



COUNTY ASSEMBLY OF TURKANA



**TENDER DOCUMENT FOR**

**PROPOSED CONSTRUCTION OF CAFETERIA FOR TURKANA COUNTY  
ASSEMBLY**

**SPECIFICATIONS AND BILLS OF QUANTITIES FOR TENDER**

**NO. TCA/CAF/10/2022-2023**

**NEGOTIATION NO: 1229775**

**EMPLOYER**

THE CLERK,  
TURKANA COUNTY ASSEMBLY,  
P.O. Box 25-30500  
LODWAR

APRIL 2023

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COUNTY ASSEMBLY OF TURKANA



**PROPOSED CONSTRUCTION OF CAFETERIA FOR TURKANA COUNTY ASSEMBLY**

**TENDER NO. TCA/CAF/10/2022-2023 NEG NO1229775**

The County Assembly of Turkana invites tenderers from reputable, competent interested bidders for the following tenders.

No.	Tender No.	TENDER DESCRIPTION	NEGOTIATION NUMBER	CLOSING DATE	TENDER SECURITY	APPLICANTS
1.	TCA/CAF/10/2022-2023	<b>PROPOSED CONSTRUCTION OF CAFETRIA FOR TURKANA COUNTY ASSEMBLY.</b>	1229775	26/4/2023	600,000	OPEN TO THE GENERAL PUBLIC

Interested, eligible and competent firms may obtain further information and inspect the Tender Documents detailing the requirements from [www.turkana assembly.go.ke](http://www.turkanaassembly.go.ke) or IFMIS PORTAL: [www.supplier.treasury.go.ke](http://www.supplier.treasury.go.ke) or PPIP PORTAL Completed tender documents MUST be submitted through the IFMIS SUPPLIER PORTAL: [www.supplier.treasury.go.ke](http://www.supplier.treasury.go.ke) as per the requirements contained in the documents as to be received on or before Tuesday 26<sup>TH</sup> APRIL, 2023 11.00 am and time indicated in the IFMIS PO

NO

Bidder who may experience challenges in accessing or uploading tender documents in the IFMIS TENDER PORTAL SHOULD CONTACT THE IFMIS help desk Tel (0800721477) at the National Treasury or Contact Supply chain Management Treasury Building Ground Floor.

The system will automatically LOCK OUT at the time and date of the tender closing on the IFMIS

MANUAL SUBMISSIONS SHALL NOT BE ACCEPTED

**THE CLERK  
TURKANA COUNTY ASSEMBLY  
P O BOX 25-30500-LODWAR**



**Architect**

Tego Arch Systems  
P.O. Box 68035-00200  
NAIROBI

**Quantity Surveyor**

**Structural Engineer**

**Mechanical Engineer**

**Employer's Representative**

This shall mean the **Project Manager** duly authorized to represent the County Assembly for the purpose of

this contract and shall be

**Be appointed by the Clerk,**

Turkana county Assembly,

P.O. Box 25-30500

Lodwar

The firm appointed to carry out the  
**Construction Turkana County Assembly  
Cafeteria TENDED NO TCA/CAF/10/2022-  
2023 NEG 1229775**

**Contractor**

**Site**

At locations specified in the Bills of Quantities.



## **SPECIAL NOTES**

These notes shall form part of the Instructions to Tenderers and Conditions of Contract.

The tenderer is required to check the number of pages in this document and should he find any missing, or in duplicate, or indistinct he should inform the Chairman, Turkana County Assembly board

3. Should the tenderer be in any doubt about the precise meaning of any item or figure, for any reason whatsoever, he must inform the Chairman, Turkana County Assembly board, in order that the correct meaning may be decided before the date of submission of tender?

No liability will be admitted nor claim allowed, in respect of errors in the tender due to mistakes in the specification, which should have been rectified in the manner, described above.

All tenderers must make a declaration that they have not and will not make any payment to any person which can be perceived as an inducement to enable them to win this tender.

Any tenderer whose firm uses the titles “Engineer” and “Engineers” must produce evidence of registration of at least one of the directors by the Engineers Registration Board of Kenya to avoid disqualification.

