variation and be dealt with in accordance with Clause 13 of the said Conditions.		
E	LOCATION OF SITE		
	The site of the proposed works is within Bungoma County. The Contractor is advised to visit the site to familiarize with the nature and position of the site. No claims arising from the Contractor's failure to do so will be entertained.		
	Carried to Collection		
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Item	DESCRIPTION	Kshs.	Cts
A	CLEARING AWAY		
	The Contractor shall remove all temporary works, rubbish, debris and surplus materials from the site as they accumulate and upon completion of the works, remove and clear away all plant, equipment, rubbish, unused works and stains and leave in a clean and tidy state to the reasonable satisfaction of the ENGINEER.		
	The whole of the works shall be delivered up clean, complete and in perfect condition in every respect to the satisfaction of the Project Manager.		
В	CLAIMS		
	It shall be a condition of this contract that upon it becoming reasonably apparent to the Contractor that he has incurred losses and/or expenses due to any of the contract conditions, or by any other reason whatsoever, he shall present such claim or intent to claim notice to the ENGINEER within the contract period. No claims shall be entertained Upon the expiry of the said contract period.		
C	PAYMENTS		
	The tenderer's attention is drawn to the fact that the GOVERNMENT DOES NOT MAKE ADVANCE PAYMENTS but pays for work done and materials delivered to site: all in accordance with Clause 14 of the Conditions of Contract Agreement. In order to facilitate this, a list of the general component elements for the works is given at the summary page of these specifications and the tenderer is requested to break down his tender sum commensurate to the said elements.		
D	PREVENTION OF ACCIDENT, DAMAGE OR LOSS		
	The Contractor is notified that these works are to be carried out on a restricted site where the client is going on with other normal activities. The Contractor is instructed to take reasonable care in the execution of the works as to prevent accidents, damage or loss and disruption of normal activities being carried out by the Client. The Contractor shall allow in his rates any expense he deems necessary by taking such care within the site.		
	Carried to Collection		

Item	DESCRIPTION	Kshs.	Cts
A	WORKING CONDITIONS		
	The Contractor shall allow in his rates for any interference that he may encounter in the course of execution of the works for the Client may in some cases ask the Contractor not to proceed with the works until some activities within the site are completed, as the College will be operating as usual during the course of the contract.		
В	SIGNBOARD		
	Allow for providing, erecting, maintaining throughout the course of the Contract and afterwards clearing away a signboard as designed, specified and approved by the ENGINEER.		
C	LABOUR CAMPS		
	The Contractor shall not be allowed to house labour on site. Allow for transporting workers to and from the site during the tenure of the contract.		
D	MATERIALS FROM DEMOLITIONS		
	Any materials arising from demolitions and not re-used shall become the Property of the government. The Contractor shall allow in his rates the cost of transporting the demolished materials to the County Works Office, BUNGOMA		
E	PRICING RATES		
	The tenderer shall include for all costs in executing the whole of the works, including transport, replacing damaged items, fixing, all to comply with the Said Conditions of Contract.		
F	TENDER VALIDITY		
	Tenders shall remain valid for a period of One Hundred and Fifty (150) days from the date of Tender Opening, and not Ninety (90) days. All Tenderer are advised to note this amendment when filling the Form of Tender.		
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Item	DESCRIPTION	Kshs.	Cts
A	SECURITY		
	The Contractor shall allow for providing adequate security for the works and the workers in the course of execution of this contract. No claim will be entertained from the Contractor for not maintaining adequate security for both the works and workers.		
В	URGENCY OF THE WORKS		
	The Contractor is notified that these "works are urgent" and should be completed within the period stated in these Particular Preliminaries.		
	The Contractor shall allow in his rates for any costs he deems that he/she may incur by having to complete the works within the stipulated contract Period.		
C	PAYMENT FOR MATERIALS ON SITE		
	All materials for incorporation in the works must be stored on site before payment is effected, unless specifically exempted by the ENGINEER. This is to include materials of the Contractor, nominated sub-Contractors and nominated suppliers.		
D	EXISTING SERVICES		
	Prior to the commencement of any work, the Contractor is to ascertain from the relevant authority the exact position, depth and level of all existing services in the area and he/she shall make whatever provisions may be required by the authorities concerned for the support, maintenance and protection of such services.		
E	TENDER SECURITY		
	Bid Bond/Tender Security, which must be from an established Bank or Insurance company, shall remain valid for a period of One Hundred and Fifty (150) days from the date of Tender Opening		
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	Carried to Collection		

