



**KENYA NATIONAL BUREAU OF STATISTICS
P.O.BOX 30266-00100
NAIROBI**

**TENDER NO. KNBS/ONT/08/2020-2021
PROPOSED UPGRADING OF POWER SUPPLY TO
THE SERVER ROOM AT REAL TOWERS ~ NAIROBI**

**RESERVED FOR SPECIAL GROUPS
(YOUTH, WOMEN AND PERSONS'S
WITH DISABILITY~ PWDs)**

**CLOSING DATE: 26TH JANUARY, 2021 AT
10:00AM**

TABLE OF CONTENTS

Contents

SECTION I:	INVITATION TO TENDER	3
SECTION II-	INSTRUCTIONS TO TENDERERS	7
SECTION III -	TENDER EVALUATION CRITERIA.....	27
SECTION IV -	CONDITIONS OF CONTRACT	31
SECTION V -	APPENDIX TO CONDITIONS OF CONTRACT.....	51
SECTION VI -	CONTRACT PRELIMINARIES AND GENERAL CONDITIONS	53
SECTION VII -	APPENDIX TO CONTRACT PRELIMINARIES AND GENERAL CONDITIONS	77
SECTION VIII-	GENERAL SPECIFICATIONS OF MATERIALS AND WORKS	78
	PROPOSED ELECTRICAL INSTALLATION WORKS.....	80
	PARTICULAR SPECIFICATION.....	80
	SCHEDULE 3: CONFIDENTIAL BUSINESS QUESTIONNAIRE.....	90
	SCHEDULE 4: FORM OF WRITTEN POWER OF ATTORNEY.....	92
	PRE-BID SITE VISIT CERTIFICATE	93
	SCHEDULE 6: KEY PERSONNEL.....	94
	SCHEDULE 6A: SCHEDULE OF CONSTRUCTION WORKS CARRIED OUT BY THE BIDDER IN THE LAST THREE YEARS	95
	SCHEDULE 8: FINANCIAL STANDING	98
	SCHEDULE 9: OTHER SUPPLEMENTARY INFORMATION	99
	SCHEDULE 10: LITIGATION HISTORY	100
	SCHEDULE 11: WORK METHODOLOGY.....	101
	SCHEDULE 12: DECLARATION FORMS	102
	LETTER OF ACCEPTANCE.....	107
	FORM OF CONTRACT AGREEMENT	108
SECTION XII:	FORMS OF SECURITY	110
	A. Tender Security (Bank or Insurance Guarantee).....	110
	B. Performance Bank or Insurance Guarantee [Unconditional].....	112
	C. Bank or Insurance Guarantee for Advance Payment.....	113
SECTION XIII:	APPLICATION TO PUBLIC PROCUREMENT ADMINISTRATIVE	115
REVIEW BOARD		115

SECTION I: INVITATION TO TENDER

TENDER REF. NO. KNBS/ONT/08/2020 – 2021

DATE: 12th JANUARY, 2021

TENDER NAME PROPOSED UPGRADING OF POWER SUPPLY TO THE SERVER ROOM AT REAL TOWERS - NAIROBI

- 1.1 The Kenya National Bureau of Statistics invites sealed tenders from eligible candidates for the proposed Upgrading of power supply to the server room at Real Towers-Nairobi
- 1.2 Eligible Tenderers may obtain further information and inspect/download the Tender Document free of charge from the National Treasury Integrated Financial Management Information System (IFMIS) supplier portal (<https://supplier.treasury.go.ke>) and /or Kenya National Bureau of Statistics website; www.knbs.or.ke under “Tenders” portal.
- 1.3 A complete set of Tender Document(s) can be obtained/purchased by the eligible tenderers at the Procurement Office, KNBS - upon payment of a non-refundable fee of KShs.1,000.00. Payment should be made to the Cashier at the Accounts Department at Kenya National Bureau of Statistics. Those who download the document must immediately forward their particulars (i.e. Name & Contacts of Applicant) to email; procurement@knbs.or.ke for purposes of registration, receiving any other clarifications and/or addendums. (Refer to registration form in the tender document).
- 1.4 Complete serialized and paginated Bid Documents; One original and a copy in plain sealed envelopes clearly marked on top with the Tender Reference and Description should be deposited in the Tender Box at 13th Floor of the Kenya National Bureau of Statistics – Real Towers or be addressed to:-

**The Director General
Kenya National Bureau of
Statistics P. O. Box 30266-
00100, NAIROBI.**

so as to be received on or before **26th January, 2021** at 10.00 am.

- 1.5 Prices quoted should be net inclusive of all taxes and delivery and must be in Kenya Shillings and shall remain valid for 120 days from the closing date of the tender.
- 1.6 Bid Security is NOT a requirement for This Tender.
- 1.7 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at KNBS Conference Room- Real Towers, 13th Floor.
- 1.8 Bulky tenders can be handed over to KNBS Procurement office for registration and safe keeping till the tender opening date.
- 1.9 Late tenders will NOT be accepted.

SENIOR MANAGER, PROCUREMENT
FOR: KENYA NATIONAL BUREAU OF STATISTICS

REGISTRATION FORM FOR ONLINE TENDERERS/BIDDERS/SUPPLIERS

Tender No.: **KNBS/ONT/08/2020-2021 – Proposed Upgrading of power supply to the server room at Real Towers - Nairobi**

NOTE: Please provide your details below for purposes of communication in case you download this tender document from IFMIS or KNBS website.

Name of the
firm:.....

Postal Address:.....

Physical Location:
.....
.....

Telephone/Mobile Contacts:.....

Company E-mail address:.....

Contact Person:.....

Once completed please submit this form to the email below;
procurement@knbs.or.ke

DEFINITIONS

The following terms and expressions used in the contract document shall have the following meanings:

KNBS:	~	The Director General Kenya National Bureau of Statistics P.O Box 30266– 00100 NAIROBI
Project Manager:	~	Regional Works Officer Nairobi County
Project Supervisor:		KNBS Contract Implementation Committee
Employer's Representative:	~	Regional Works Officer Nairobi County
Contractor:	~	The Firm appointed to carry out the Works.
Site:	~	The site for the proposed works is at Kenya National Bureau of Statistics at Real Towers, Nairobi

SECTION II-**INSTRUCTIONS TO TENDERERS****CONTENTS**

CLAUSE NUMBERS	DESCRIPTION	PAGE
GENERAL		
1.	Definitions	9
2.	Eligibility and Qualification Requirements	9
3.	Cost of Tendering	10
4.	Site Visit	11
TENDER DOCUMENTS		
5.	Tender Documents	11
6.	Clarification of Tender Documents	12
7.	Amendments of Tender Documents	12
PREPARATION OF TENDER		
8.	Language of Tender	13
9.	Documents Comprising the Tender	13
10.	Tender Prices	13
11.	Currencies of Tender and Payment	14
12.	Tender Validity	15
13.	Tender Surety	15
14.	No Alternative Offers	16
15.	Pre-Tender Meeting.....	16
16.	Format and Signing of Tenders	17
SUBMISSION OF TENDERS		
17.	Sealing and Marking of Tenders	17
18.	Deadline and Submission of Tenders	18
19.	Modification and Withdrawal of Tenders	18
TENDER OPENING AND EVALUATION		
20.	Tender Opening	19
21.	Process to be Confidential	19
	Clarification of Tenders	20
23.	Determination of Responsiveness	20
24.	Correction of Errors	21
25.	Conversion to Single Currency	21
26.	Evaluation and Comparison of Tenders.....	21

AWARD OF CONTRACT

27.	Award	22
28.	Notification of Award	23
29.	Performance Guarantee	23
30.	Advance Payment	24
31.	Tender Evaluation Criteria	25

APPENDIX TO INSTRUCTIONS TO TENDERERS

SECTION II: INSTRUCTION TO TENDERERS

Note: The tenderer must comply with the following conditions and instructions and failure to do so is liable to result in rejection of the tender.

GENERAL

1. Definitions

- (a) “Tenderer” means any person or persons partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.
- (b) “Approved tenderer” means the tenderer who is approved by KNBS.
- (c) Any noun or adjective derived from the word “tender” shall be read and construed to mean the corresponding form of the noun or adjective “bid”. Any conjugation of the verb “tender” shall be read and construed to mean the corresponding form of the verb “bid.”
- (d) “Employer” means a Central Government Ministry, Local Authority, State Corporation or any other Public Institution.

2. Eligibility and Qualification Requirements

- 2.1 This invitation to tender is open to all tenderers who are eligible to bid under AGPO Reservation namely **Youth, Women & PWDs**.
- 2.2 To be eligible for award of Contract, the tenderer shall provide evidence satisfactory to KNBS of their eligibility under Sub clause 2.1 above and of their capability and adequacy of resources to effectively carry out the subject Contract. To this end, the tenderer shall be required to update the following information if submitted during prequalification:-
 - (a) Details of experience and past performance of the tenderer on the works of a similar nature within the past five years and details of current work on hand and other contractual commitments.

- (b) The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site.
- (c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plant in good working order and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plant, equipment and material to be imported for the purpose of the Contract, giving details of make, type, origin and CIF value as appropriate.
- (d) Details of subcontractors to whom it is proposed to sublet any portion of the Contract and for whom authority will be requested for such subletting in accordance with clause 4 of the Conditions of Contract.
- (e) A draft Program of Works in the form of a bar chart and Schedule of Payment which shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Engineer.
- (f) Details of any current litigation or arbitration proceedings in which the Tenderer is involved as one of the parties.

2.3 Joint Ventures

Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements:-

- (a) The tender, and in case of a successful tender, the Form of Agreement, shall be signed so as to be legally binding on all partners.
- (b) One of the partners shall be nominated as being in charge; and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners.
- (c) The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture and the entire execution of the

Contract including payment shall be done exclusively with the partner in charge.

- (d) All partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Form of Tender and the Form of Agreement (in case of a successful tender).
- (e) A copy of the agreement entered into by the joint venture partners shall be submitted with the tender.

3. Cost of Tendering

The tenderer shall bear all costs associated with the preparation and submission of his tender and KNBS will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

4. Site Visit – **Wednesday, 20th January, 2021 between 10.00 am and 3.00 pm**

- 4.1 The Tenderer **MUST** visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The Tenderer **MUST** sign ‘The Certificate of Tenderer’s Visit to the Site’ form .The costs of visiting the Site shall be the tenderer’s own responsibility.
- 4.2 The tenderer and any of his personnel or agents will be granted permission by KNBS to enter upon premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and idemnify KNBS from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.
- 4.3 KNBS shall organize a site visit at a date to be notified. A representative of KNBS will be available to meet the intending tenderers at the Site.

- 4.4 Tenderers must provide their own transport. The representative will not be available at any other time for site inspection visits.

Each tenderer shall complete the Certificate of Tenderer's Visit to the Site, whether he in fact visits the Site at the time of the organized site visit or by himself at some other time.

5. TENDER DOCUMENTS

- 5.1 The Tender documents comprise the documents listed here below and should be read together with any Addenda issued in accordance with Clause 7 of these instructions to tenderers.

- a) Form of Invitation for Tenders
- b) Instructions to Tenderers
- c) Form of Tender
- d) Appendix to Form of Tender
- e) Form of Tender Surety
- f) Statement of Foreign Currency Requirements
- g) Form of Performance Security
- h) Form of Agreement
- i) Form of Advance payment Bank Guarantee
- j) Schedules of Supplementary Information
- k) General Conditions of Contract – Part I
- l) Conditions of Particular Application – Part II
- m) Specifications
- n) Bills of Quantities
- o) Drawings

- 5.2 The tenderer is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the tender documents. Failure to comply with the requirements for tender submission will be at the tenderer's own risk. Pursuant to clause 22 of Instructions to Tenderers, tenders which are not substantially responsive to the requirements of the tender documents will be rejected.

- 5.3 All recipients of the documents for the proposed Contract for the purpose of submitting a tender (whether they submit a tender or not) shall treat the details of the documents as "private and confidential".

6. Clarification of Tender Documents

6.1 A prospective tenderer requiring any clarification of the tender documents may notify KNBS in writing or by telex, cable or facsimile at KNBS's mailing address indicated in the Invitation to Tender. KNBS will respond in writing to any request for clarification which he receives earlier than 5 days prior to the expiry of 14 days deadline for the submission of tenders. Written copies of KNBS's response (including the query but without identifying the source of the inquiry) will be sent to all prospective tenderers who have registered their participation.

7. Amendment of Tender Documents

7.1 At any time prior to the deadline for submission of tenders KNBS may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective tenderer, modify the tender documents by issuing Addenda.

7.2 Any Addendum will be notified in writing or by cable, telex or facsimile to all prospective tenderers who have registered their participation and will be binding upon them.

7.3 If during the period of tendering, any circular letters (tender notices) shall be issued to tenderers by, or on behalf of, KNBS setting forth the interpretation to be placed on a part of the tender documents or to make any change in them, such circular letters will form part of the tender documents and it will be assumed that the tenderer has taken account of them in preparing his tender.

The tenderer must promptly acknowledge any circular letters he may receive.

7.4 In order to allow prospective tenderers reasonable time in which to take the Addendum into account in preparing their tenders, KNBS may, at his discretion, extend the deadline for the submission of tenders.

8.0 PREPARATION OF TENDERS

8. Language of Tender

- 8.1 The tender and all correspondence and documents relating to the tender exchanged between the tenderer and KNBS shall be written in the English language. Supporting documents and printed literature furnished by the tenderer with the tender may be in another language provided they are accompanied by an appropriate translation of pertinent passages in the above stated language. For the purpose of interpretation of the tender, the English language shall prevail.