**FORM OF TENDER**

To: The Clerk  
Turkana County Assembly  
P.O. Box 25-30500  
**Lodwar**

Dear Sir,

**PROPOSED CONSTRUCTION OF CAFETERIA FOR TURKANA COUNTY**  
**TCA/CAF/10/2022-2023 NEG 1229775**

In accordance with the Instructions to Tenderers, Conditions of Contract, Specifications and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of:

Kshs.....*[Amount in figures inclusive of ALL TAXES]*

Kenya Shillings.....

.....*[Amount in words inclusive of ALL TAXES]*

We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Employer’s Representative’s notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.

We agree to abide by this tender for **a period of 120 days from the date of tender opening** and shall remain binding upon us and may be accepted at any time before that date.

Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.

understand that you are not bound to accept the lowest or any tender you may receive.

Dated this ..... day of .....20.....



Signature .....in the capacity of  
.....

duly authorized to sign tenders for and on behalf of:

.....[*Name of Tenderer*]

of.....[*Address of Tenderer*]

**PIN No.** .....

**VAT CERTIFICATE No.** .....

**Witness:** Name .....

Address .....

Signature .....

**FORM OF TENDER SECURITY**

**Appendix I**

To: The Clerk  
Turkana County Assembly  
P.O. Box 25-30500

**Lodwar**

**WHEREAS** ..... (hereinafter called “the Tenderer”) has submitted

**his tender dated** ..... For the **PROPOSED COUNTY CAFETERIA**

**KNOW ALL PEOPLE** by these presents that **WE**

.....

Having our registered office at

.....

(hereinafter called “the Bank”), are bound unto

.....

(hereinafter called “the Employer”) in the sum of

Kshs.....

for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this

.....Day of .....20 .....

**THE CONDITIONS** of this obligation are:

If after tender opening the Tenderer withdraws his tender during the period of tender validity specified in the instructions to Tenderers

Or

If the Tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:

fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or

fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

We undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by his is due to him, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including **one hundred and fifty**

**days** after the day of tender opening, and any demand in respect thereof should reach the Bank not later than the said date.

.....

*(date) (signature of the Bank)*

.....

(witness) (seal)

**FORM OF TENDER SECURITY**

**Appendix II**

To: The Clerk  
Turkana County Assembly  
P.O. Box 25-30500  
**Lodwar**

WHEREAS.....  
.....  
has submitted his tender  
dated.....

(hereinafter called “the  
Tenderer”)

**For the PROPOSED**

**TURKANA COUNTY  
ASSEMBLY  
CAFETERIA**

KNO

W ALL PEOPLE by these presents that  
WE.....

..... of.....(Name of

Bank). having our registered office at

(hereinafter called “

the Guarantor”), are bound unto

(hereinafter called “the

Procuring Entity” in the sum of

Kshs..... for which

payment well and truly to be made to the said Procuring Entity Guarantor bind itself,

, the its

successors and assigns by these presents sealed with the Common Seal of the said

Guarantor this .....Day of

.....20.....

THE CONDITIONS of this obligation are:

If after tender opening the tenderer withdraws his tender during the period of  
tender validity specified in the instructions to tenderers

Or

If the tenderer, having been notified of the acceptance of this tender by the Employer  
during the period of tender validity:

- a) fails or refuses to execute the form of Agreement in accordance  
with the Instructions to Tenderers, if required; or

b)fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

We undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to him, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force for a period of 150 days from the date of tender opening, and any demand in respect thereof should reach the Guarantor not later than the said date.

\_\_\_\_\_

[date] [signature of the Guarantor]

\_\_\_\_\_

[witness] \_\_\_\_\_

[seal]





**PART A:**

**INSTRUCTIONS TO TENDERERS.**

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**INSTRUCTIONS TO TENDERERS**

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## ***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**

#### **Definitions**

**“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.

**“Approved tenderer”** means the tenderer who is approved by the Employer.

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.”

**“Employer”** means a Central Government Ministry, Local Authority, State Corporation or any other Public Institution.

#### **Eligibility and Qualification Requirements**

2.1 This invitation to tender is open to all tenderers who have been prequalified.

2.2 To be eligible for award of Contract, the tenderer shall provide evidence satisfactory to the Employer 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 already submitted during prequalification:-

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.

The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site.

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.

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.

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.

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:-

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.

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.

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.

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).

A copy of the agreement entered into by the joint venture partners shall be submitted with the tender.