Item	DESCRIPTION	Kshs.	Cts
A	PERFORMANCE BOND		
	A bond of 5% of the contract sum will be required in accordance with clause 6.00 on award of contract of the Instructions to Tenderer's. No payment on account for the works executed will be made to the contractor until he has submitted the Performance Bond to the ENGINEER duly signed, sealed and stamped from an approved Bank.		
В	TENDER DOCUMENTS		
	Tender documents/Priority of Documents are as listed in Clause 1.5 of the conditions of contract		
C	DELIVERY OF TENDER		
	Tenders and all documents in connection therewith, as specified above must be delivered in the addressed envelope which should be properly sealed and deposited at the offices as specified in the letter accompanying these documents or as indicated in the advertisement.		
	Tenders will be opened at the time specified in the letter accompanying these Tender Documents or as indicated in the advertisement. Tenders Delivered/received later than the above time will not be opened.		
D	VALUE ADDED TAX		
	The Contractor's attention is drawn to the Legal Notice in the Finance Act part 3 Section 21(b) operative from 1 st September, 1993 which requires payment of VAT on all contracts. The Contractor should therefore include allowance for VAT as indicated in the Main Summary. Any other Government taxes currently in force should be included in the tenderer's rates.		
	The tenderer is advised that in accordance with Government public notice No. 35 & 36 Dated 11 th September 2003 operational from 1 st October 2003, withholding VAT will be levied against the contract sum by the Employer and remitted to the Commissioner of VAT through all interim certificates. It should however be noted that this is not additional tax but a new mode of payment for VAT, any excess payment will be refundable once the Contractor has submitted monthly returns to the Commissioner of VAT who will do the refunds when satisfied that the VAT regulations have been complied with.		
	NB: This item SHALL be priced at the Bill Summary page.		
	Carried to Collection		

Item	DESCRI	PTION	Kshs.	Cts
	PARTICULARS OF INSERTIONS IN APPENDIX TO CONTRACT A			
	The following are the insertions to be made Agreement: -	in the appendix to the Contract		
A	Period of Final Measurement	3 Months From Practical completion		
В	Defects Liability Period	6 Months from practical completion		
C	Date for Possession	To be agreed with the Engineer		
D	Date for Completion	16 Weeks from date of Possession		
E	Liquidated and Ascertained	At the rate of Kshs 5,000.00 per week or part thereof		
F	Prime cost sums for which the The Contractor desires to tender			
G	Period of Interim Certificates	Monthly		
Н	Period of Honouring Certificates	30 days		
I	Percentage of Certified Value Retained	10%		
J	Limit of Retention Fund	10%		
K	Allow provisional sum of Kenya shillings T 300,000.00) only for project Management	Three Hundred Thousand (Kshs	300,000	
	Carried to	Collection	300,000	

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Item	DESCRIPTION	Kshs.	Cts
	COLLECTION		
	Brought forward from page PP/1		
	Brought forward from page PP/2		
	Brought forward from page PP/3		
	Brought forward from page PP/4		
	Brought forward from page PP/5		
	Brought forward from page PP/6		
	PARTICULAR PRELIMINARIES CARRIED TO BILL NO. 1 SUMMARY		

Item	DESCRIPTION	Kshs.	Cts
	BILL NO 1 SUMMARY		
	General Preliminaries From Page GP/12		
	Particular Preliminaries from Page PP/7		
	TOTAL BILL NO. 1 SUMMARY CARRIED TO		
	GRAND SUMMARY		

PREAMBLES AND PRICING NOTES

A. GENERALLY

All work to be carried out in accordance with the Ministry of Roads, Public Works and Housing General Specifications for Building Works issued in 1976 or as qualified or amended.

B. MANUFACTURERS' NAMES

Where manufacturers' names and catalogue references are given for guidance to quality and standard only, alternative manufacturer of equal quality will be accepted at the discretion of the Project Manager.

C. WALLING

All precast concrete blocks shall be manufactured by the methods and to the sizes specified in the Ministry of Roads, Public Works and Housing "Specification for Metric Sized Concrete Blocks for Building (1972)"

Walling of 100 mm thickness or under shall be reinforced with hoop iron every alternate course.

Prices for walling must allow for all costs in preparing, packing and sending sample blocks for testing as and when required by the Project Manager.

D. CARPENTRY

The grading rules for cypress shall be the same as for podocaripus and all timber used for structural work shall be select (second grade).

All structural timber must conform to the minimum requirements for moisture content and preservative treatment and timber prices must allow for preparing, packing and sending samples for testing when required.

Prices must also include for all nails and fasteners.

A. JOINERY

Cypress for joinery shall be second grade in accordance with the latest grading rules of the Kenya Government.

Where Mahogany is specified, this refers to prime grade only. The Contractor may with the approval of the Project Manager, use either Msharagi or Mvuli in lieu of Mahogany but such approval will be given only in the case of shortages of the hardwoods specified.

Plugging shall be carried out by drilling walling or concrete with masonry drill and filling with propriety plugs of the correct sizes. Cutting with hammer and chisel will not be allowed.

Prices for joinery must include for pencil rounded arises, protection against damage, nails, screws, framing and bedding in cement mortar as required.

Sizes given for joinery items are nominal sizes and exact dimensions of doors, etc, must be ascertained on site.

B. IRONMONGERY

Ironmongery shall be as specified in the Bills of Quantities or equal and approved.

Prices must include for removing and re-fixing during and after painting, labeling all keys, and for fixing to hardwood, softwood, concrete or blockwork.

Catalogue references given for ironmongery are for purposes of indicating quality and size of item(s). Should the Contractor wish to substitute the specified item(s) with others of equal quality, he must inform the Project Manager and obtain approval in writing.

C. STRUCTURAL STEELWORK

All structural steelwork shall comply with the Ministry of Roads, Public Works and Housing "Structural Steelwork Specification (1973) and shall be executed by an approved Sub-contractor.