9. Documents Comprising the Tender

- 9.1 The tender to be prepared by the tenderer shall comprise: the Form of Tender and Appendix thereto, a Tender Surety, the Priced Bills of Quantities and Schedules, the information on eligibility and qualification, and any other materials required to be completed and submitted in accordance with the Instructions to Tenderers embodied in these tender documents. The Forms, Bills of Quantities and Schedules provided in the tender documents shall be used without exception (subject to extensions of the schedules in the same format and to the provisions of clause 13.2 regarding the alternative forms of Tender Surety).

10. Tender Prices

- 10.1 All the insertions made by the tenderer shall be made in INK and the tenderer shall clearly form the figures. The relevant space in the Form of Tender and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the tenderer in which case the erasures and interlineations shall be initialed by the person or persons signing the tender.
- 10.2 A price or rate shall be inserted by the tenderer for every item in the Bills of Quantities whether the quantities are stated or not items against which no rate or price is entered by the tenderer will not be paid for by KNBS when executed and shall be deemed covered by the rates for other items and prices in the Bills of Quantities.

The prices and unit rates in the Bills of Quantities are to be the full [all-inclusive] value of the work described under the items, including all costs and expenses which may be necessary and all general risks, liabilities and obligations set forth or implied in the documents on which the tender is based. All duties and taxes and other levies payable by the Contractor under the Contract or for any other cause

as of the date 28 days prior to the deadline for the submission of tenders, shall be included in the rates and prices and the total tender prices submitted by the Tenderer.

Each price or unit rate inserted in the Bills of Quantities should be a realistic estimate for completing the activity or activities described under that particular item and the tenderer is advised against inserting a price or rate against any item contrary to this instruction.

Every rate entered in the Bills of Quantities, whether or not such rate be associated with a quantity, shall form part of the Contract. KNBS shall have the right to call for any item of work contained in the Bills of Quantities, and such items of work to be paid for at the rate entered by the tenderer and it is the intention of KNBS to take full advantage of unbalanced low rates.

- 10.3 Unless otherwise specified the tenderer must enter the amounts representing 10% of the sub-total of the summary of the Bills of Quantities for Contingencies and Variation of Prices [V.O.P.] payments in the summary sheet and add them to the sub-total to arrive at the tender amount.
- 10.4 The tenderer shall furnish with his tender written confirmation from his suppliers or manufacturers of unit rates for the supply of items listed in the Conditions of Contract clause 47 where appropriate.
- 10.5 The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract only in accordance with the provisions of the Conditions of Contract.

The tenderer shall complete the schedule of basic rates and shall submit with his tender such other supporting information as required under clause 47 of the Conditions of Contract Part II.

11. Currencies of Tender and Payment

- 11.1 Tenders shall be priced in Kenya Shillings and the tender sum shall be in Kenya Shillings.
- 11.2 Tenderers are required to indicate in the Statement of Foreign Currency Requirements, which forms part of the tender, the foreign currency required by them. Such currency should generally be the

currency of the country of the tenderer's main office. However, if a substantial portion of the tenderer's expenditure under the Contract is expected to be in countries other than his country of origin, then he may state a corresponding portion of the contract price in the currency of those other countries. However, the foreign currency element is to be limited to two (2) different currencies and a maximum of 30% (thirty percent) of the Contract Price.

11.3 Tenderers must enclose with their tenders, a brief justification of the foreign currency requirements stated in their tenders.

12. Tender Validity

12.1 The tender shall remain valid and open for acceptance for a period of one hundred and twenty (120) days from the specified date of tender opening or from the extended date of tender opening (in accordance with clause 7.4 here above) whichever is the later.

12.2 In exceptional circumstances prior to expiry of the original tender validity period, KNBS may request the tenderer for a specified extension of the period of validity. The request and the responses thereto shall be made in writing or by cable, telex or facsimile. A tenderer may refuse the request without forfeiting his Tender Surety. A tenderer agreeing to the request will not be required nor permitted to modify his tender, but will be required to extend the validity of his Tender Surety correspondingly.

13. Tender Surety - **Not applicable to this tender**

13.1 The tenderer shall furnish as part of his tender, a Tender Surety in the amount stated in the Appendix to Instructions to Tenderers.

13.2 The unconditional Tender Surety shall be in Kenya Shillings and be in form of a certified cheque, a bank draft, an irrevocable letter of credit or a guarantee from a reputable Bank approved by KNBS located in the Republic of Kenya.

The format of the Surety shall be in accordance with the sample form of Tender Surety included in these tender documents; other formats may be permitted subject to the prior approval by KNBS. The Tender Surety shall be valid for twenty eight (28) days beyond the tender validity period.

- 13.3 Any tender not accompanied by an acceptable Tender Surety will be rejected by KNBS as non-responsive.
- 13.4 The Tender Sureties of unsuccessful tenderers will be returned as promptly as possible as but not later than twenty eight (28) days after concluding the Contract execution and after a Performance Security has been furnished by the successful tenderer. The Tender Surety of the successful tenderer will be returned upon the tenderer executing the Contract and furnishing the required Performance Security.
- 13.5 The Tender Surety may be forfeited:
- (a) if a tenderer withdraws his tender during the period of tender validity: or
 - (b) in the case of a successful tenderer, if he fails
 - (i) to sign the Agreement, or
 - (ii) to furnish the necessary Performance Security
 - (c) if a tenderer does not accept the correction of his tender price pursuant to clause 23.
14. No Alternative Offers
- 14.1 The tenderer shall submit an offer which complies fully with the requirements of the tender documents. Only one tender may be submitted by each tenderer either by himself or as partner in a joint venture.
- 14.2 The tenderer shall not attach any conditions of his own to his tender. The tender price must be based on the tender documents. The tenderer is not required to present alternative construction options and he shall use without exception, the
- Bills of Quantities as provided, with the amendments as notified in tender notices, if any, for the calculation of his tender price.
- Any tenderer who fails to comply with this clause will be disqualified.
15. Pre-Tender Meeting - **Not applicable to this tender**

- 15.1 The tenderer's designated representative is invited to attend a pretender meeting, which if convened, will take place at the venue and time stated in the Invitation to Tender. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 15.2 The tenderer is requested as far as possible to submit any questions in writing or by cable, to reach KNBS not later than seven days before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following:
 - (a) Minutes of the meeting, including the text of the questions raised and the responses given together with any responses prepared after the meeting, will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in —Clause 9 which may become necessary as a result of the pretender meeting shall be made by KNBS exclusively through the issue of a tender notice pursuant to Clause 7 and not through the minutes of the pre-tender meeting.
 - (b) Non-attendance at the pre-tender meeting will be cause for disqualification of a bidder.

16. Format and Signing of Tenders

- 16.1 The tenderer shall prepare his tender as outlined in clause 9 above and mark appropriately one set "ORIGINAL" and the other "COPY".
- 16.2 The copy of the tender and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer. Proof of authorization shall be furnished in the form of the written power of attorney which shall accompany the tender. All pages of the tender where amendments have been made shall be initialed by the person or persons signing the tender.
- 16.3 The complete tender shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person of persons signing the tender.

17.0 SUBMISSION OF TENDERS

17. Sealing and Marking of Tenders

The tenderer shall seal the original and copy of the tender in separated envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer envelope.

17.2 The inner and outer envelopes shall be addressed to KNBS at the address stated in the Appendix to Instructions to Tenderers and bear the name and identification of the Contract stated in the said Appendix with a warning not to open before the date and time for opening of tenders stated in the said Appendix.

17.3 The inner envelopes shall each indicated the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”, while the outer envelope shall bear no mark indicating the identity of the tenderer.

17.4 If the outer envelope is not sealed and marked as instructed above, KNBS will assume no responsibility for the misplacement or premature opening of the tender. A tender opened prematurely for this cause will be rejected by KNBS and returned to the tenderer.

18. Deadline for Submission of Tenders

18.1 Tenders must be received by KNBS at the address specified in clause 17.2 and on the date and time specified in the Invitation to tender, subject to the provisions of clause 7.4, 18.2 and 18.3.

Tenders delivered by hand must be placed in the “tender box” provided in the office of KNBS.

Proof of posting will not be accepted as proof of delivery and any tender delivered after the above stipulated time, from whatever cause arising will not be considered.

18.2 KNBS may, at his discretion, extend the deadline for the submission of tenders through the issue of an Addendum in accordance with clause 7, in which case all rights and obligations of KNBS and the tenderers

previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

18.3 Any tender received by KNBS after the prescribed deadline for submission of tender will be returned unopened to the tenderer.

19. Modification and Withdrawal of Tenders

19.1 The tenderer may modify or withdraw his tender after tender submission, provided that written notice of the modification or withdrawal is received by KNBS prior to prescribed deadline for submission of tenders.

The tenderer's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions for the submission of tenders, with the inner and outer envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" as appropriate.

19.2 No tender may be modified subsequent to the deadline for submission of tenders.

19.3 No tender may be withdrawn in the interval between the deadline for submission of tenders and the period of tender validity specified on the tender form. Withdrawal of a tender during this interval will result in the forfeiture of the Tender Surety.

19.4 Subsequent to the expiration of the period of tender validity prescribed by KNBS, and the tenderer having not been notified by KNBS of the award of the Contract or the tenderer does not intend to conform with the request of KNBS to extend the period of tender validity, the tenderer may withdraw his tender without risk of forfeiture of the Tender Surety.

20.0 TENDER OPENING AND EVALUATION

20. Tender Opening

20.1 KNBS will open the tenders in the presence of the tenderers' representatives who choose to attend at the time and location indicated in the Invitation to Tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.

- 20.2 Tenders for which an acceptable notice of withdrawal has been submitted, pursuant to clause 19, will not be opened. KNBS will examine the tenders to determine whether they are complete, whether the requisite Tender Sureties have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.
- 20.3 At the tender opening, KNBS will announce the tenderer's names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Surety and such other details as KNBS, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.
- 20.4 KNBS shall prepare minutes of the tender opening including the information disclosed to those present.
- 20.5 Tenders not opened and read out a tender opening shall not be considered further for evaluation, irrespective of the circumstances.
21. Process to be Confidential
- 21.1 After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.
- 21.2 Any effort by a tenderer to influence KNBS in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.
22. Clarification of Tenders
- 22.1 To assist in the examination, evaluation and comparison of tenders, KNBS may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, 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

arithmetical errors discovered by KNBS during the evaluation of the tenders in accordance with clause 24.

22.2 No Tenderer shall contact KNBS on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. If the tenderer wishes to bring additional information to the notice of KNBS, he shall do so in writing.

23. Determination of Responsiveness

23.1 Prior to the detailed evaluation of tenders, KNBS will determine whether each tender is substantially responsive to the requirements of the tender documents.

23.2 For the purpose of this clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation and has a valid bank guarantee. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the tenderer under the Contract, or which limits in any substantial way, inconsistent with the tender documents, KNBS's rights or the tenderers obligations under the Contract and the rectification of which would affect unfairly the competitive position of other tenderers who have presented substantially responsive tenders.

23.3 Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like. Should a tender be seriously unbalanced in relation to KNBS's estimate of the works to be performed under any item or groups of items, the tender shall be deemed not responsive.

23.4 A tender determined to be not substantially responsive will be rejected by KNBS and may not subsequently be made responsive by the tenderer by correction of the non-conforming deviation or reservation.

24. Correction of Errors

24.1 Tenders determined to be substantially responsive shall be checked by KNBS for any arithmetic errors in the computations and summations. Errors will be corrected by KNBS as follows:

- (a) Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will govern.
- (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 KNBS, there is an obvious typographical error, in which case adjustment will be made to the entry containing that error.
- (c) 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 13.

25. Conversion to Single Currency

25.1 For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya ruling on the date twenty eight (28) days before the final date for the submission of tenders.

25.2 KNBS will convert the amounts in various currencies in which the tender is payable (excluding provisional sums but including Dayworks where priced competitively) to Kenya Shillings at the selling rates stated in clause 25.1.

26. Evaluation and Comparison of Tenders

26.1 KNBS will evaluate only tenders determined to be substantially responsive to the requirements of the tender documents in accordance with clause 23.

- 26.2 In evaluating tenders, KNBS 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 24.
 - (b) Excluding Provisional Sums and provision, if any, for Contingencies in the Bills of Quantities, but including Day works where priced competitively.
- 26.3 KNBS reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to KNBS, shall not be taken into account in tender evaluation.
- 26.4 Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in tender evaluation.
- 26.5 If the lowest evaluated tender is seriously unbalanced or front loaded in relation to KNBS's estimate of the items of work to be performed under the Contract, KNBS may require the tenderer to produce detailed price analyses for any or all items of the Bills of Quantities, to demonstrate the relationship between those prices, proposed construction methods and schedules. After evaluation of the price analyses, KNBS may require that the amount of the Performance Security set forth in clause 29 be increased at the expense of the successful tenderer to a level sufficient to protect KNBS against financial loss in the event of subsequent default of the successful tenderer under the Contract.
- 26.6 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 a non-indigenous sub-contractor.

27.0 AWARD OF CONTRACT

27. Award

- 27.1 Subject to clause 27.2, KNBS will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works.
- 27.2 KNBS reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for KNBS's action.
28. Notification of Award
- 28.1 Prior to the expiration of the period of tender validity prescribed by KNBS, KNBS will notify the successful tenderer by cable, telefax or telex and confirmed in writing by registered letter that his tender has been accepted. This letter (hereinafter and in all Contract documents called "Letter of Acceptance") shall name the sum (hereinafter and in all Contract documents called "the Contract Price") which KNBS will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.
- 28.2 Notification of award will constitute the formation of the Contract.
- 28.3 Upon the furnishing of a Performance Security by the successful tenderer, the unsuccessful tenderers will promptly be notified that their tenders have been unsuccessful.
- 28.4 Within twenty eight [28] days of receipt of the form of Contract Agreement from KNBS, the successful tenderer shall sign the form and return it to KNBS together with the required Performance Security.
29. Performance Guarantee - **Not applicable to this tender**
- 29.1 Within twenty eight [28] days of receipt of the notification of award from KNBS, the successful tenderer shall furnish KNBS with a Performance Security in an amount stated in the Appendix to Instructions to Tenderers.