### Cost of Tendering

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

### Site Visit

4.1 The tenderer is advised to 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 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 the Employer 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 indemnify the Employer 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 The Employer shall organize a site visit at a date to be notified. A representative of the Employer will be available to meet the intending tenderers at the Site.

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.



## TENDER DOCUMENTS

### 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.

Form of Invitation for Tenders

Instructions to Tenderers

Form of Tender

Appendix to Form of Tender

Form of Tender Surety

Statement of Foreign Currency Requirements

Form of Performance Security

Form of Agreement

Form of Advance payment Bank Guarantee

Schedules of Supplementary Information

General Conditions of Contract – Part I

Conditions of Particular Application – Part II

Specifications

Bills of Quantities

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".

### Clarification of Tender Documents

- 6.1A prospective tenderer requiring any clarification of the tender documents may notify the Employer in writing or by telex, cable or facsimile at the Employer's mailing address indicated in the Invitation to Tender. The Employer will respond in writing to any request for clarification which he receives earlier than 7 days prior to the deadline for the submission of tenders. Written copies of



the Employer's response (including the query but without identifying the source of the inquiry) will be sent to all prospective tenderers who have purchased the tender documents.

#### Amendment of Tender Documents

- 7.1 At any time prior to the deadline for submission of tenders the Employer 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 purchased the tender documents 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, the Employer 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, the Employer may, at his discretion, extend the deadline for the submission of tenders.

#### PREPARATION OF TENDERS

##### Language of Tender

- 8.1 The tender and all correspondence and documents relating to the tender exchanged between the tenderer and the Employer 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.

##### 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].

#### 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 the Employer 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. The Employer 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 the Employer 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.

#### 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 The rate of rates of exchange used for pricing the tender shall be selling rate or rates of the Central Bank ruling on the date thirty (30) days before the final date for the submission of tenders.
- 11.4 Tenderers must enclose with their tenders, a brief justification of the foreign currency requirements stated in their tenders.

#### 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, the Employer 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.

### Tender Surety

- 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 bank draft from a reputable Bank 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 of the Employer. The Tender Surety shall be valid for One hundred and fifty days (150) days beyond the tender validity period.
- 13.3 Any tender not accompanied by an acceptable Tender Surety will be rejected by the Employer as non-responsive.
- 13.4 The Tender Sureties of unsuccessful tenderers will be returned as promptly as possible 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:
- if a tenderer withdraws his tender during the period of tender validity: or
  - in the case of a successful tenderer, if he fails
    - to sign the Agreement, or
    - to furnish the necessary Performance Security
  - if a tenderer does not accept the correction of his tender price pursuant to clause 23.



### 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.

### Format and Signing of Tenders

15.1 The tenderer shall prepare his tender as outlined in clause 9 above and mark appropriately one set "ORIGINAL" and the other "COPY".

15.2 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.

15.3 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 or persons signing the tender.



## SUBMISSION OF TENDERS

### Sealing and Marking of Tenders

- 16.1 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 the Employer 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, the Employer will assume no responsibility for the misplacement or premature opening of the tender. A tender opened prematurely for this cause will be rejected by the Employer and returned to the tenderer.

### Deadline for Submission of Tenders

- 18.1 Tenders must be received by the Employer at the address specified in clause 17.2 and on the date and time specified in the Letter of Invitation, 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 the Employer.
- 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 The Employer 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 the Employer 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 the Employer after the prescribed deadline for submission of tender will be returned unopened to the tenderer.

### 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 the Employer prior to prescribed deadline for submission of tenders.
- 19.2 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.
- 19.3 No tender may be modified subsequent to the deadline for submission of tenders.
- 19.4 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.
- 19.5 Subsequent to the expiration of the period of tender validity prescribed by the Employer, and the tenderer having not been notified by the Employer of the award of the Contract or the tenderer does not intend to conform with the request of the Employer to extend the prior of tender validity, the tenderer may withdraw his tender without risk of forfeiture of the Tender Surety.

### TENDER OPENING AND EVALUATION

#### Tender Opening

- 20.1 The Employer will open the tenders in the presence of the tenderers' representatives who choose to attend at the time and location indicated in the Letter of 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. The Employer 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, the Employer 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 the

Employer, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.

- 20.4 The Employer 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.

#### 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 the Employer 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.