A. PLASTERWORK AND OTHER FINISHES

All finishings shall be as described in the general specifications and in theseBills of Quantities.

Prices for pavings are to include for brushing concrete clean, wetting and coating with cement and sand grout 1:1.

Rates for glazed wall tiling are to include for a 12 mm cement and sand (1:4)backing screed unless otherwise specified in these Bills of Quantities.

B. GLAZING

Where polished plate glass is specified, this refers to general glazing quality.

Prices for glazing shall include for priming of rebates before placing putty.

The Contractor will be responsible for replacing any broken or scratched glassand handing over in perfect condition.

C. PAINTING

Painting shall be applied in accordance with the manufacturers' instructions.

Prices for painting are to include for scaffolding, preparatory work, priming coats, protection of other works and for cleaning up on completion. Prices for painting on galvanized metal are to include for mordant solution as necessary.



REPUBLIC OF KENYA DEPARTMENT OF PUBLIC WORKS

SPECIFICATIONS AND BILLS OF QUANTITIES

FOR PROPOSED CONSTRUCTION WORKS OF PERIMETER WALL FENCE AT

MATILI TECHNICAL TRAINING INSTITUTE

IN BUNGOMA COUNTY

TENDER NO.....

PREPARED BY.

County Quantity Surveyor P.O Box 763 Bungoma.

County Elect./Mech. Engineer P.O Box 763 Bungoma. County Architect P.O Box 763 Bungoma.

County structural Engineer P.O Box 763 Bungoma.

Issued By:

County Works Officer
Department of Public Works
P.O. Box 763
Bungoma

PROPOSED PERIMETER WALL FOR MATILI TTI (COMPOUND B)

SUBSTRUCTURE (ALL PROVISIONAL) Clearing site vegetation; grubbing up roots and filling up voids left with selected excavated material, bushes, shrubs, undergrowth or the likes and cart away from site. EXCAVATION B Excavating Trenches; to receive foundations starting from reduced level n.e 1.5M deep C Excavate columns bases commencing from stripped level. Return Fill and ram selected excavated materials around the foundations in 150mm deep layers CONCRETE WORK INSITU CONCRETE; REINFORCEMENT E Somm thick F Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness H Column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness H Column bases Ad61 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars K 10mm ditto L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course Total Substructures carried to Summary	ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS	
Clearing site vegetation; grubbing up roots and filling up voids left with selected excavated material, bushes, shrubs, undergrowth or the likes and cart away from site. EXCAVATION B. Excavating Trenches; to receive foundations starting from reduced level n.e 1.5M deep C. Excavate columns bases commencing from stripped level. Return Fill and ram selected excavated materials around the foundations in 150mm deep layers CONCRETE WORK INSTTU CONCRETE; REINFORCEMENT Plain mix 1:4:8 in foundation strip blinding 50mm thick F. Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G. Foundation strips irrespective of thickness I. Column bases I. Column bases I. Column bases I. Column seperally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J. 8mm Diameter bars K. 10mm ditto I. 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course		SUBSTRUCTURE (ALL PROVISIONAL)					
Excavating Trenches; to receive foundations starting from reduced level n.e 1.5M deep C Excavate columns bases commencing from stripped level. Return Fill and ram selected excavated materials around the foundations in 150mm deep layers CONCRETE WORK INSITU CONCRETE; REINFORCEMENT Plain mix 1:4:8 in foundation strip blinding 50mm thick F Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness I Column bases Column bases Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4451 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars K 10mm ditto L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	А	filling up voids left with selected excavated material, bushes, shrubs, undergrowth or the	590	SM			
starting from reduced level n.e 1.5M deep C Excavate columns bases commencing from stripped level. Return Fill and ram selected excavated materials around the foundations in 150mm deep layers CONCRETE WORK INSITU CONCRETE; REINFORCEMENT Plain mix 1:4:8 in foundation strip blinding 50mm thick F Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness I Column bases Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars K 10mm ditto 1092 KG 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 25 CM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course		EXCAVATION					
Stripped level. Return Fill and ram selected excavated materials around the foundations in 150mm deep layers CONCRETE WORK INSITU CONCRETE; REINFORCEMENT Plain mix 1:4:8 in foundation strip blinding 50mm thick F Ditto in column bases 197 SM Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness 71 CM H Column bases 40 CM I Columns generally 27 CM REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG I 12mm ditto 1092 KG Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	В		425	СМ			
D materials around the foundations in 150mm deep layers CONCRETE WORK INSITU CONCRETE; REINFORCEMENT Plain mix 1:4:8 in foundation strip blinding 50mm thick F Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness I Column bases I Column bases I Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars K 10mm ditto 1092 KG L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	С		296	СМ			
E Plain mix 1:4:8 in foundation strip blinding 50mm thick F Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness H Column bases Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars Tot KG K 10mm ditto 1092 KG K 10mm ditto 1092 KG S148 KG FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	D	materials around the foundations in 150mm deep layers	721	СМ			
E 50mm thick F Ditto in column bases Normal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness T1 CM H Column bases I Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars T01 KG K 10mm ditto 1092 KG L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course		INSITU CONCRETE; REINFORCEMENT					
Mormal: Class 20/20mm); vibrated (1:2:4) G Foundation strips irrespective of thickness 71 CM H Column bases 40 CM Columns generally 27 CM REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto 708 KG Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	E	·	354	SM			
G Foundation strips irrespective of thickness 71 CM H Column bases 40 CM I Columns generally 27 CM REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto 3148 KG FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	F	Ditto in column bases	197	SM			
H Column bases I Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course		Normal: Class 20/20mm); vibrated (1:2:4)					
I Columns generally REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course 27 CM A CM	G	Foundation strips irrespective of thickness	71	СМ			
REINFORCEMENT Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto 3148 KG FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course N SM	Н	Column bases	40	CM			
Bars: high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto 3148 KG FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course N SM	I		27	СМ			
4461 including bends, hooks, tying wire, distance blocks and spacers J 8mm Diameter bars 701 KG K 10mm ditto 1092 KG L 12mm ditto 3148 KG FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 355 SM 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course 701 KG 8KG 1092 KG 3148 KG 708 SM							
K 10mm ditto L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course 1092 KG 3148 KG 3155 SM		4461 including bends, hooks, tying wire,					
L 12mm ditto FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course 3148 KG 355 SM 708 SM	J	8mm Diameter bars	701	KG			
FORWORK TO INSITU CONCRETE M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course 708 SM	K	10mm ditto	1092	KG			
M Columns sides, vertical or battering generally 225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course 355 SM 708 SM	L		3148	KG			
225mm Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course							
N in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate course	M	Columns sides, vertical or battering generally	355	SM			
Total Substructures carried to Summary	N	in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate	708	SM			
		Total Substructures carried to Summary					