29.2 The Performance Security to be provided by the successful tenderer shall be an unconditional Bank Guarantee issued at the tenderer's option by an established and a reputable Bank approved by KNBS and located in the Republic of Kenya and shall be divided into two elements namely, a performance security payable in foreign currencies (based upon the exchange rates determined in accordance with clause 35.4 of the Conditions of Contract) and a performance security payable in Kenya Shillings. The value of the two securities shall be in the same proportions of foreign and local currencies as requested in the form of foreign currency requirements.

29.3 Failure of the successful tenderer to lodge the required Performance Security shall constitute a breach of Contract and sufficient grounds for the annulment of the award and forfeiture of the Tender Security and any other remedy under the Contract KNBS may award the Contract to the next ranked tenderer.

30. Advance Payment - **Not applicable to this tender**

An advance payment, if approved by KNBS, shall be made under the Contract, if requested by the Contractor, in accordance with Conditions of Contract. The Advance Payment Guarantee shall be denominated in the proportion and currencies named in the form of foreign currency requirements. For each currency, a separate guarantee shall be issued. The guarantee shall be issued by a bank located in the Republic of Kenya, or a foreign bank through a correspondent bank located in the Republic of Kenya, in either case subject to the approval by KNBS.

SECTION III - TENDER EVALUATION CRITERIA

After tender opening, the tenders will be evaluated in 4 stages, namely:

- A. Preliminary Evaluation (Mandatory requirements)
- B. Technical Evaluation
- C. Financial Evaluation
- D. Post Qualification (Due Diligence)

STAGE 1: MINIMUM REQUIREMENTS FOR 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 shall include in the following table:

PROCUREMENT OF ELECTRICAL WORKS FOR PROPOSED UPGRADING OF POWER SUPPLY TO THE SERVER ROOM AT REAL TOWERS – UPPER HILL.

S/NO	MANDATORY REQUIREMENTS	YES/NO
1	Submission of Tender documents securely bound (spiral or book) and clearly marked (original and copy) by the tenderer.	
2	All pages of both (Original & copy) of tender documents Must be sequentially serialized	
3	Duly filled, signed and stamped form of tender.	
4	Duly filled, signed and stamped Confidential Business questionnaire.	
5	Completed Tender securing declaration form	
6	Duly filled , signed & stamped site visit certificate(Signed & Stamped by designated KNBS Officer)	
7	Valid AGPO Certificate under the categories of Youth, Women or PWDs	
8	Copy of Valid Tax Compliance certificate/exemption certificate	
9	Copy of Certificate of Incorporation/ Registration certificate issued by the relevant authority.	
10	Valid Energy Regulatory Commission License for i) Electrical installation, ii) Generator installation	
11	Registration with National Construction Authority in i) Electrical installation, ii) Generator installations	

12	Written commitment letter that bidder shall furnish employer with insurance cover for lift works for the project	
13	Declaration of litigation history on any procurement matters	
14	Valid single business permit from the relevant County Government	
15	Self-declaration forms on debarment and fraudulent activities	
16	Copy of certificate of Registration under Occupational Safety & Health Act 2007	
17	Duly filled, signed and stamped Bill of Quantity(BoQs)	
18	Provide a Schedule of Key Personnel	
19	<ul style="list-style-type: none"> i) Previous Electrical Installation works completed satisfactorily(Attach Relevant Completion Certificates) ii) Previous Generator works completed satisfactorily(attach relevant Completion Certificates) 	
20	Schedule of on going projects	

Remarks:

KEY: X – Non Responsive (NO)

✓ - Responsive (YES)

NB: - The tenderers who do not meet any of the above mandatory requirements shall be considered Non-Responsive and their tenders will not be evaluated further

STAGE 2: TECHNICAL EVALUATION

The following criteria will be used in the evaluation of all bids. The submission of the required documents will be used in the determination of the Completeness and Suitability of the Bid. Bids that do not contain all the information required will be declared non-responsive and shall not be evaluated further

STAGE II -TECHNICAL EVALUATION CRITERIA

The award of points for this section shall be as shown below:-

No	Parameter	Max Points
1	Presentation of Bid Document	2
2	Key Personnel	15
3	Contract completed in the last Five (5) Years	10
4	Schedule of on going project	5
5	Schedule of contractors equipment	5

6	a) Audited Financial Report for the last 3 years (2015-2017) b) Evidence of Financial Resources c) Name, Address and Telephone of Banks	8 10 2
7	Litigation of History	5
8	Compliance to project completion time	10
9	Provision of detailed work program and Methodology	25
10	Firm Reputation	3
	Total	100

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

TABLE 1

Item	Description	Raw Points Scored	Max Points
1	Presentation and Response:- This includes binding the documents, separation and arrangement of requested information and general response to all requirements		2
2	Key Personnel		
	Attach evidence i.e Cvs and certified copies of Annual practicing Licenses (for Engineers) and Academic certificates for the staff. The site staff shall poses minimum levels set below;-		15
a	Director of the firm		
i	With over 6 years' experience in electrical engineering	4	
ii	With over 3 years' experience in electrical engineering	3	
iii	With over 2 years' experience in electrical engineering	2	
iv	Less than 2 years' experience in electrical engineering	1	
b	2No. Degree/Diploma holders of key personnel in electrical engineering		
i	With over 4 years' experience in electrical engineering	4	
ii	With over 3 years' experience in electrical engineering	3	
	With under 2 years' experience in electrical engineering	2	
c	4No. certificate holder of key personnel in electrical engineering		
i	With over 4 years' experience in electrical engineering	4	
ii	With over 3 years' experience in electrical engineering	3	
iii	With under 2 years' experience in electrical engineering	2	
d	5No. artisan (trade test certificate in relevant field)		
i	Artisan with over 3 years' experience in electrical engineering	3	
ii	Artisan with under 2years' experience in electrical engineering	2	
3	Provide Evidence of at least TWO projects of Relevant Contracts completed in the last Five (5) years i.e Copies of contract agreements/completion certificates, LPOs/LSOs		10

a	Above Kshs. 4 Million (5 marks for each projects)			
b	Kshs 2 Million –(3 marks for each project)			
c	Kshs 1 Million – (2 marks for each project)			
4	TWO on- going projects and their values Provide Evidence			5
5	Schedule of contractors equipment and transport (proof or evidence of ownership/lease)			
	The bidder must indicate he core equipment necessary for undertaking the project together with proof ownership or lease arrangements) Equipment's plant			5
6	Certified Bank Statement for the last six months			8
	Line of credit from a recognized institution			
	NB: Capacity to have a cash flow equivalent to 20% of the tender sum			
a	Evidence of financial resources (cash in hand, lines of credit, over draft facility etc)			
i	Has financial resources to finance the projected monthly cash flow* for three months Has financial resources equal to the projected monthly cash flow*		10	10
ii	Has financial resources less the projected monthly cash flow*		8	
iii	Has not indicated sources of financial resources		5	
iv	Name, address and telephone of banks		0	
7	Litigation History		5	
	Dully filled -5		0	
	Not filled - 0			
8	Compliance to project completion time			10
i	8 Weeks and below		10	
ii	Between 8 – 10 weeks		8	
	Above 10 weeks		5	
9	Provision of detailed work program and methodology as required as instructed in schedule 12 (Work methodology)			25
10	Firm Reputation Proof of satisfactory services;- submit at least THREE (3) letters of reference from major clients, which should include summary o service rendered, value of contracts and contact person, address and telephone numbers (1mk for each complete letter, max 3)			3
	Total			100

NB: A bidder scoring less than 70% shall not be considered technically responsive and therefore shall be considered for financial evaluation.

STAGE III - FINANCIAL EVALUATION

The Tenderers who qualify under Technical Evaluation will have their Financial Bid evaluated and the lowest responsive bid submitted after analysis shall have their tender considered for award.

Financial Score = Lowest Responsive Bidder / Bidder Price (under consideration) X
30

Combined scores

Total Combined Score = Weighted Technical score + Weighted Financial Score.

Recommendation for Award

The bidder with the highest total combined weighted score shall be recommended for award.

STAGE IV - DUE DILIGENCE

The Evaluation Committee may agree to conduct a post qualification evaluation to the MOST RESPONSIVE CONTRACTOR on projects done and also to ascertain the above information given.

SECTION IV - CONDITIONS OF CONTRACT

1.0 Definitions

1.1 In this contract, except where context otherwise requires, the following terms shall be interpreted as indicated;

“Bills of quantities” means the priced and completed bill of quantities forming part of the tender.

“Compensation Events” are those defined in clause 24 hereunder

“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 KNBS and the Contactor 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 KNBS.

“The Contractor’s Tender” is the completed tendering document submitted by the Contactor to KNBS.

“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.

“Defects” is any piece of work 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.

“Day works” 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 acceleration in the Works.

“Materials” are all supplies, including consumables, used by the Contractor for incorporation in order.

“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 KNBS 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” means the place or places where the permanent Works are to be carried out including workshops where the same is being prepared.

“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 Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.

“Start Date” is the date when the Contractor shall commence execution of the Works.

“A Sub-contractor” 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.

“Employer’s Representative” is the person appointed by KNBS and notified to the Contractor for the purpose of supervision of the Works.

“A Variation” is an instruction given by KNBS’s Representative which varies the Works.

“The Works” are what the Contract requires the Contractor to construct, install, and turnover to KNBS.

2. Interpretation

In interpreting the 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.

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).

The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;

- (i) Agreement,
- (ii) Letter of acceptance,
- (iii) Contractor's Tender,
- (iv) Appendix to Conditions of Contract,
- (v) Conditions of Contract,
- (vi) Specifications,
- (vii) Drawings,
- (viii) Bills of Quantities,
- (ix) 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 KNBS 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 KNBS) 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

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

4. Project Manager's Decisions

Except where otherwise specifically stated, the Project Manager will decide contractual matters between KNBS and the Contractor in the role representing KNBS.

5. Delegation

The Project manager may delegate any of his duties and responsibilities to others after notifying the Contractor.

6. Communications

Communication between parties shall be effective only when in writing. A notice shall be effective only when it is delivered.

7. Subcontracting

The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of KNBS in writing. Subcontracting shall not alter the Contractor's obligations.

8. Other Contractors

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 KNBS, as per the directions of the Project Manager. The Contractor shall also provide facilities and services for them. KNBS may modify the said List of Other Contractors etc., and shall notify the Contractor of any such modification.

9. Personnel

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

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

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.

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

12. Discoveries

Anything of historical or other interest or of significant value unexpectedly discovered on Site shall be the property of KNBS. 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

KNBS 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, KNBS will be deemed to have delayed the start of the relevant activities, and this will be Compensation Event.

15. Access to Site

The Contractor shall allow the Project manager and any other 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.

16. Instructions

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

17. Extension of Acceleration of Completion Date

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.

No bonus for early completion of the Works shall be paid to the Contractor by KNBS

18. Management Meetings

A Contractor 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 KNBS. 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

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.

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 instruction of the Project Manager.

20. Defects

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 defects. 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.

The Project Manager shall give notice to the Contractor of any defects before the end of the Defect 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.

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

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.

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 Contractor price, the Project Manager shall adjust the rate to allow for the change.

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

All variations shall be included in updated programs produced by the Contractor.

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.

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.

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 cost

If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the works, no quotation shall be given and the variation shall be treated as a Compensation Event.

The Contractor shall not be entitled to additional payment for cost that could have been avoided by giving early warning. 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 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.

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 KNBS once KNBS 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.

Payments shall be adjusted for deductions for retention. KNBS shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If KNBS 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.

If an amount certified is increased in a later certificate of 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.

Items of the works for which no rate or price has been entered in will not be paid for by KNBS and shall be deemed covered by other rates and prices in the Contract.

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. KNBS reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services.

KNBS and the Project manager shall be notified promptly by the Contractor of any 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.

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 KNBS 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 X1 = the amount of proposed cumulative payments as a percentage of the original amount of the Contract. This will exceed 20% but not exceed 80%.

X11 = 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

The following issues shall constitute Compensation Events.

- a) KNBS does not give access to a part of the site by the Site Possession Date stated in the Appendix to Conditions of Contract.
- b) KNBS 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 KNBS or additional works required for safety or other reasons.
- h) Other contractors, public authorities, utilities, or KNBS 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 KNBS'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

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 Contract, 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.

The Contractor shall not be entitled to compensation to the extent that KNBS's interests are adversely affected by the Contractor not having given early warning or not having co-operated with the Project Manager.

Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Appendix to Conditions of Contract.

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

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.

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 provision in the Contract Bills of Quantities or Specifications) for permanent incorporation in the Works.

Unless otherwise stated in the Contract, if 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.

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 price 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.

The price 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.

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.

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. 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 rate.

26. Retention

KNBS shall retain from the 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

The Contractor shall pay liquidated damages to KNBS 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. KNBS may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not alter the Contractor's liabilities.

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

The Performance Security shall be provided to KNBS not 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 KNBS, 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. Day works

If applicable, the Day works 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.

All work to be paid for as Day works 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.

The Contractor shall be paid for Day works subject to obtaining signed day works forms.

30. Liability and Insurance

From the Start Date until the Defects Correction Certificate has been issued, the following are KNBS'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 KNBS 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 KNBS or in Employer's design, or due to war or radioactive contamination directly affecting the place where the works are being executed.

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 KNBS'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 KNBS's risk.
- c) The activities of the Contractor on the Site after the Completion Date.

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 KNBS 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.

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.

If the Contractor does not provide any of the policies and certificates required, KNBS may affect 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.