#### Clarification of Tenders

- 22.1 To assist in the examination, evaluation and comparison of tenders, the Employer 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 the employer during the evaluation of the tenders in accordance with clause 24.
- 22.2 No Tenderer shall contact the Employer 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 the Employer, he shall do so in writing.

#### Determination of Responsiveness

- 23.1 Prior to the detailed evaluation of tenders, the Employer 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, the Employer'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 the Employer'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 the Employer and may not subsequently be made responsive by the tenderer by correction of the non-conforming deviation or reservation.

#### Correction of Errors

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

Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will govern.

Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case adjustment will be made to the entry containing that error.

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.

#### 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 The Employer 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.

#### Evaluation and Comparison of Tenders

- 26.1 The Employer 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, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:

Making any correction for errors pursuant to clause 24.

Excluding Provisional Sums and provision, if any, for Contingencies in the Bills of Quantities, but including Day works where priced competitively.

- 26.3 The Employer 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 the Employer, 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 the Employer's estimate of the items of work to be performed under the Contract, the Employer 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, the Employer 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 the Employer 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.

## AWARD OF CONTRACT

### Award

- 27.1 Subject to clause 27.2, the Employer 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 The Employer 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 the Employer's action.

### Notification of Award

- 28.1 Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer 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 the Employer 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 the Employer, the successful tenderer shall sign the form and return it to the Employer together with the required Performance Security.

### Performance Guarantee





- 29.1 Within twenty eight [28] days of receipt of the notification of award from the Employer, the successful tenderer shall furnish the Employer 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 the Employer 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 the Employer may award the Contract to the next ranked tenderer.

#### Advance Payment

An advance payment, if approved by the Employer, shall be made under the Contract, if requested by the Contractor, in accordance with clause 33.1 of the 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 of the Employer.



**SECTION B**

**CONDITIONS OF CONTRACT**

## **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 the Employer 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 the Employer.

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

**“The Contract Price”** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

**“Days”** are calendar days; **“months”** are calendar months.

**“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.

**“Dayworks”** are Work inputs subject to payment on a time basis for labour and the associated materials and plant.

**“Employer”** or the **“procuring entity”** as defined in the Public Procurement Regulations (i.e. Central or Local Government administration, Universities, Public Institutions and Corporations, etc) is the party who employs the Contractor to carry out the Works.

**“Equipment”** is the Contractor’s machinery and vehicles brought temporarily to the Site for the execution of the Works.

**“The intended completion date”** is the date on which it is intended that the Contractor shall complete the works. The intended Completion Date may be revised only by the Project manager by issuing an extension of time or 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 the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract and shall be an “Architect” or a “Quantity Surveyor registered under the Architects and Quantity Surveyors Act Cap 525 or an “Engineer” registered under Engineers Registration Act Cap 530.

**“Site”** 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 documents tendering and interpretative about the surface and which are factual 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 the Employer and notified to the Contractor for the purpose of supervision of the Works.

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

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



## **2. Interpretation**

- 2.1. 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.
- 2.2. If sectional completion is specified in the Appendix to Conditions of Contract, reference in the Conditions of Contract to the Works, the Completion Date and the Intended Completion Date apply to any section of the Works (other than references to the Intended Completion Date for the whole of the Works).
- 2.3. The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;

Agreement,  
Letter of acceptance,  
Contractor's Tender,  
Appendix to Conditions of Contract,  
Conditions of Contract,  
Specifications,  
Drawings,  
Bills of Quantities,  
Any other documents listed in the Appendix to  
Conditions of Contract as forming part of the contract.

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

## **3. Language and Law**

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



## **Project Manager's Decisions**

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

## **5. Delegation**

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

## **6. Communications**

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

## **7. Subcontracting**

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

## **8. Other Contractors**

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

## **9. Personnel**

- 9.1. The Contractor shall employ the key personnel named in the Qualification Information, to carry out the functions stated in the said information or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Qualification Information. If the Project Manager asks the Contractor to remove a



person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within Seven days and has no further connection with the Work in the Contract.

## **10. Works**

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

## **11. Safety and Temporary Works**

11.1. The Contractor shall be responsible for the design of temporary works. However before erecting the same, he shall submit his designs including specifications and drawings to the Project Manager and to any other relevant third parties for their approval. No erection of temporary works shall be done until such approvals are obtained.