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	SUPERWALLING Natural stone walling laid and jointed in cement sand mortar 1:4 and reinforced with 25mm wide hoping iron at each alternate				
Α	course 200mm thick walling CONCRETE WORK	885	SM		
	Normal: Class 20/20mm); vibrated (1:2:4)				
В	Columns generally	43	СМ		
	REINFORCEMENT				
	Bars : high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers				
С	8mm Diameter bars	1121	KG		
D	12mm ditto FORWORK TO INSITU CONCRETE	1680	KG		
Е	Columns sides, vertical or battering generally	567	SM		
	PROVIDE CONCRETE COPPING TO THE				
F	Wall	590	LM		
G	columns	420	NO		
	FINISHES				
Н	12mm thick cement sand 1:4 wood floated to both sides of the column externally and internally including painting.	284	SM		
Н	12mm thick cement sand 1:4 wood floated to walls internally including painting.	284	SM		
I	keying and pointing to walls surfaces Externally including painting.	1770	SM		
Grill co	mposed of 1.5x1x2mm thick RHS bar at				
J Spikes	100mm centres in half circle pattern and per the drawing and complete with patterned 11	47 SM			
Total f	or fencing Carried to Summary				
Bilfs4f C	quantities				4

TEM DESCRIPTION QTY UNIT RATE KSHS GATE Purpose made steel gate Galvanised mild steel overall size 6000 x 2000 mm high in two equal leaves made of 12 mm and 16 mm mild steel square vertical bars alternately at 150 mm centres welded to 50 x 6 mm thick mild steel flat intermediate rail and overall surround supported on and including 100 mm diameter steel stanchion embedded n concrete pillar (m/s) complete with 4NO. 300 mm long tower bolts,all priming and three coats gloss oil Galvanised mild steel overall size 6000 x 2000 mm high in two equal leaves
Galvanised mild steel overall size 6000 x 2000 mm high in two equal leaves made of 12 mm and 16 mm mild steel square vertical bars alternately at 150 mm centres welded to 50 x 6 mm thick mild steel flat intermediate rail and overall surround supported on and including 100 mm diameter steel stanchion embedded n concrete pillar (m/s) complete with 4NO. 300 mm long tower bolts,all priming and three coats gloss oil Galvanised mild steel overall size 6000 x 2000 mm high in two equal leaves
mm high in two equal leaves made of 12 mm and 16 mm mild steel square vertical bars alternately at 150 mm centres welded to 50 x 6 mm thick mild steel flat intermediate rail and overall surround supported on and including 100 mm diameter steel stanchion embedded n concrete pillar (m/s) complete with 4NO. 300 mm long tower bolts,all priming and three coats gloss oil Galvanised mild steel overall size 6000 x 2000 mm high in two equal leaves
A made of 12 mm and 16 mm mild steel square 1 No130000 vertical bars alternately at 150 mm centres welded to 50 x 6 mm thick mild steel flat intermediate rail and overall surround supported on and including 100 mm diameter stee stanchion embedded n concrete pillar (m/s) complete with 4NO. 300 mm long tower bolts, all priming and three coats gloss oil paint
C Extra over main gate for pedestrian gate size 1200 x 1800 mm high
Gate pillars in reinforced concrete 1:2:4 mix size 450 x 450 x 2100 mm high and 1000 x 1000 x 500 mm base reiforced with 4 NO. 16 mm high tensile bars complete with 600 x 600 D mm concrete cap weathered/throated including enbedding 100 mm diameter
stanchion and fair face finishing, all necessary excavations and painting