Alterations to the terms of 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

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. KNBS 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

The Contractor shall issue the Project Manager with a detailed account of the total amount that the Contractor considers payable to him by KNBS under 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.

KNBS shall pay the Contractor the amount due in the Final certificate within 60 days.

33. Termination

KNBS 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 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 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 KNBS 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 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.

Notwithstanding the above, KNBS may terminate the Contract for convenience.

If the Contractor 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

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 issue of the certificate. Additional liquidated damages shall not apply. If the total amount due to KNBS exceeds any payment due to the Contractor, the difference shall be a debt payable by the contractor.

If the contract is terminated for KNBS's convenience or because of a fundamental breach of contract by KNBS, 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.

KNBS may employ and pay other persons to carry out and complete the works and to rectify and defects and may enter upon the works and use all materials on the site, plant, equipment and temporary works.

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 building, plant, machinery, appliances, goods or materials belonging to or hired by him, and in default KNBS may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, hold the proceeds less all costs incurred to the credit of the Contractor.

Until after completion of the works under this clause KNBS 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 therefore the Project Manager shall certify the amount of expenses properly incurred by KNBS 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 KNBS 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 KNBS to the Contractor.

35. Release from Performance

If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either KNBS 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 Payment of Commission

The Contractor shall not;

- a) Offer or give or agree to give to any person in the service of KNBS any gift or consideration of any kind as an inducement or reward for doing or for bearing 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 KNBS or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract for KNBS.
- b) Enter into this or any other contract with KNBS 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 KNBS.

- c) Any breach of this Condition by the Contractor or by anyone employed by his 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

In case any dispute or difference shall arise between KNBS 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) Institute 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.

The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising hereunder 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.

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.

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.

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 part:

The appointment of a replacement Project Manager upon the said person ceasing to act.

Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.

Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions. Any dispute or difference arising in respect of war risks or war damage.

37.6. All other matter shall only be referred to arbitration after the completion or alleged completion of the works or termination or alleged termination of the Contract, unless KNBS 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 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.

37.8. The award of such Arbitrator shall be final and binding upon the parties.

SECTION V - APPENDIX TO CONDITIONS OF CONTRACT

CONDITIONS OF CONTRACT

KNBS is: Kenya National Bureau of Statistics
Represented by: The Director General
Kenya National Bureau of Statistics
Address: P.O. Box 30266– 00100, NAIROBI

Name of Employer’s Representative: Contract implementation committee:

CONDITIONS OF CONTRACT

The Project Manager is: Regional Works Officer Nairobi County

CONDITIONS OF CONTRACT

The name of the tender is: - TENDER NO. KNBS/ONT/08/2020 – 2021:- **Proposed upgrading of power supply to the Server room at Real Towers - Nairobi**
CONDITIONS OF CONTRACT

The start date shall be as stated in the Signed Contract

CONDITIONS OF CONTRACT

The Intended Completion Date for the whole of the Works shall be as stated in the Contract Agreement.

CONDITIONS OF CONTRACT

The following documents also form part of the Contract: Only as listed in Clause 2 of the conditions of contract.

The Site Possession Date shall be: After signing the Contract

CONDITIONS OF CONTRACT

The Site is located at: Kenya National Bureau of Statistics, P.O Box 30266– 00100, NAIROBI

CONDITIONS OF CONTRACT

The contractor shall submit a revised program for the works within 7 days of delivery of the letter of acceptance.

CONDITIONS OF CONTRACT

The Defects Liability Period is 6 months from practical completion date

CONDITIONS OF CONTRACT

Period of final measurement: 3 months after practical completion

INSTRUCTION TO TENDERERS

The tender opening date and time is as stated in the Tender Invitation Notice.

INSTRUCTION TO TENDERERS

The name and Address of KNBS's representative for the purposes of Submission of Tenders is as stated in the Tender Invitation Notice

INSTRUCTION TO TENDERERS

Amount of Tender Security is **Not Applicable for this Tender**

INSTRUCTION TO TENDERERS

The amount of performance security – Not Applicable.

CONDITIONS OF CONTRACT

Liquidated and Ascertained damages: at the rate of Kshs.5, 000.00 per week or part thereof

CONDITIONS OF CONTRACT

Period of honoring certificate : 30 days

Percentage of certified value retained : 10%

Limit of certified value retained : 5%

Period between program updates is : 14 days

The implementation period for the contract works is: as stated in the contract document or as decided in site handing over meeting.

SECTION VI - CONTRACT PRELIMINARIES AND GENERAL CONDITIONS

1.01 Examination of Tender Documents

The tenderer is required to check the number of pages of this document and should he find any missing or indistinct, he must inform the KNBS at once and have the same rectified.

All tenderers shall be deemed to have carefully examined the following:

- a) Work detailed in the Specification and in the Contract Drawings.
- b) The Republic of Kenya Document “General Conditions of Contract for Electrical and Mechanical Works”.
- c) Other documents to which reference is made.

He shall also be deemed to have included for any expenditure which may be incurred in conforming with the above items (a), (b), (c) and observe this expense as being attached to the contract placed for the whole or any part of the work.

The tenderer shall ensure that all ambiguities, doubts or obscure points of detail, are clarified with the Engineer before submission of his tender, as no claims for alleged deficiencies in the information given shall be considered after this date.

1.02 Discrepancies

The contractor shall include all work either shown on the Contract Drawings or detailed in the specification. No claim or extra cost shall be considered for works which has been shown on the drawings or in the specification alone.

Should the drawing and the specification appear to conflict, the contractor shall query the points at the time of tendering and satisfy himself that he has included for the work intended, as no claim for extra payment on this account shall be considered after the contract is awarded.

1.03 Conditions of Contract Agreement

The contractor shall be required to enter into a contract with KNBS.

The Conditions of the Contract between the Contractor and KNBS as hereinafter defined shall be the latest edition of the Agreement and Schedule of Conditions of Kenya Association of Building and Civil Engineering Contractors as particularly modified and amended hereinafter.

For the purpose of this contract the Agreement and Schedule of Conditions and any such modifications and amendments shall read and construed together. In any event of discrepancy the modifications and amendments shall prevail.

1.04 Payment

Payment will be made through certificates to the Contractor. All payments will be less retention as specified in the Main Contract. No payment will become due until materials are delivered to site.

1.05 Definition of Terms

Throughout these contract documents units of measurements, terms and expressions are abbreviated and wherever used hereinafter and in all other documents they shall be interpreted as follows:

Employer: The term “Employer” shall mean The Director General, Kenya National Bureau of Statistics, P.O Box 30266– 00100, NAIROBI

- i) Architect: The term “Architect” shall mean The Project Architect
- ii) Quantity Surveyor: The term “Quantity Surveyor” shall mean The Project Quantity Surveyor
- iii) Civil/Structural Engineers: The term “Civil/Structural Engineers” shall mean The Project Structural Engineer.
- v) Engineer: The term “Engineer” shall mean Project Electrical Engineer (BS).
- vi) Contractor: The term “Contractor” shall mean the firm or company appointed to carry out the Generator Installation works and shall include his or their heir, executors, assigns, administrators, successors, and duly appointed representatives.
- vii) Contract Works: The term “contract Works” shall mean all or any portion of the work, materials and articles, whether the same are being manufactured or prepared, which are to be used in the execution of this contract and whether the same may be on site or not.

- viii) Contract Drawings: The term “Contract Drawings” shall mean those drawings required or referred to herein and forming part of the Bills of Quantities.
- ix) Working Drawings: The term “Working Drawings” shall mean those drawings required to be prepared by the contractor as hereinafter described.
- x) Record Drawings: The term “Record Drawings” shall mean those drawings required to be prepared by the contractor showing “as installed” and other records for the contract Works.
- xi) Abbreviations:

CM shall mean Cubic Metre

SM shall mean Square Metre

LM shall mean Linear Metre

LS shall mean Lump Sum

mm shall mean Millimetres No.

shall mean Number

Kg. shall mean Kilogramme

KNBS shall mean Kenya National Bureau of Statistics

BS shall mean. Current standard British Standard Specification published by the British Standard Institution, 2 Park Street, London W1, England

“Ditto” shall mean the whole of the preceding description in which it occurs. Where it occurs in description of succeeding item it shall mean the same as in the first description of the series in which it occurs except as qualified in the description concerned. Where it occurs in brackets it shall mean the whole of the preceding description which is contained within the appropriate brackets.

1.06 Site Location

The site of the Contract Works is situated at Real Towers- Nairobi the conditions under which the contract Works shall have to be carried out and no claims for extras will be considered on account of lack of knowledge in this respect.

1.07 Duration of Contract

The Contractor shall be required to phase his work in accordance with the works programme (or its revision). The programme is to be agreed with the Project Manager.

1.08 Scope of Contract Works

The contractor shall supply, deliver, unload, hoist, fix, test, commission and handover in satisfactory working order the complete installations specified hereinafter and/or as shown on the Contract Drawings attached hereto, including the provision of labour, transport and plant for unloading material and storage, and handling into position and fixing, also the supply of ladders, scaffolding the other mechanical devices to plant, installation, painting, testing, setting to work, the removal from site from time to time of all superfluous material and rubbish caused by the works.

The contractor shall supply all accessories, whether of items or equipment supplied but to be fixed and commissioned under this contract.

1.09 Extent of the contractor's Duties

At the commencement of the works, the contractor shall investigate and report to the Engineer if all materials and equipment to be used in the work and not specified as supplied by the others are available locally. If these materials and equipment are not available locally, the contractor shall at this stage place orders for the materials in question and copy the orders to the Engineer. Failure to do so shall in no way relieve the contractor from supplying the specified materials and equipment in time.

Materials supplied by others for installation and/or connection by The contractor shall be carefully examined in the presence of the Supplier before installation and connection. Any defects noted shall immediately be reported to the Engineer.

The contractor shall be responsible for verifying all dimensions relative to his work by actual measurements taken on site.

The contractor shall mark accurately on one set of drawings and indicate all alterations and/or modifications carried out to the designed system during the construction period. This information must be made available on site for inspection by the Engineer.

1.10 Execution of the Works

The works shall be carried out strictly in accordance with:

- a) All relevant Kenya Bureau of Standards Specifications.
- b) All relevant British Standard Specifications and Codes of Practice (hereinafter referred to as B.S. and C.P. respectively).
- c) This Specification.
- d) The Contract Drawings.
- e) The Bye-laws of the Local Authority.
- f) The Engineer's Instructions.

The Contract Drawings and Specifications to be read and construed together.

1.11 Validity of Tender

The tender shall remain valid for acceptance within 120 days from the final date of submission of the tender, and this has to be confirmed by signing the Tender Bond. The tenderer shall be exempted from this Bond if the tender was previously withdrawn in writing to KNBS before the official opening.

1.12 Firm – Price contract

Unless specifically stated in the documents or the invitation to tender, this is a fixed price Contract and the contractor must allow in his tender for the increase in the cost of labour and/or materials during the duration of the contract. No claims will be allowed for increased costs arising from the fluctuations in duties and/or day to day currency fluctuations. The contractor will be deemed to have allowed in his tender for any increase in the cost of materials which may arise as a result of currency fluctuation during the contract period.

1.13 Variation

No alteration to the contract Works shall be carried out until receipt by the contractor of written instructions from the Project Manager.

Any variation from the contract price in respect of any extra work, alteration or omission requested or sanctioned by the Architect or Engineer shall be agreed and confirmed in writing at the same time such variations are decided and shall not affect the validity of the Contract. Schedule of Unit Rates shall be used to assess the value of such variations. No allowance shall be made for loss of profit on omitted works. Where the Project Manager requires additional work to be performed, the contractor, if he considers it necessary, will give notice within seven (7) days to the Project Manager of the length of time he (the contractor) requires over and above that allotted for completion of the contract.

If the contractor fails to give such notice he will be deemed responsible for the claims arising from the delay occasioned by reason of such extension of time.

1.14 Prime Cost and Provisional Sums

A specialist Contractor may be nominated by the Project Manager to supply and/or install any equipment covered by the Prime Cost or Provisional Sums contained within the Contract documents.

The work covered by Prime Cost and Provisional Sums may or may not be carried out at the discretion of the Project Manager. The whole or any part of these sums utilised by the contractor shall be deducted from the value of the contract price when calculating the final account.

1.15 Bond

The tenderer must submit with his tender the name of one Surety who must be an established Bank only who will be willing to be bound to KNBS for an amount equal to Kshs. **Not Applicable**

1.16 Government Legislation and Regulations

The contractor's attention is called to the provision of the Factory Act 1972 and subsequent amendments and revisions, and allowance must be made in his tender for compliance therewith, in so far as they are applicable. The contractor must also make himself acquainted with current legislation and any Government regulations regarding the movement, housing, security and control of labour, labour camps, passes for transport, etc.

The contractor shall allow for providing holidays and transport for work people, and for complying with Legislation, Regulations and Union Agreements.

1.17 Import Duty and Value Added Tax

The contractor will be required to pay full Import Duty and Value Added Tax on all items of equipment, fittings and plant, whether imported or locally manufactured. The tenderer shall make full allowance in his tender for all such taxes.

1.18 Insurance Company Fees

Attention is drawn to the tenderers to allow for all necessary fees, where known, that may be payable in respect of any fees imposed by Insurance Companies or statutory authorities for testing or inspection.

No allowance shall be made to the contractor with respect to fees should these have been omitted by the tenderer due to his negligence in this respect.

1.19 Provision of Services by the Contractor

Contractor shall make the following facilities available for his use:

- a) Attendance and the carrying out of all work affecting the structure of the building which may be necessary, including all chasing, cutting away and

making good brickwork, all plugging for fixing, fittings, machinery, fan ducting, etc., and all drilling and tapping of steel work. Any purpose made fixing brackets shall not constitute Builder's Work and shall be provided and installed by the contractor unless stated hereinafter otherwise.

- b) The provision of temporary water, lighting and power: All these services utilised shall be paid for by the Contractor
- c) Fixing of anchorage and pipe supports in the shuttering, anchorage with fully dimensioned drawings detailing the exact locations.
- d) i) Provision of scaffolding, cranes, etc. but only in so far as it is required for the Contract Works
- e) ii) Any specialist scaffolding, cranes, etc. to be used by any Contractor for his own exclusive use shall be paid for by the Contractor.

1.20 Suppliers

The contractor shall submit names of any supplier for the materials to be incorporated, to the Engineer for approval. The information regarding the names of the suppliers may be submitted at different times, as may be convenient, but no sources of supply will be changed without prior approval.

Each supplier must be willing to admit the Engineer or his representative to his premises during working hours for the purpose of examining or obtaining samples of the materials in question.

1.21 Samples and Materials Generally

The contractor shall, when required, provide for approval at no extra cost, samples of all materials to be incorporated in the works. Such samples, when approved, shall be retained by the Engineer and shall form the standard for all such materials incorporated.

1.22 Administrative Procedure and Contractual Responsibility

The Contractor is entirely responsible to KNBS for the whole of the works including any Contract Works and shall deal direct with KNBS or Engineer.

1.23 Bills of Quantities

The Bills of Quantities have been prepared in accordance with the standard method of measurement of Building Works for East Africa, first Edition, Metric, 1970. All the Quantities are based on the Contract Drawings and are provisional and they shall not be held to gauge or to limit the amount or description of the work to be executed

by the contractor but the value thereof shall be deducted from the Contract Sum and the value of the work ordered by the Engineer and executed thereunder shall be measured and valued by the Engineer in accordance with the conditions of the contract.

All work liable to adjustment under this contract shall be left uncovered for a reasonable time to allow measurements needed for such adjustment to be taken by the Quantity Surveyor or Engineer.

Immediately the work is ready for measuring the Contractor shall give notice to the Quantity Surveyor or Engineer to carry out measurements before covering up. If the contractor shall make default in these respects he shall, if the Project Manager so directs, uncover the work to enable the necessary measurements to be taken and afterwards reinstate at his own expense.

1.24 Contractor's Office in Kenya

The contractor shall maintain (after first establishing if necessary) in Kenya an office staffed with competent manager and such supporting technical and clerical staff as necessary to control and coordinate the execution and completion of the contract Works.

The Manager and his staff shall be empowered by the contractor to represent him at meetings and in discussions with KNBS, the Engineer and other parties who may be concerned and any liaison with the contractor's Head Office on matters relating to the design, execution and completion of the contract Works shall be effected through his office in Kenya.

It shall be the contractor's responsibility to procure work permits, entry permits, licenses, registration, etc., in respect of all expatriate staff.

The Contractor shall prepare a substantial proportion of his Working Drawings at his office in Kenya. No reasons for delays in the preparation or submission for approval or otherwise of such drawings or proposals will be accepted on the grounds that the contractor's Head Office is remote from his office in Nairobi or the site of the contract Works or otherwise.

1.25 Builder's Work

All chasing, cutting away and making good will be done by the Contractor. The contractor shall also mark out in and be responsible for accuracy of the size and position of all holes and chases required.

The contractor shall drill and plug holes in floors, walls, ceiling and roof for securing services and equipment requiring screw or bolt fixings.

The contractor shall also provide and install any purpose made fixing brackets.

1.26 Structural Provision for the Works

Preliminary major structural provision has been made for the contract works based on outline information ascertained during the preparation of the Specification.

The preliminary major structural provision made will be deemed as adequate unless the contractor stated otherwise when submitting his tender.

Any major structural provision or alteration to major structural provisions required by the Contractor shall be shown on Working Drawings to be submitted to the Engineer within 30 days of being appointed.

No requests for alterations to preliminary major structural provisions will be approved except where they are considered unavoidable by the Engineer. In no case will they be approved if building work is so far advanced as to cause additional costs or delays in the work of the contractor.

1.27 Position of Services, Plant, Equipment, Fittings and Apparatus

The Contract Drawings give a general indication of the intended layout. The position of the equipment and apparatus, and also the exact routes of the ducts, main and distribution pipework shall be confirmed before installation is commenced. The exact sitting of appliances, pipework, etc., may vary from that indicated.

The routes of services and positions of apparatus shall be determined by the approved dimensions detailed in the Working Drawings or on site by the Engineer in consultation with the contractor.

Services throughout the ducts shall be arranged to allow maximum access along the ducts and the services shall be readily accessible for maintenance. Any work which has to be re-done due to negligence in this respect shall be the contractor's responsibility.

The contractor shall be deemed to have allowed in his contract sum for locating terminal points of services (e.g. lighting, switches, socket outlets, lighting points, control switches, thermostats and other initiating devices, taps, stop cocks) in positions plus or minus 1.2m horizontally and vertically from the locations shown on Contract Drawings. Within these limits no variations in the Contract Sum will be

made unless the work has already been executed in accordance with previously approved Working Drawings and with the approval of the Engineer.

1.28 Checking of Work

The Contractor shall satisfy himself to the correctness of the connections he makes to all items of equipment supplied under the contract agreement and equipment supplied under other contracts before it is put into operation. Details of operation, working pressures, temperatures, voltages, phases, power rating, etc., shall be confirmed to others and confirmation received before the system is first operated.

1.29 Setting to Work and Regulating System

The contractor shall carry out such tests of the contract Works as required by British Standard Specifications, or equal and approved codes as specified hereinafter and as customary.

No testing or commissioning shall be undertaken except in the presence of and to the satisfaction of the Engineer unless otherwise stated by him (Contractor's own preliminary and proving tests excepted).

It will be deemed that the contractor has included in the contract Sum for the costs of all fuel, power, water and the like, for testing and commissioning as required as part of the contract Works. He shall submit for approval to the Engineer a suitable programme for testing and commissioning. The Engineer and Employer shall be given ample warning in writing, as to the date on which testing and commissioning will take place.

The contractor shall commission the contract Works and provide attendance during the commissioning of all services, plant and apparatus connected under the contract Agreement or other Contract Agreements, related to the project.

Each system shall be properly balanced, graded and regulated to ensure that correct distribution is achieved and where existing installations are affected, the Contractor shall also regulate these systems to ensure that their performance is maintained.

The proving of any system of plant or equipment as to compliance with the Specification shall not be approved by the Engineer, except at his discretion, until tests have been carried out under operating conditions pertaining to the most onerous conditions specified except where the time taken to obtain such conditions is unreasonable or exceeds 12 months after practical completion of the contract Works.

1.30 Identification of Plant Components

The contractor shall supply and fix identification labels to all plant, starters, switches and items of control equipment including valves, with white traffolyte or equal labels engraved in red lettering denoting its name, function and section controlled. The labels shall be mounted on equipment and in the most convenient positions. Care shall be taken to ensure the labels can be read without difficulty. This requirement shall apply also to major components of items of control equipment.

Details of the lettering of the labels and the method of mounting or supporting shall be forwarded to the Engineer for approval prior to manufacture.

1.31 Contract Drawings

The Contract Drawings when read in conjunction with the text of the Specification, have been completed in such detail as was considered necessary to enable competitive tenders to be obtained for the execution and completion of the contract works.

The Contract Drawings are not intended to be Working Drawings and shall not be used unless exceptionally they are released for this purpose.

1.32 Working Drawings

The contractor shall prepare such Working Drawings as may be necessary. The Working Drawings shall be complete in such detail not only that the contract Works can be executed on site but also that the Engineer can approve the contractor's proposals, detailed designs and intentions in the execution of the contract Works.

If the contractor requires any further instructions, details, Contract Drawings or information drawings to enable him to prepare his Working Drawings or proposals, the Contractor shall accept at his own cost, the risk that any work, commenced or which he intends to commence at site may be rejected.

The Engineer, in giving his approval to the Working Drawings, will presume that any necessary action has been, or shall be taken by the contractor to ensure that the installations shown on the Working Drawings have been cleared with the Project Manager and any other Contractors whose installations and works might be affected.

If the contractor submits his Working Drawings to the Engineer without first liaising and obtaining clearance for his installations from the Project Manager and other Contractors whose installations and works might be affected, then he shall be liable to pay for any alterations or modification to his own, the Contractor's or other Contractor's installations and works, which are incurred, notwithstanding any technical or other approval received from the Engineer.

Working Drawings to be prepared by the contractor shall include but not be restricted to the following:

- a) Any drawings required by the Contractor, or Engineer to enable structural provisions to be made including Builder's Working Drawings or Schedules and those for the detailing of holes, fixings, foundations, cables and paperwork ducting below or above ground or in or outside or below buildings.
- b) General Arrangement Drawings of all plant, control boards, fittings and apparatus or any part thereof and of installation layout arrangement of such plant and apparatus.
- c) Schematic Layout Drawings of services and of control equipment.
- d) Layout Drawings of all embedded and non-embedded paperwork, ducts and electrical conduits.
- e) Complete circuit drawings of the equipment, together with associated circuit description.
- f) Such other drawings as are called for in the text of the Specification or Schedules or as the Engineer may reasonably require.

Three copies of all Working Drawings shall be submitted to the Engineer for approval. One copy of the Working Drawings submitted to the Engineer for approval shall be returned to the Contractor indicating approval or amendment therein.

Six copies of the approved Working Drawings shall be given to KNBS by the contractor for information and distribution to other Contractors carrying out work associated with or in close proximity to or which might be affected by the contract Works.

Approved Working Drawings shall not be departed from except as may be approved or directed by the Engineer.

Approval by the Engineer of Working Drawings shall neither relieve the contractor of any of his obligations under the contract nor relieve him from correcting any errors found subsequently in the Approved Working Drawings or other Working Drawings and in the contract Works on site or elsewhere associated therewith.

The contractor shall ensure that the Working Drawings are submitted to the Architect for approval at a time not unreasonably close to the date when such approval is required. Late submission of his Working Drawings will not relieve the contractor of his obligation to complete the contract Works within the agreed Contract Period and in a manner that would receive the approval of the Project Manager.

1.33 Record Drawings (As Installed) and Instructions

During the execution of the contract Works the contractor shall, in a manner approved by the Engineer record on Working or other Drawings at site all information necessary for preparing Record Drawings of the installed contract Works. Marked-up Working or other Drawings and other documents shall be made available to the Engineer as he may require for inspection and checking.

Record Drawings, may, subject to the approval of the Engineer, include approved Working Drawings adjusted as necessary and certified by the contractor as a correct record of the installation of the contract Works.

They shall include but not restricted to the following drawings or information:

- a) Working Drawings amended as necessary but titled "Record Drawings" and certified as a true record of the "As Installed" Contract Works. Subject to the approval of the Engineer such Working Drawings as may be inappropriate may be omitted.
- b) Fully dimensioned drawings of all plant and apparatus.
- c) General arrangement drawings of equipment, other areas containing plant forming part of the Contract Works and the like, indicating the accurate size and location of the plant and apparatus suitability cross-referenced to the drawings mentioned in (b) above and hereinafter.
- d) Routes, types, sizes and arrangement of all pipework and ductwork including dates of installation of underground pipework.
- e) Relay adjustment charts and manuals.
- f) Routes, types, sizes and arrangement of all electric cables, conduits, ducts and wiring including the dates of installation of buried works.
- g) System schematic and trunking diagrams showing all salient information relating to control and instrumentation.
- h) Grading Charts.
- i) Valve schedules and locations suitability cross-referenced.
- j) Wiring and piping diagrams of plant and apparatus.
- k) Schematic diagrams of individual plant, apparatus and switch and control boards. These diagrams to include those peculiar to individual plant or apparatus and also those applicable to system operation as a whole.
- l) Operating Instruction

Schematic and wiring diagrams shall not be manufacturer's multipurpose general issue drawings. They shall be prepared specially for the contract Works and shall contain no spurious or irrelevant information.

Marked-up drawings of the installation of the contract Works shall be kept to date and completed by the date of practical or section completion. Two copies of the Record Drawings of contract Works and two sets of the relay adjustment and grading charts and schematic diagrams on stiff backing shall be provided not later than one month later.

The contractor shall supply for fixing in sub-stations, switch-rooms, boiler houses, plant rooms, pump houses, the office of the Maintenance Engineer and other places, suitable valve and instructions charts, schematic diagrams of instrumentation and of the electrical reticulation as may be requested by the Engineer providing that the charts, diagrams, etc., relate to installations forming part of the Contract Works. All such charts and diagrams shall be of suitable plastic material on a stiff backing and must be approved by the Engineer before final printing.

Notwithstanding the contractor's obligations referred to above, if the contractor fails to produce to the Engineer's approval, either:-

- a) The Marked-up Drawings during the execution of the contract Works or
- b) The Record Drawings, etc., within one month of the Section or Practical Completion

The Engineer shall have these drawings produced by others. The cost of obtaining the necessary information and preparing such drawings, etc., will be recovered from the contractor.

1.34 Maintenance Manual

Upon Practical Completion of the contract Works, the contractor shall furnish the Engineer four copies of a Maintenance Manual relating to the installation forming part of all of the contract Works.

The manual shall be loose-leaf type, International A4 size with stiff covers and cloth bound. It may be in several volumes and shall be sub-divided into sections, each section covering one Engineering service system. It shall have a ready means of reference and a detailed index.

There shall be a separate volume dealing with Air Conditioning and Mechanical Ventilation installation where such installations are included in the Contract Works.