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	SUMMARY PAGE				
А	Total carried from page F/1				
В	Total carried from page F/2				
С	Total carried from page F/3				
	TOTAL CARRIED TO GRAND SUMMARY PAG	E			

PROPOSED ERECTION AND COMPLETION OF SENTRY

ITEM	DESCRIPTION	QTY	UNIT	RATES	KSHS
	SUBSTRUCTURE (ALL PROVISIONAL)				
	EXCAVATION AND EARTHWORKS SITE PREPARATION Clearing site vegetation; grubbing up roots and filling up voids left with selected excavated material				
А	Bushes, shrubs, undergrowth or the like and cart away from site EXCAVATION	19	SM		
	Excavating vegetable soil for preservation, average 200 mm thick				
В	Load up and store on site, later level and spread as directed on site and cart away surplus excavated material	19	SM		
	Excavating Surface to reduce level				
С	Over 300mm deep	6	СМ		
	Excavating Trenches; to receive foundations starting from reduced level				
D	Not exceeding 1.50m deep	14	СМ		
	Disposal				
E	Excavated material; Backfilling depositing and compacting in layers maximum 150mm thick	12	СМ		
F	Surplus excavated material; removing from site	8	СМ		
G	DISPOSAL OF WATER Labour and materials, keeping excavations free from general water	1	ITEM		
н	PLANKING AND STRUTTING Labour and materials, to uphold sides of excavation generally	1	ITEM		
	Carried to collection				

ITEM	DESCRIPTION	QTY UNIT	RATE	KSHS
	FILLING Hardcore			
A	200mm thick depositing and compacting layers maximum 100mm thick in making up levels	15 SM		
В	Murram Binding surfaces of fill 50 mm thick ANTI-TERMITE AND HERBICIDE TREATMENT	15SM		
	Applying "Termidor 25 EC" solution or other equal and approved sprayed evenly			
С	To surface of fill and tops of foundation walls	15SM		
	CONCRETE WORK			
	INSITU CONCRETE; REINFORCEMENT			
D	Plain mix 1:4:8 in foundation strip blinding 50mm thick	10SM		
	Normal: Class 20/20mm); vibrated (1:2:4)			
E	Foundation strips irrespective of thickness	2CM		
F	Floor Beds 150 mm thick	15SM		
	REINFORCEMENT			
	Bars : high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers			
G	10 mm Diameter bars; in any location	26KG		
н	8 mm diameter	22KG		
	Fabric; B.S 4483			
1	Reference No. 66; mesh 150 x 150 mm weight 0.92 kgs per square meter (Measured net - no allowance made for laps); including bends, tying wire and distance blocks in any location	15SM		
Carrie	d to collection			
Bills of (Quantities			8

ITE	M	DESCRIPTION	QTY L	ĮNIT	RATE	KSHS
	-171	DECORN HOR	Q.1.1		IVATE	110110
А	squ	walling 225mm thick approved natural stones roughly ared to foundation walling bedding and jointing in cement sand (1:3) mortar	17	SM		
		DAMP PROOF MEMBRANES				
		Polythene, 500 gauge, 150mm laps, No allowance made for laps				
В	Hoi	rizontal, 1 No. of layer(s) over 300 mm wide	15 SM			
		Carried to collection				
		COLLECTION				
		Brought forward page 1				
		Brought forward from page 2				
		Brought down from above				
		Total Substructures carried to Bill No.3				
		Summary				

ITEN	DESCRIPTION	QTY	UN	IIT	RA1	ſΈ	кѕнѕ
REIN	FORECED CONCRETE WORKS						
	CONCRETE WORK INSITU CONCRETE; REINFORCEME Normal: ClasS 20/20mm) Vibrated						
А		<u>4</u>					
- -	Beams 2 CM REINFORCEMENT						
	Bars high yield steel; cold worked B.S. including bends, hooks, tying wire disblocks and spacers (all provisional)						
В	10mm diameter			(35 K	G	
С	8mm ditto			(32 K	G	
	FORWORK TO INSITU CONCRETE						
D	Sides and soffites of beams, lintels, arch	ies		1	11 \$	SM	
	Reinforcement Concrete carried to b. 3 Summary						

ITEM	DESCRIPTION	QTY I	JNIT	RATE	KSHS
	MALLING Approved local stones squared fine chisel dressed one side bedding bedding jointing and recessed pointing oneside in cement sand mortar (1:4) as work proceeds				
A	Walls 200mm thick reinforced with hoop iron gauge 500 in every alternate course	36	SM		
	DAMP PROOF COURSES				
B 150	B.S 743, type A, bitumen hessian base mm laps, No allowances made for laps 200mm wide, bedded in cement mortar (1:3)	17	LM		
	Total Walling carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	ROOFING				
	ROOF COVERING				
Α	Gauge 28 pre-painted galvanised corrugated iron sheets fixed to purlins (m/s)	21	SM		
	CARPENTRY				
	STRUCTURAL TIMBERS				
	Cypress, prime grade, pressure impregnated				
В	5mm x 50mm purlin	24	LM		
С	100 x 50mm Wall plate bedded in cement : sand (1:3) mortar bolted to concrete with and including 16mm diameter bolts cast in concrete at 1000mm 1000 mm centres	14	LM		
D	100 x 50mm Rafters	22	LM		
E Ditte	tie and struts	16	LM		
F	Ditto Tie beam	13	LM		
G	225 x25mm fascia board	14	LM		
	PAINTING AND DECORATING				
FULL G	IDERCOAT TWO COATS OIL PAINT LOSS FINISH TO CROWN PAINTS VAL AND APPROVED				
Н	Ditto 200 to 300mm girth external	14	LМ		
Total R	oofing Carried to Bill No.3 Summary				