The manual shall contain full operating and maintenance instructions for each item of equipment, plant and apparatus set out in a form dealing systematically with each system. It shall include as may be applicable to the contract Works the following and any other items listed in the text of the Specifications:

- a) System Description.
- b) Plant
- c) Valve Operation
- d) Switch Operation
- e) Procedure of Fault Finding
- f) Emergency Procedures
- g) Lubrication Requirements
- h) Maintenance and Servicing Periods and Procedures
- i) Colour Coding Legend for all Services
- j) Schematic and Writing Diagrams of Plant and Apparatus
- k) Record Drawings, true to scale, folded to International A4 size
- l) Lists of Primary and Secondary Spares.

The manual is to be specially prepared for the contract Works and manufacturer's standard descriptive literature and plant operating instruction cards will not be accepted for inclusion unless exceptionally approved by the Engineer. The contractor shall, however, affix such cards, if suitable, adjacent to plant and apparatus. One spare set of all such cards shall be furnished to the Engineer.

1.35 Hand-over

The contract Works shall be considered complete and the Maintenance and Defects Liability Period shall commence only when the contract Works and supporting services have been tested, commissioned and operated to the satisfaction of the Engineer and officially approved and accepted by KNBS, provided always that the handing over of the contract Works shall be coincident with the handing over of the sub- Contract Works.

The procedure to be followed will be as follows:

- a) On the completion of the contract Works to the satisfaction of the Engineer and KNBS, the contractor shall request the Engineer, at site to arrange for handing over.
- b) The Engineer shall arrange a Hand-over Meeting or a series thereof, at site.
- c) The contractor shall arrange with the Engineer and Employer for a complete demonstration of each and every service to be carried out and for instruction to be given to the relevant operation staff and other representatives of KNBS.

- d) In the presence of KNBS and the Engineer, Hand-over will take place, subject to Agreement of the Hand-over Certificates and associated check lists.

1.36 Painting

It will be deemed that the contractor allowed for all protective and finish painting in the contract Sum for the contract Works, including colour coding of service pipework to the approval of the Engineer. Any special requirements are described in the text of the Specifications.

1.37 Spares

The contractor shall supply and deliver such spares suitably protected and boxed to the Engineer's approval as are called for in the Specifications or in the Price Schedules.

1.38 Testing and Inspection – Manufactured Plant

The Engineer reserves the right to inspect and test or witness of all manufactured plant equipment and materials.

The right of the Engineer relating to the inspection, examination and testing of plant during manufacture shall be applicable to Insurance companies and inspection authorities so nominated by the Engineer.

The contractor shall give two week's notice to the Engineer of his intention to carry out any inspection or tests and the Engineer or his representative shall be entitled to witness such tests and inspections.

Six copies of all test certificates and performance curves shall be submitted as soon as possible after the completion of such tests, to the Engineer for his approval.

Plant or equipment which is shipped before the relevant test certificate has been approved by the Engineer shall be shipped at the contractor's own risk and should the test certificate not be approved new tests may be ordered by the Engineer at the contractor's expense.

The foregoing provisions relate to tests at manufacturer's works and as appropriate to those carried out at site.

1.39 Testing and Inspection-Installation

Allow for testing each section of the contract Works installation as described hereinafter to the satisfaction of the Engineer.

1.40 Labour Camps

The contractor shall provide the necessary temporary workshop and mess-room in position to be approved by the Architect.

The work people employed by the contractor shall occupy or be about only that part of the site necessary for the performance of the work and the contractor shall instruct his employees accordingly.

If practicable, W.C. accommodation shall be allocated for the sole use of the contractor's workmen and the contractor will be required to keep the same clean and disinfected, to make good any damage thereto and leave in good condition.

1.41 Storage of Materials

Space for storage and provision of any lock-up sheds or stores required will be provided by the contractor

Nominated Contractors are to be made liable for the cost of any storage accommodation provided specially for their use. No materials shall be stored or stacked on suspended slabs without the prior approval of the Project manager.

1.42 Initial Maintenance

The contractor shall make routine maintenance once a month during the liability for the Defects Period and shall carry out all necessary adjustments and repairs, cleaning and oiling of moving parts. A monthly report of the inspection and any works done upon the installation shall be supplied to the Engineer.

The contractor shall also provide a 24 -hour break-down service to attend to faults on or malfunctioning of the installation between the routine visits of inspection.

The contractor shall allow in the contract Sum of the initial maintenance, inspection and break-down service and shall provide for all tools, instruments, plant and scaffolding and the transportation thereof, as required for the correct and full execution of these obligations and the provision, use or installation of all materials as oils, greases, sandpaper, etc., or parts which are periodically renewed such as brake linings etc., or parts which are faulty for any reason whatsoever excepting always Acts of God such as storm, tempest, flood, earthquake and civil revolt, acts of war and vandalism.

1.43 Maintenance and Servicing After Completion of the Initial Maintenance

The contractor shall, if required, enter into a maintenance and service agreement with KNBS for the installation for a period of up to five years from the day following the last day of the liability for Defects Period which offers the same facilities as specified in Clause 1.41 (Initial Maintenance).

The terms of any such agreement shall not be less beneficial to KNBS than the terms of Agreements for either similar installation.

The contractor shall submit with his tender for the works, where called upon a firm quotation for the maintenance and service of the installation as specified herein, which shall be based upon the present day costs and may be varied only to take into account increases in material and labour unit rate costs between the time of tendering and the signing of the formal maintenance and service agreement and which shall remain valid and open for acceptance by KNBS to and including the last day of the fifth complete calendar month following the end of the liability for Defects Period.

1.44 Trade Names

Where trade names of manufacturer's catalogue numbers are mentioned in the Specification or the Bills of Quantities, the reference is intended as a guide to the type of article or quality of material required. Alternate brands of equal and approved quality will be acceptable.

1.45 Water and Electricity for the Works

These will be made available by the Contractor who shall be liable for the cost of any water or electric current used and for any installation provided for their own use.

1.46 Protection

The contractor shall adequately cover up and protect his own work to prevent injury and also to cover up and protect from damage all parts of the building or premises where work is performed by him under the Contract.

1.47 Defects After Completion

The defects liability period will be 6 months from the date of completion of the Contract as certified by the Engineer.

1.48 Damages for Delay

Liquidated and Ascertained damages as stated in the Contract Agreement will be claimed against the Contract for any unauthorized delay in completion. The contractor shall be held liable for the whole or a portion of these damages should he cause delay in completion.

1.49 Clear Away on Completion

The contractor shall, upon completion of the works, at his own expense, remove and clear away all plant, equipment, rubbish and unused materials, and shall leave the whole of the works in a clean and tidy state, to the satisfaction of the Engineer. On completion, the whole of the works shall be delivered up clean, complete and perfect in every respect to the satisfaction of the Engineer.

1.50 Final Account

On completion of the works the contractor shall agree with the Engineer the value of any variations outstanding and as soon as possible thereafter submit to the Engineer his final statement of account showing the total sum claimed sub-divided as follows:

Statement A - detailing the tender amounts less the Prime Cost and Provisional Sums, included therein.

Statement B - detailing all the variation orders issued on the contract.

Statement C - Summarizing statement A and B giving the net grand total due to the Contractor for the execution of the Contract.

1.51 Fair Wages

The contractor shall in respect of all persons employed anywhere by him in the execution of the contract, in every factory, workshop or place occupied or used by him for execution of the Contract, observe and fulfil the following conditions:

- a) The contractor shall pay rates of the wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in Nairobi County.
- b) In the absence of any rates of wages, hours or conditions of labour so established the contractor shall pay rates and observe hours and conditions of labour are not less favourable than the general level of wages, hours and conditions observed by other employers whose general circumstances in the trade or industry in which the Contractor is engaged are similar.

1.52 Supervision

During the progress of the works, the contractor shall provide and keep constantly available for consultation on site an experienced English - speaking Supervisor and shall provide reasonable office facilities, attendance, etc., for the Supervisor.

In addition, during the whole of the time the works are under construction, the contractor shall maintain on site one experienced foreman or charge-hand and an adequate number of fitters, etc., for the work covered by the Specification. The number of this staff shall not be reduced without the prior written approval of the Project manager or Engineer.

Any instructions given to the Supervisor on site shall be deemed to have been given to the contractor.

One copy of this Specification and one copy of each of the Contract Drawings (latest issue) must be retained on site at all times, and available for reference by the Engineer or contractor.

1.53 Test Certificates

The contractor shall provide the Engineer with three copies of all test reports or certificates that are or may be required by this Specification.

1.54 Labour

The contractor shall provide skilled and unskilled labour as may be necessary for completion of the contract.

1.55 Discount to KNBS

No discount to KNBS will be included in the tender for this installation.

1.56 Guarantee

The whole of the work will be guaranteed for a period of 12 months from the date of the Engineer's certification of completion and under such guarantee the contractor shall remedy at his expense all defects in materials and apparatus due to faulty design, construction or workmanship which may develop in that period.

1.57 Direct Contracts

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 instance, profit relative to the P.C Sum in the priced Bills of Quantities will be adjusted as deserved for P.C Sum allowed.

1.58 Attendance upon the 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 the use of ordinary scaffolding. The contractor however, shall not be required to erect any special scaffolding for them.

1.59 Trade Unions

The contractor shall recognize the freedom of his work people to be members of trade unions.

1.60 Local and other Authorities notices and fees

The contractor shall comply with and give all notices required by any Regulations, Act or by Law of any Local Authority or of any Public Service, Company or Authority who have any jurisdiction with regard to the works or with those systems the same are or will be connected and he shall pay and indemnify the Government against any fees or charges legally demandable under any regulation or by-law in respect of the works; provided that the said fees and charges if not expressly included in the contract sum or stated by way of provisional sum shall be added to the contract sum.

The contractor before making any variation from the contract drawings or specification necessitated by such compliance shall give the Project Manager written notice specifying and giving the reason for such variation and applying for instructions in reference thereto.

If the contractor within seven days of having applied for the same does not receive such instructions, he shall proceed with the works in conforming to the provision regulation or by-law in question and any variation thereby necessitated shall be deemed to be a variation in accordance to the conditions of contract.

1.61 Assignment or subletting

The contractor shall not without the written consent of the Project Manager assign this contract or sublet any portion of the works, provided that such consent shall not be unreasonably withheld to the prejudice of the contractor.

1.62 Partial Completion

If the Government shall take over any part or parts works, apparatus, equipment etc. then within seven days from the date on which the Government shall have taken possession of the relevant part, the Project Manager shall issue a Certificate stating his estimate of the approximate total value of the works which shall be the total value of that part and practical completion of the relevant part shall be deemed to have occurred, and the Defects Liability Period in respect of the relevant part be deemed to have commenced on the date Government shall have taken possession thereof.

The contractor shall make good any defects or other faults in the relevant part that had been deemed complete. The contractor shall reduce the value of insurance by the full value of the relevant part. The contractor shall be paid for the part of works taken possession by the Government

1.63 Temporary Works

Where temporal works shall be deemed necessary, such as Temporary lighting, the contractor shall take precaution to prevent damage to such works.

The contractor shall include for the cost of and make necessary arrangements with the Project Manager for such temporary works. For temporary lighting, electricity shall be metered and paid for by the contractor.

1.64 Patent Rights

The contractor shall fully indemnify KNBS; against any action, claim or proceeding relating to infringement of any patent or design rights, and pay any royalties which may be payable in respect of any article or any part thereof, which shall have been supplied by the contractor to the Project Manager. In like manner the KNBS shall fully indemnify the contractor against any such action, claim or proceedings for infringement under the works,

the design thereof of which shall have been supplied by the Project Manager to the contractor, but this indemnify shall apply to the works only, and any permission or request to manufacture to the order of the Project Manager shall not relieve the contractor from liability should he manufacture for supply to other buyers.

1.65 Mobilization and Demobilization

The contractor shall mobilize labour plant and equipment to site according to his programme and schedule of work He shall ensure optimum presence and utilization of labour, plant and equipment. He should not pay and maintain unnecessary labour force or maintain and service idle plant and equipment. Where necessary he shall demobilize and mobilize the labour, plant and equipment, as he deems fit to ensure

optimum progress of the works and this shall be considered to be a continuous process as works progress. He shall make provision for this item in his tender. No claim will be entertained where the contractor has not made any provision for mobilization and demobilization of labour, plant and equipment in the preliminary bills of quantities or elsewhere in this tender.

1.66 Extended Preliminaries

Where it shall be necessary to extend the contract period by the Project manager the contractor shall still ensure availability on site, optimum labour, materials, plant and equipment. The contractor shall make provision for extended preliminaries, should the contract period be extended and this shall be in a form of a percentage of the proportion of the Contract works remaining as at that time of extension. Where called upon in the Appendix to these Preliminaries the Contractor shall insert his percentage per month for extended preliminaries that shall form basis for compensation. Lack of inserting the percentage shall mean that the contractor has provided for this requirement elsewhere in the Bills of Quantities.

1.67 Supervision by Engineer and Site Meetings

A competent Project Engineer appointed by the Engineer as his representative shall supervise the Contract works. The Project Engineer shall be responsible for issuing all the site instructions in any variations to the works and these shall be delivered through the Contractor with the authority of the Project Manager. Any instructions given verbal shall be confirmed in writing.

The project engineer and (or) the Engineer shall attend management meetings arranged by the Project Manager and for which the Contractor or his representative shall also attend. For the purpose of supervising the project, provisional sums are provided to cover for transport and allowances. The Contractor shall in his tender allow for the provision of management meetings and site inspections, as instructed by the Engineer, and also profit an attendance on these funds. The funds shall be expended according to Project Manager's instructions to the contractor.

1.68 Amendment to Scope of Contract Works

No amendment to scope of Contract works is expected and in case of amendment or modification to scope of work, these shall be communicated to all tenderers in sufficient time before the deadline of the tender submission. However during the contract period and as the works progress the Project Manager may vary the works as per conditions of contract by issuing site instructions.