ITEM	DESCRIPTION	QT	Y UNI	Γ RAT	E k	CSHS
	DOORS	1		<u> </u>	<u>-</u> 	
	Metal Doors					
	Standard steel casement door complete					
	with hinges, stays, fasteners, permanent					
	vent with mosquito gauze and sheet metal					
	hood comprising 40 x 25 x 3mm stiles,					
	bottom & top rails, 4No intermediate rails					
	on 50 x 50 x 3mm flixed angle frame all					
	primed with red oxide; assembled, fixed to	-				
	opening including cutting and pinning lugs to concrete/blockwork surround and	-				
	beding frame in cment sand (1:4) mortar.					
	Souring frame in emone early (1.4) mercan					
	900 x 2100 mm high single leaf door with fixed					
A	light, "union" 3-lever steel door lock, 4 x		1	NO NO		
	200mm lockable tower bolts and 12mm		•	1		
	patterned burglar proofing grills welded.					
	TIMBER DOOR					
В	900 x 2100mm high mahogany T- door		1	NO		
	IRONMONGERY					
	Supply and fix the following					
С	Steel butt hinges 100mm		1.5	PRS		
	JOINERY		_			
	Frames; Wrot Camphor					
D	150 x 50mm rebated		5	LM		
_	20 x 25		_	, , ,		
E	20 x 25mm glazing beads		5	LM		
F	Ditto quadrant		5LN	h		
	· '					
G	45 x 25mm Architraves		5	LM		
	PAINTING AND DECORATING					
	ONE COAT ALUMINIUM HARDWOOD PRIMER TO CROWN PAINTS OR EQUAL					
	AND APPROVED					
	Wood surfaces gararelly					
H	Wood surfaces generally					
I	Metal surfaces generally		20	LM	0	
	Total Doors carried to Summary					
Bills of Q	uantities					13

ITEM QTY UNIT RATE KSHS **DESCRIPTION**

WINDOWS

	Precast concrete, Normal, Class 20/ 20mm			
	Sills 250 x 75mm thick, once sunk weathered, once throated, reinforced as necessary for			
A	handling, bedding, jointing and pointing in cement mortar (1:4)		LM	
	PURPOSE MADE UNITS			
	FURFUSE MADE UNITS			
	Standard metal casement sections, permanent ventilators comprising T-bar gauze and metal hoodto full width of window, one coat primer by manufacturer			
	complete with all necessary ironmongery, steel for glazing with putty lugs to two jamps, cutting and pinning to concrete or			
	blockwork, fixing to head and sill with screws and plugging			
B Dit	o size 1500 x1000mm high 2		NO	
	Burglar Proofing			
C pa	16mm diameter mild steel bars welded in terned grills all primed welded to casement frame	SM		
	Total Windows carried to Summary			

ITEM	DESCRIPTION	QTY (UNIT	RATE	KSHS
	<u>FINISHES</u> FLOORS				
А	32 mm thick cement and sand (1:4) paving steel trowelled	15	SM		
В	Ditto but screed skirting a. b. d.	18	LM		
	WALLS				
C cc	12mm thick, 2 No. coat work Plaster 1:2:6 to encrete or blockwork base (m/s) generally, walls internal steel trowelled	49	SM		
D	15mm thick, 2 NO. coat work cement sand (1:4)				
E	Render to stone work base externally	385	М		
F	PAINTING AND DECORATING Prepare and apply three coats Silky Vinyl to plastered surface: internally	498	M		
G	Ditto silk matt emulsion: externally	385	М		
	OTAL FOR FINISHES CARRIED SUMMARY PAGE				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
BILL N	O.3 SUMMARY				
A	SUBSTRUCTURE				
В	REINFORCEMENT CONCRETE FRAME				
С	WALLING				
D	ROOFING				
E	DOOR				
F	WINDOWS				
G	FINISHES				
	BUILDERS WORKS FOR SENTRY ED TO GRAND SUMMARY				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	P.C. AND PROVISIONAL SUMS				
А	Allow a provisional Sum of KShs. 200,000.00 (Kenya Shillings Two Hundred Thousand) only for Electrical works.		SUM		
В	Allow a provisional Sum of KShs.50,000.00 (Kenya Shillings Fifty Thousand) only for Contingencies		SUM		
	TOTAL FOR P.C & PROVISIONAL SUMS CARRIED TO GRAND SUMMARY				

ITEM	DESCRIPTION Page No.	For Official	For Tenderer's use
		Use only	only
А	Bill No. 1 Preliminaries		
В	Bill No. 2 Perimeter wall and Gate (B) pg/6		
С	Bill No. 3 Sentries PG 12		
D	Bill No. 4 Prime cost and Provisional sum PC/1		
L	TOTAL CARRIED TO FORM OF TENDER		
	(VAT INCLUSIVE): KSHS		

Amount in words: Kenya Shillings
Tenderer's Signature
Address
Date
Witness Signature

Address	
Date	
Bills of Quantities	17

TENDER EVALUATION CRITERIA

After tender opening, the tenders will be evaluated in 3 stages, namely:

- 1. Determination of Responsiveness
- 2. Detailed Technical Examination
- 3. Financial Evaluation.

STAGE 1- DETERMINATION OF RESPONSIVENESS

A) PRELIMINARY EXAMINATION

This stage of evaluation shall involve examination of the pre-qualification conditions as set out in the Tender Advertisement Notice or Letter of Invitation to Tender and any other conditions stated in the bid document.

These conditions may include the following:

- i Category of Registration with National Construction Authority in the relevant trade and or any other statutory bodies for building works: **NCA 5** and above.
- ii) Certified copy of Valid Single business permit with relevant county government authorities
- iii) Certified copy of Valid Tax compliance certificate issued by Kenya Revenue Authority.
- iv) Certified copy of Company certificate of incorporation / certificate of registration.
- v) Dully filled, signed and stamped Form of Tender.
- vi) Provision of Bid Security of Kshs 100,000.00 from reputable bank.
- vii Any other conditions included in the advertisement notice/Invitation letter.
- ix Certified copy of CR12 and must provide copies of IDs/passport for Directors.
- x Certified Renewed copy of practicing license with NCA as per the tender notice.
- Xi Certified copy of KRA pin and VAT certificates issued by KRA.
- Xii All pages MUST be serialized/paged

The employer may seek further clarification/confirmation if necessary to confirm authenticity/compliance of any condition of the tender.

The tenderers who do not satisfy any of the above requirements shall be considered Non-Responsive and their tenders will not be evaluated further.

B) COMPLETENESS OF TENDER DOCUMENT

The tender document shall be examined based on the Instruction to Tenderers which states as follows:

In accordance to Instructions to Tenderers, the tenderers will be required to provide evidence for eligibility of the award of the tender by satisfying the employer of their eligibility and adequacy of resources to effectively carry out the subject contract. The tenderers shall be required to fill the Standards Forms provided for the purposes of providing the required information. The tenderers may also attach the required information if they so desire.

The award of points for the **STANDARD FORMS** considered in this section shall be as shown below:

	PARAMETER M	IAXIMUM POINTS
(i)	Statement of Compliance	
(ii)	Tender Questionnaire -	5
(iii)	Confidential business questionnaire	5
(iv)	Key personnel -	20
(v)	Contract Completed in the last Five (5) years	15
(vi)	Schedules of on-going projects	10
(vii)	Schedules of contractors equipment	10
(viii)	Audited Financial Report for the last 3 years	10
(ix)	Evidence of Financial Resources	10
(x)	Name, Address and Telephone of Banks (Contractor to pro	vide)5
(xi)	Litigation History	2
(xii)	Sanctity of the tender document as in accordance with clau	se 5
	Of instruction to tenderer	5
	TOTAL	<u>100</u>

The detailed scoring plan shall be as shown in table 1 below: -

Item	Description	Point Scored	Max. Point
i	Statement of Compliance		3
	Filled signed and stamped3		
	Signed but not stamped or vice versa2		
	Not signed nor stamped0		
ii	Tender Questionnaire Form		5
	Completely filled5		
	Partially filled3		
	Not filled0		
iii	Confidential Business Questionnaire Form.		5
	Completely filled5		
	Partially filled3		
	Not filled0		
iv	Key Personnel (Attach evidence)		20
	Director of the firm		5
	 Holder of degree or diploma in relevant Engineering 		
	field5		
	 Holder of certificate in relevant Engineering field-3 		
	Holder of trade test certificate in relevant Engineering		
	field2		
	No relevant certificate 0		
	At least 1No. degree/diploma holder of key personnel in		5
	relevant Engineering field		
	With over 10 years relevant experience 5		
	With over 5 years relevant experience3		
	With under 5 years relevant experience 1		
	At least 2No certificate holder of key personnel in relevant Engineering field		6
	With over 10 years relevant experience 3		
	O With over 5 years relevant experience2		
	O With under 5 years relevant experience 1		
Item	Description	Point Scored	Max. Point
	At least 2No artisan (trade test certificate in relevant Engineering field)	Scored	4
	Artisan with over 10 years relevant experience2		

	Artisan with under 10 years relevant experience 1		
	Non skilled worker with over 10 years relevant experience		
	1		
v	Contract completed in the last five (5) years (A max of 5No.Projects) (attach evidence)	15	
	o Project of similar nature, complexity and magnitude		
	3		
	o Project of similar nature but of lower value than the one in consideration 2		
	No completed project of similar nature		
vi	On-going projects (A max of 5No.Projects) (attach evidence)	10	
	Project of similar nature, complexity and magnitude 2		
	o Project of similar nature but of lower value than the one in		
	consideration –1 o No ongoing project of similar nature0		
vii	Schedules of contractors equipment and transport (attach	4 10	
\ \frac{1}{2}	proof or evidence of ownership)		
	Means of transport (Vehicle)4		
	O No means of transport0		
	For each specific equipment required in the installation of the	6	
	work being tendered for. (Maximum No. of equipment to be considered – 3No.)2		
	Financial report	10	
viii	Audited financial report (last three (3) years)		
	Annual turnover greater or equal to 5 times the cost of the		
	project10		
	Annual turnover greater or equal to 3 times the cost of the		
	project6		
	Annual turnover greater or equal to the cost of the project		
	4		
	Turnover below the cost of the project2		
I			