No claims shall be entertained on account of variation to scope of works either to increase the works (pre-financing) or reduction of works (loss of profit-see clause 1.69)

1.69 Contractors Obligation and Employers Obligation

The Contractor will finance all activities as part of his obligation to this contract. KNBS shall pay interim payment for materials and work completed on site as his obligation in this contract, as the works progresses. No claims will be entertained for pre-financing of the project by the Contractor, or for loss of profit (expectation loss) in case of premature termination, reduction or increase of works as the Contractor shall be deemed to have taken adequate measures in programming his works and expenditure and taken necessary financial precaution while executing the works. No interest shall be payable to the Contractor, except as relates to late payment as in the conditions of contract clause 23.3. The contractor shall where called upon, insert his price to compensate for any of the occurrence stated here (premature termination, reduction or increase of works), as a percentage of the contract sum in the Appendix to this section.

SECTION VII - APPENDIX TO CONTRACT PRELIMINARIES AND GENERAL CONDITIONS

1. ADD TO CLAUSE 1.40

There is no labour camp.

2. MODIFY CLAUSE 1.66

Percentage of extended preliminaries shall be inserted in Bill No.1. However, this amount of the extended preliminaries SHALL NOT exceed the Liquidated and Ascertained Damages in the tender document

3. ADD TO CLAUSE 1.17

Prices quoted shall include VAT and withholding tax.

In accordance with Government policy, the withholding tax of 3% shall be deducted from all payments made to the contractor, and the same shall subsequently be forwarded to the Kenya Revenue Authority (KRA).

SECTION VIII- GENERAL SPECIFICATIONS OF MATERIALS AND WORKS

1.1 General

1.2 Standard of Materials

1.3 Workmanship

1.4 Procurement of Materials

1.5 Shop Drawings

1.6 Record Drawings

1.7 Regulations and Standards

1.8 Setting out Works

1.9 Testing on Site

2.1 GENERAL

This specification is to be read in conjunction with any other information herein issued with it. Bills of quantities and schedule of unit rates shall be the basis of all additions and omissions during the progress of the works.

2.2 STANDARD OF MATERIALS

Where the material and equipment are specifically described and named in the Specification followed by approved equal, they are so named or described for the purpose of establishing a standard to which the contractor shall adhere.

Should the contractor install any material not specified herein before receiving approval from the proper authorities, the Engineer shall direct the contractor to remove the material in question immediately. The fact that this material has been installed shall have no bearing or influence on the decision by the Engineer.

All materials condemned by the Engineer as not approved for use, are to be removed from the premises and suitable materials delivered and installed in their place at the expense of the Contractor. All materials required for the works shall be from branded manufacturers, and shall be new and the best of the respective kind and shall be of a uniform pattern.

2.3 WORKMANSHIP

The workmanship and method of installation shall conform to the best standard practice. All work shall be performed by a skilled tradesman and to the satisfaction of the Engineer. Helpers shall have qualified supervision.

Any work that does not in the opinion of the Engineer conform to the best standard practice will be removed and reinstated at the contractor's expense.

Permits, Certificates or Licences must be held by all tradesmen for the type of work; in which they are involved where such permits, certificates or Licences exist under Government legislation.

2.4 PROCUREMENT OF MATERIALS

The contractor is advised that no assistance can be given in the procurement or allotment of any materials or products to be used in and necessary for the construction and completion of the work.

Contractors are warned that they must make their own arrangements for the supply of materials and/or products specified or required.

2.5 RECORD DRAWINGS

These diagrams and drawings shall show the completed installation including sizes, runs and arrangements of the installation. The drawings shall be to scale not less than 1:50 and shall include plan views and section.

The drawings shall include all the details which may be useful in the operation, maintenance or subsequent modifications or extensions to the installation.

Three sets of diagrams and drawings shall be provided, all to the approval of the Engineer.

One coloured set of line diagrams relating to operating and maintenance instructions shall be framed and, mounted in a suitable location.

2.6 REGULATIONS AND STANDARDS

All work executed by the contractor shall comply with the current edition of the "Regulations" for the Electrical Equipment of Buildings, issued by the Institution of Electrical Engineers, Electric Power Act, Kenya Bureau of Standards (KBS), Institution of Electrical Engineers (I.E.E) Wiring Regulations, Current recommendation of CCITT and CCIR, and with the Regulations of the Local Electricity Authority and the Communications Commission of Kenya (CCK)

Where the sets of regulations appear to conflict, they shall be clarified with the Engineer.

2.7 SETTING OUT WORK

The contractor, at his own expenses, is to set out works and take all measurements and dimensions required for the erection of his materials on site; making any modifications in details as may be found necessary during the progress of the works, submitting any such modifications or alterations in detail to the Engineer before proceeding and must allow in his tender for all such modifications and for the provision of any such sketches or drawings related thereto.

2.8 TESTING ON SITE

The contractor shall conduct during and at the completion of the installation and, if required, again at the expiration of the maintenance period, tests in accordance with the relevant section of the current edition of the Regulations for the electrical equipment of buildings issued by the I.E.E of Great Britain, the Government Electrical Specifications No. 1 and No.2, Electric Supply Company's By-Laws, Communications Commission of Kenya (CCK) requirements or any other supplementary Regulations as may be produced by the engineer.

Any faults, defects or omissions or faulty workmanship, incorrectly positioned or installed parts of the installation shall be rectified by the contractor at his own expense.

PROPOSED ELECTRICAL INSTALLATION WORKS.

PARTICULAR SPECIFICATION

1.0 LOCATION OF SITE

The site of the proposed works is at **Real Towers ~ Upperhill**

2.0 SCOPE OF WORKS

The works to be carried out under this contract consists of **upgrading of power supply to the server room at Real Towers.**

All the works shall be carried out complete as specified herein and to the satisfaction of the Project Manager.

3.0 SITE VISITATION The tenderer **MUST** visit the site to determine the local conditions and familiarize themselves with the nature of the proposed works

and site, its position, its means of access or any other matter that may affect his tender as required before submitting their Tenders and have the site visit certification form attached filed, signed and stamped by the client or client's representative as proof. No claim arising from his failure to comply with this recommendation will be considered by the Employer whatsoever.

4.0 EXISTING SERVICES AND INSTALLATIONS

Prior to commencement of any work, the Contractor is to ascertain from the relevant authorities the exact position, depth and level of all existing services within the site and shall make whatever provision required by authorities concerned for the support, maintenance and protection of such services.

5.0 PREVENTION OF ACCIDENT, DAMAGE OR LOSS

The Contractor is notified that these works are to be carried out in an existing building that houses Government Offices with various activities being undertaken on daily basis.

The Contractor is instructed to take reasonable care in the execution of the works to prevent accidents, damage or loss and disruption of normal activities of the Client.

6.0 ADJOINING PROPERTY

The Contractor shall take all the necessary precaution to prevent damage to adjoining property. Any damage occurring must be made good to the satisfaction of the Project Manager at the Contractor's expense.

7.0 CURRENCY

All prices inserted in the price schedule shall be in Kenya Shillings and shall be deemed to include for all costs inclusive of all duty and statutory taxes.

SECTION E
BILLS OF QUANTITIES

PROPOSED UPGRADING OF POWER SUPPLY TO THE SERVER ROOM AT REAL TOWERS.

ITEM NO	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
1.0	i) 12 Way TPN Distribution board c/w 100Amp TP integral isolator all necessary accessories included as Crabtree or Merlin Gerlin	1	Item		
	ii) 8 Way TPN Distribution board c/w 100Amp TP integral isolator all necessary accessories included as Crabtree or Merlin Gerlin	1	Item		
1.1	30/20/10 Amps MCB as Crabtree, Merlin Gerlin or any other approved equivalent for Distribution board above.	48	No		
		12	No		
1.2	Blanking plates for Distribution Board above.				
1.3		16	No		
		4	No		
1.4	i) 4 Core 50mm ² PVC/SWA/PVC Cu cable				
	ii) Cable Lugs				
	iii) Cable glands				
	Wall – mounted modular metal clad powder coated MCCB (Legrand, ABB, Crabtree or any other approved equivalent) sub switch board complete with 300A integral MCCB main breaker 400A copper busbars 15No x 100A TP/N MCCB, 2No 63A spareways constructed to 1P20 and also supplied with selector switches for voltmeter, ammeters and phase sequence indicators.	1	Item		
	Total				

--	--	--	--	--	--

BQ 2

SCHEDULE OF UNIT RATES

- 1.) The tenderer shall insert unit rates against the items in the following schedules and may add such items as he considers appropriate.
- 2.) Unit rates will be used to assess the value of additions or omissions arising from authorized variation to the contract works
- 3.) The unit rates shall include for supply, transport insurance and delivery to site, for storage as necessary under the Contract Agreement.
- 4.) The unit rates shall be deemed to be those used by the contractor in the preparation of tender, and for equipment similar or equal to that contained within the specification.
- 5.) The unit rates shall include all duties and taxes.

BILLS OF QUANTITIES

1. The bills of quantities form part of the contract documents and are to be read in conjunction with contract drawings and general specifications for materials and works.
2. The prices quoted shall be deemed to include for all the obligations under the contract including but not limited to supply of materials, labour, delivery to site storage on site, all taxes, installation, testing and commissioning.
3. Failure to quote for any listed item shall lead to disqualification.
4. The brief description of the items given in the Bills of Quantities are for the purpose of establishing a standard to which the contractor shall adhere. Should the contractor install any materials not specified here-in before receiving approval from the Engineer, the contractor shall remove the material in question immediately and at his own cost –install the proper material.
Otherwise, any material of equal and approved quality shall be accepted for installation.
5. The grand total of prices in the price summary page must be carried forward to the Form of Tender.

SUMMARY

Item	Description	Amount (Kshs)
1	Total brought forward from BQ2	
2	Total Provisional Sum for Contigency	100,000.00
3	Total Provisional sum for Project Administration	50,000.00
	Sub Total	
	Add 16% VAT	
	TOTAL	
<i>TOTAL CARRIED TO FORM OF TENDER</i>		

TOTAL AMOUNT IN WORDS: - Kenya Shillings.....

Tenderer's Name and Stamp.....

Signature.....Date.....

PIN No..... VAT Certificate No.....

Witness.....Address.....

Signature of witness.....Date.....

SCHEDULES OF SUPPLEMENTARY INFORMATION

SCHEDULE 1:- FORM OF TENDER

Date _____

Tender No. _____

To.....

.....

[Name and address of Kenya National Bureau of Statistics]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos.. *[insert numbers,* the of which is hereby duly acknowledged, wed, the undersigned, offer to provide. */description of services/* in conformity with the said tender documents for the sum of . *[total tender amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to provide the services in accordance with the services schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to _____ percent of the Contract Price for the due performance of the Contract, in the form prescribed by (Kenya National Bureau of Statistics).
4. We agree to abide by this Tender for a period of *[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

Dated this _____ day of _____ 20
[signature] *[In the capacity of]*
Duly authorized to sign tender for and on behalf of _____

SCHEDULE 2:- TENDER SECURING DECLARATION FORM

[The Bidder shall complete this Form in accordance with the instructions indicated]

Date: [insert date (as day, month and year) of Tender Submission]

Tender No.: [insert number of tendering process]

To: [insert complete name of Purchaser]

If We, the undersigned, declare that:

1. 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 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 name of the 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.

Signed•.....

Capacity / title (director or partner or sole proprietor, etc.).....

Name•.....

Duly authorized to sign the bid for and on behalf of: [insert complete name of Tenderer]

Dated onday of.....,..... [Insert date of signing]

Seal or stamp

SCHEDULE 3: CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

Part 1 - General:

Business name.....

Location of business premises.....

Plot No.Street/Road

Postal Address.....Tel No.

Nature of business.....

.....

Current Trade License No.Expiring date

Maximum value of business which you can handle at any one time:

Kshs.....

Name of your bankers

Branch.....

Are you an agent of the Kenya National Trading Corporation? YES/NO

Part 2(a) - Sole Proprietor:

Your name in full.....

Age.....

NationalityCountry of origin

*Citizenship details

Part 2(b) - Partnership:

Give details of partners as follows:

Name	Nationality	Citizenship Details*	Shares
------	-------------	----------------------	--------

- 1.....
- 2.....
- 3.....

Part 2(c) ~ Registered Company:

Private or public

State the nominal and issued capital of the company-

Nominal Kshs.

Issued Kshs.

Give details of all directors as follows:

Name	Nationality*	Citizenship Details**	Shares***
1.....
2.....
3.....

Date Signature of Bidder

**Attach proof of citizenship (Certified Copy of National ID or Passport) (Compulsory)*

*** Indicate by birth, registration or naturalization (Compulsory)*

**** Attach certified copy of Recent Form CR12 (Compulsory)*

Part 3~ Interest in the Firm:

Is there any person / Kenya National Bureau of Statistics who has interest in this firm?

Yes****	<input type="checkbox"/>
---------	--------------------------

No****	<input type="checkbox"/>
--------	--------------------------

.....

Date Signature of Bidder

***** Tick (✓) to agree as necessary (Compulsory)*

SCHEDULE 4: FORM OF WRITTEN POWER OF ATTORNEY

The Bidder shall state here below the name(s) and address of his representative(s) who is/are authorized to sign the document and receive on his behalf correspondence in connection with the Bid.

.....
(Name of Bidder's Representative in block letters)

.....
(Address of Bidder's Representative)

.....
(Signature of Bidder's Representative)

Alternate:

.....
(Name of Bidder's Representative in block letters)

.....
(Address of Bidder's Representative)

.....
(Signature of Bidder's Representative)

Note:

To be filled by all Bidders.

Both representative and alternate **must attach** copy of National Identification card or Passport.