Item	Description	Point Scored	Max. Point
ix	Evidence of Financial Resources (cash in hand, lines of credit, over draft facility etc) O Has financial resources equal or above the cost of the project		10
X	Name, Address and Telephone of Banks (Contractor to provide)		5
	 Provided		
xi	Litigation History ○ Filled 2 ○ Not filled 0		2
xii	Sanctity of the tender document O Having the document intact (not tampered with in any way)5 Having mutilated or modified the tender document 0		5
	TOTAL		100

Any bidder who scores 60 points and above shall be considered for further evaluation

STAGE 2 - TECHNICAL EVALUATION

A) <u>COMPLIANCE WITH TECHNICAL SPECIFICATIONS</u> (For equipment)

In this section, the bid will be analyzed to determine compliance with General and Particular technical specifications for the works as indicated in the tender document.

The tenderer shall fill in the Technical Schedule as specified in the tender document for Equipment and Items indicating the Country of Origin, Model/Make/Manufacturer of the Item/Equipment they propose to supply.

Where the Equipment proposed by the tenderer differs with the models specified in the tender document, it is mandatory that the brochures/catalogues of the same be submitted with the tender document highlighting the catalogues Numbers of the proposed items. Such brochures/catalogues should indicate comprehensive relevant data of the proposed equipment/items which should include but not limited to the following:

- a) Standards of manufacture
- b) Performance ratings/characteristics
- c) Material of manufacture
- d) Electrical power ratings and
- e) Any other necessary requirements (Specify)

Following the above analyses, where the proposed equipment are found not to satisfy the specifications, the tender will be deemed Non – Responsive and will not be evaluated further.

B) <u>DETAILED TECHNICAL EXAMINATION</u>

(For Builders work only tenders' rates shall apply)

In this section, the information provided in Schedule of Unit Rates and Technical Schedule will be analyzed and points awarded as shown below.

	PARAMETER		MAXIMUM POINTS
(i)	Tender rates		30
(ii)	Technical Schedule -		40
		TOTAL	70

The detailed scoring plan shall be as shown in table 2 below:

TABLE 2

Item	Description	Score	Max. score
i	Tender rates (The average of tender sums of the bidders less PCs Sums and contingency shall be worked out. The deviation of bidders tender Sum from the average shall then be worked out as a percentage of the average and score allocated as follow:-) Deviation of between 0% to 5%		30
	 Relevant Manufacturer Brochures for items in the technical schedule with equipments to be supplied highlighted and meets specification (Where alternative are to supplied		
	TOTAL For a hidder to be deemed technically responsive they must seem 40 points.		70

For a bidder to be deemed technically responsive they must score 40 points and above based on the above scoring plan. For bidders in building and civil works they will be deemed technically responsive if they score 15 points out of 30 points. Any tenderer whose tender figure is deemed to be unreasonably too high or unreasonably too low shall not be included during the tabulation of the averages of the tender sum.

STAGE 3 - FINANCIAL EVALUATION

The evaluation shall be in two sections

- 1. Preliminary examinations and
- 2. Tender sum Comparisons

1. PRELIMINARY EXAMINATIONS

The preliminary examination in the Financial Evaluation shall be in accordance with Instruction to Tenderers.

The parameter to be considered under this section includes the following:

a) Arithmetic errors

The bid shall be checked for arithmetic errors based on the rates and the total sums indicated in the bills of quantities.

b) Confirmation shall be sought in writing from the tenderers whose tender sums will be determined to have a significant arithmetic error to their disadvantage, to confirm whether they stand by their tender sums. The error shall be treated as per the Instructions to Tenderers.

Non compliance with the above shall lead to **automatic disqualification from further** evaluation.

Discount if any shall be treated as an error in pursuant to the Instructions to Tenderers

2. TENDER SUM COMPARISONS

The evaluation team shall compare the prices offered by the tenderers and the financial scores (Fs) will be determined using the formulae bellow. The financial score will be allocated a maximum of 30%.

 $Fs = 30 \times Fm/F$

Where Fs is the financial score, Fm is the lowest priced responsive financial bid and F is the price of the bid under consideration

CONCLUSION

COMBINATION OF TECHNICAL AND FINANCIAL SCORE

The evaluation team shall combine Technical and Financial Score as below:

Technical score (Ts) +Financial score (Fs) = 70% +30%

RECOMMENDATION

The combined technical and financial score shall be determined and the employer shall recommend for award of the **Tender** to the firm achieving the highest combined technical andfinancial scores.

NOTE: The technical score will range between 70 and 80 while that one for the financial will be between 20 and 30 depending on the project, to be decided by the client. But the combined total will remain at 100 points.