SCHEDULE 5: CERTIFICATE OF BIDDER'S VISIT TO SITE

PRE-BID SITE VISIT CERTIFICATE

**PROPOSED UPGRADING OF POWER SUPPLY TO THE SERVER ROOM
AT REAL TOWERS UPPERHILL - NAIROBI**

I/We.....of.....
..... do hereby declare that I/We have visited the site in the company
of the below mentioned consultant and fully understand the scope and sequence of
works.

COMPANY REPRESENTATIVE

NAME:

DESIGNATION:

Date

OFFICIAL STAMP

KNBS REPRESENTATIVE

NAME:.....

SIGNATURE:.....

DATE:.....

OFFICIAL STAMP

Signed

Date

NOTE: This form is to be completed at the time of the organized site visit.

SCHEDULE 6: KEY PERSONNEL

DESIGNATION	NAME	NATIONALITY	SUMMARY OF QUALIFICATIONS AND EXPERIENCE		
			Qualifications	General Experience (Yrs)	Specific Experience (Yrs)
Headquarters Partner/Director or other key staff (give designation)					
Site Office Site Agent					
Foreman					

Note: The Bidder shall list in this schedule the key personnel he will employ from the Contractor's headquarters and from the Contractor's site office to direct and execute the work together with their qualifications, experience, position held and nationality in accordance with Clause 10 of the Conditions of Contract. Where required, use separate sheets to add extra data for column 4). Bidders shall attach certified copies of academic certificates, and CVs of all key staff.

I certify that the above information is correct.

.....
(Signature of Bidder)

.....
(Date)

SCHEDULE 6A: SCHEDULE OF CONSTRUCTION WORKS CARRIED OUT BY THE BIDDER IN THE LAST THREE YEARS

SCHEDULE 5A: COMPLETED WORKS

DESCRIPTION OF WORKS	NAME OF CLIENT	VALUE OF WORKS (KSHS) *	YEAR COMPLETED/REMARKS

Note: Bidders shall attach certified copies of letters of award (for each listed project), certified copies of completion certificates.

I certify that the above works were successfully carried out by this Bidder.

.....
(Signature of Bidder)

.....
(Date)

* Value in Kshs using Central Bank of Kenya mean exchange rate at a reference date 7 days before date of BID opening

SCHEDULE 6B: NON-COMPLETED WORKS BEYOND COMPLETION DATE

DESCRIPTION OF WORKS	NAME OF CLIENT	VALUE OF WORKS (KSHS) *	YEAR COMPLETED/ REMARKS

Note: Bidders shall attach certified copies of letters of award (for each listed project), certified evidence for executed works for non-completed projects e.g copy of recent payment certificate.

I certify that the above works were successfully carried out by this Bidder.

.....
(Signature of Bidder)

.....
(Date)

* Value in Kshs using Central Bank of Kenya mean exchange rate at a reference date 7 days before date of BID opening

SCHEDULE 7: SCHEDULE OF ONGOING PROJECTS

DESCRIPTION OF WORKS	NAME OF CLIENT	DATE OF COMMENCEMENT	DATE OF COMPLETION	VALUE OF WORKS (KSHS)	VALUE COMPLETED UP TO DATE %	PHYSICALLY COMPLETED UP TO DATE %

Note: 1. Bidders shall attach certified copies of letters of award (for each listed project) and any certified evidence for executed works e.g. copy of recent payment certificate.

2. Bidders must indicate all their on-going works as at the time of bidding. Any non-disclosure shall constitute non-responsiveness)

I certify that the above works are being carried out by me and that the above information is correct.

.....
(Signature of Bidder)

.....
(Date)

SCHEDULE 8: FINANCIAL STANDING

- 1 Submit copies of audited profit and loss statements, balance sheet and Cash flow statements for the last two calendar years and estimated projection for the next two years with certified English translation where appropriate. These must be signed by Certified Public Accountant recognized by ICPAK and at least one Director.
- 2 Give turnover figures for each of the last two (2) financial years. Quote in millions and decimal thereof.

	Year 1(.....)	Year 2(.....)
	Ksh. '000,000	Ksh. '000,000
Roadworks		
Other Construction Engineering works		
Other (specify)		
Total		

(a) Name/Address of Commercial Bank providing credit line

.....

(b) Total amount of credit line

Kshs.....

Attach certified copies of financial bank statements of the last six months.

Attach a certified copy of Undertaking of the Bank to providing the credit.

SCHEDULE 9: OTHER SUPPLEMENTARY INFORMATION

Financial reports for the last three years, balance sheets, profit and loss statements, auditors' reports etc. List them below and attach copies.

.....
.....
.....
.....

Evidence of access to financial resources to meet the qualification requirements. Cash in hand, lines of credit etc. List below and attach copies of supporting documents. Must submit Bank statements for the last six months, signed and stamped by the issuing bank.

.....
.....
.....
.....

Name, address, telephone, telex, fax numbers of the Bidders Bankers who may provide reference if contacted by the Contracting Authority.

.....
.....
.....

I certify that the above information is correct.

.....
Date

.....
Signature of Bidder

SCHEDULE 10: LITIGATION HISTORY

Information on litigation history in which the Bidder was involved.

OTHER PARTY (IES)	CAUSE OF DISPUTE	AMOUNT INVOLVED (KSHS)

I certify that the above information is correct.

.....
Date

.....
Signature of Bidder

SCHEDULE 11: WORK METHODOLOGY

Give a brief description of how you intend to carry out the work including traffic management and quality assurance of works, in not less than three (3) pages and not more than five (5) pages (typed, font 12 and single spaced).

SCHEDULE 12: DECLARATION FORMS

SELF DECLARATION FORMS

FORM SDI

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,, of Post Office Box
being a resident of _____ in the Republic of
do hereby make a statement as follows:-

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of _____ (insert name of the Company) who is a Bidder in respect of Tender No. for(insert tender title/description) for(insert name of the Procuring entity) and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.

.....
(Title) (Signature) (Date)

Bidder Official Stamp

SCHEDULE 13: SELF-DECLARATION FORMS

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

..... 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

.....(insert name of the Company) who is a Bidder in respect of Tender No for (insert tender title/description) for(insert name of the Procuring entity) and duly authorized and competent to make this statement.

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(insert name of the Procuring entity) which is the procuring entity.

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 hereinabove is true to the best of my knowledge information and belief.

.....
(Title) (Signature) (Date)

Bidder's Official Stamp

SCHEDULE 14: CONFIDENTIALITY DECLARATION FORM

.....an employee/agent/member of a board/member of a commission/member of a committee of [name of the procuring entity] hereby declare that I shall not disclose any information that comes into my possession during or after any procurement proceedings of[name of the procuring entity].....relating to —

- (1) any procurement whose disclosure would impede law enforcement or whose disclosure would impede law enforcement or whose disclosure would not be in the public interest;
- (2) any procurement whose disclosure would prejudice legitimate commercial interests, intellectual property rights or inhibit fair competition;
- (3) information relating to the evaluation, comparison or clarification of tenders, proposals or quotations; or
- (4) the contents of tenders, proposals or quotations.

I understand that the disclosure of such information to any unauthorized person(s) or in circumstances not permitted under the Public Procurement and Asset Disposal Act, 2015 is an offence.

I confirm that the declarations I have made above are correct to the best of my knowledge.

Name•.....

Signature.....

Date•.....

**SCHEDULE 14:SELF DECLARATION THAT THE PERSON/TENDERER IS NOT
DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET
DISPOSAL ACT 2015.**

I,, of Post Office Box
being a resident of _____ in the Republic of
do hereby make a statement as follows:-

4. THAT I am the Company Secretary/ Chief Executive/Managing
Director/Principal Officer/Director of _____ (insert name of
the Director(s))

SCHEDULE 15: AGENTS AUTHORIZATION FORM

(Failure to fill/ provide this form will lead to automatic disqualification.)

TO: (Name of entity)

.....

.....

Whereas

.....

(Name of Agent)

Who is established and reputable agent of

.....

...

Having businesses at

(Address of premises)

Do hereby confirm that we are the suppliers of spares of the above mentioned

Core/ Edge Switch to M/s

.....

...

We hereby extend our full guarantee for the availability of spares from us for the services offered by the above firm against this invitation to tender.

Name:

Signature:

Official Rubber Stamp:

Note: This form MUST be on the letter head of the agent and should be signed by an authorized person.

LETTER OF ACCEPTANCE

[Letter head paper of KNBS]

[date]

To: [name and address of the Contractor]

This is to notify you that your Tender dated [date] for execution of the [name of the Contract and identification number, as given in the Contract Data Sheet] for the Contract Price of the equivalent of [amount in numbers and works] [name of currency], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

We confirm that [insert name proposed by KNBS] to be the Adjudicator.

We accept that [name proposed by Tenderer] be appointed as Adjudicator.

Or

We do not accept that [name proposed by Tenderer] be appointed as adjudicator, and by sending a copy of this letter of acceptance to [insert the name of the Appointing Authority], we are hereby requesting [name], the Appointing Authority, to appoint the adjudicator in accordance with Clause 44.1 of the Instructions to Tenderers.

You are hereby instructed to proceed with the execution of the said works in accordance with the Contract documents.

Please return the contract dully signed.

Authorized Signature: _____ Name
and Title of Signatory: _____

Name of Agency: _____

Attachment: Form of Contract

FORM OF CONTRACT AGREEMENT

This Agreement, made the [day] day of [month], [year] between [name and address of Procuring Entity] (hereinafter called “KNBS”) and [name and address of Contractor] (hereinafter called “the Contractor”) of the other part.

Whereas KNBS is desirous that the Contractor execute [name and identification number of contract] (hereinafter called “the Works”) with the objectives of [insert functional objectives of the works] and KNBS has accepted the Tender by the Contractor for the execution and completion of such works and the remedying of any defects therein in the sum of [contract price in words and figures] (hereinafter called “Contract Price”).

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement;
2. In consideration of the payments to be made by KNBS to the Contractor as hereinafter mentioned, the Contractor hereby covenants with KNBS to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract;
3. KNBS hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein 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 in the presence of: _____

Signed, Sealed, and Delivered by the said _____

In the presence of: _____

Tendering Signature of Procuring Entity _____

Binding Signature of Contractor _____

SECTION XII: FORMS OF SECURITY

A. Tender Security (Bank or Insurance Guarantee) (Optional)

[If required, the Bank or Insurance Company/Tenderer shall fill in this Guarantee form in accordance with the instructions indicated in brackets.]

[insert bank's or insurance company's name, and address of issuing branch or office]

Beneficiary: [insert name and address of Procuring Entity]

Date: [insert date]

TENDER GUARANTEE No.: [insert number]

We have been informed that [insert name of the Tenderer; if a joint venture, list complete legal names of partners] (hereinafter called "the Tenderer") has submitted to you its Tender dated [insert date] (hereinafter called "the Tender") for the execution of [insert name of Contract] under Invitation for Tenders No. [insert IFT number] ("the IFT").

Furthermore, we understand that, according to your conditions, Tenders must be supported by a Tender Guarantee.

At the request of the Tenderer, we [insert name of bank or insurance company] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures expressed in the currency of the Purchaser's Country or the equivalent amount in an international freely convertible currency] ([insert amount in words]) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer;

- a) Has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender; or
- b) Does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT; or

- c) Having been notified of the acceptance of its Tender by KNBS during the period of Tender validity;
 - (i). Fails or refuses to execute the Contract Form, if required, or
 - (ii). Fails or refuses to furnish the Performance Security, in accordance with the ITT.

This Guarantee shall expire;

- a) If the Tenderer is the successful Tenderer, upon our receipt of copies of the Contract signed by the Tenderer and of the Performance Security issued to you by the Tenderer; or
- b) If the Tenderer is not the successful Tenderer, upon the earlier of;
 - (i) Our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or
 - (ii) Thirty days after the expiration of the Tenderer's Tender.

Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.

[Signature of authorized representative(s)]

B. Performance Bank or Insurance Guarantee [Unconditional]

[The Bank or Insurance Company/successful Tenderer providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if KNBS requires this type of security.]

[insert bank's or insurance company's name, and address of issuing branch or office]

Beneficiary: [insert name and address of Procuring Entity]

Date: [insert date]

PERFORMANCE GUARANTEE No.: [insert Performance Guarantee number]

We have been informed that [insert name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [insert reference number of the Contract] dated with you, for the execution of [insert name of Contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Contractor, we [insert name of Bank or Insurance Company] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures] ([insert amount in words]), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change, addition or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

This guarantee shall expire not later than thirty days from the date of issuance of the Taking-Over Certificate.

[Signature of an authorized representative(s) of the Bank or Insurance Company]

C. Bank or Insurance Guarantee for Advance Payment

[Bank's or Insurance Company's Name and Address of Issuing Branch or Office]

Beneficiary: _____ [Name and Address of Procuring Entity]

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated _____ with you, for the execution of [name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum [amount in figures] (_____) [amount in words] is to be made against an advance payment guarantee.

At the request of the Contractor, we [name of Bank or Insurance Company] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] (_____) [amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between _____ [name of Procuring Entity] and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated 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 eighty (80) percent of the Contract Price has been certified for payment, or on the ___ day of _____, 2___, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

Yours truly,

Signature and seal: _____ Name

of

Bank or Insurance Company:

Address:

Date:

SECTION XIII: APPLICATION TO PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

FORM RB 1 REPUBLIC OF KENYA PUBLIC PROCUREMENT
ADMINISTRATIVE REVIEW BOARD APPLICATION
NO.....OF.....20.....BETWEEN
.....APPLICANT

AND

.....RESPONDENT (Procuring Entity)

Request for review of the decision of the..... (Name of KNBS) of
.....dated the...day of20.....in the matter of Tender
No.....of20...

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical
address.....Fax No.....Tel. No.....Email, 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 order/orders that:

- 1.
- 2.

SIGNED (Applicant)

Dated on.....day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on

..... day of20.....

SIGNED

Board Secretary