11.2. The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary works and all drawings prepared by the Contractor for the execution of the temporary or permanent works, shall be subject to prior approval by the Project Manager before they can be used. The Contractor shall be responsible for the safety of all activities on the Site.

## **12. Discoveries**

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

## **13. Work Program**

13.1. 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.

13.2. 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.

13.3. 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.

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

#### **14. Possession of Site**

14.1. The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Appendix to Conditions of Contract, the Employer will be deemed to have delayed the start of the relevant activities, and this will be Compensation Event.

#### **15. Access to Site**

15.1. 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**

16.1. 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**

17.1. The Project manager shall extend the Intended Completion Date if a Compensation Event occurs or a variation is issued which makes it

impossible for completion to be achieved by the Intended Completion Date  
without the Contractor



taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost. The Project Manager shall decide whether and by how much to extend the Intended Completion Date with 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 caused by such failure shall not be considered in assessing the new (extended) Completion Date.

17.2. No bonus for early completion of the Works shall be paid to the Contractor by the Employer

## **18. Management Meetings**

18.1. A 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 the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

## **19. Early Warning**

19.1. The Contractor shall warn the Project 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 required the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

19.2. The Contractor shall cooperate with the Project Manager in making and considering proposals on how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the Work and in carrying out any resulting instruction of the Project Manager.

## **20. Defects**

20.1. The Project Manager shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the

Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a defect and to uncover and test any work that the Project manager considers may have defects.

20.2. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor. However, if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.

20.3. 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.

20.4. Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Project Manager's notice. If the Contractor has not corrected a defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

## **21. Bills of Quantities**

21.1. The Bills of Quantities shall contain items for the construction, installation, testing and commissioning of the work to be done by the Contractor. The Contractor will be paid for the quantity of the work done at the rate in the Bills of Quantities for each item.

21.2. If the final quantity of the work done differs from the quantity in the Bills of Quantities for the particular item by more than 25 percent and provided the change exceeds 1 percent of the Initial Contractor price, the Project Manager shall adjust the rate to allow for the change.

21.3. If requested by the Project Manager, the Contractor shall provide the Project manager with a detailed cost breakdown of any rate in the Bills of Quantities.

## **22. Variations**

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

22.2. The Contractor shall provide the Project Manager with a quotation for carrying out the variations when requested to do so. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period as may be stated by the Project Manager and before the Variation is ordered.

22.3. If the work in the variation corresponds with an item description in the Bills of Quantities and if in the opinion of the Project Manager, the quantity of work is not above the limit stated in Clause 21.2 or the timing of its execution does not cause the cost per unit of quantity to change, the rate in the Bills of Quantities shall be used to calculate the value of the variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the variation does not correspond with items in the Bills of Quantities, the quotation by the contractor shall be in the form of new rates for the relevant items of work.

22.4. If the Contractor's quotation is unreasonable, the Project manager may order the variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the variation on the Contractor's cost

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

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

22.7. When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast.

### **23. Payment Certificates, Currency of Payments and Advance Payments**

23.1. The Contractor shall submit to the Project Manager monthly applications for payment giving sufficient details of the Work done and materials on Site and the amounts which the Contractor considers himself to be entitled to. The Project Manager shall check the monthly application and certify the amount

to be paid to the Contractor within 14 days. The value of work executed and payable shall be determined by the Project Manager.

- 23.2. The value of work executed shall comprise the value of the quantities of the items in the Bills of Quantities completed; materials delivered on site, variations and compensation events. Such materials shall become the property of the Employer once the Employer has paid the Contractor for their value. Thereafter, they shall not be removed from site without the Project Manager's instructions except for use upon the works.
- 23.3. Payments shall be adjusted for deductions for retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes a late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis of number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue.
- 23.4. If an amount certified is increased in a later certificate 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.
- 23.5. Items of the works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.
- 23.6. The Contract Price shall be stated in Kenya Shillings. All payments to the contractor shall be made in Kenya Shillings and foreign currency in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein.
- 23.7. The rate of exchange for the calculation of the amount of foreign currency payment shall be the rate of exchange indicated in the Appendix to Conditions of Contract. If the contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services. The Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services.
- 23.8. The Employer and the Project manager shall be notified promptly by the Contractor of an changes in the expected foreign currency requirements of the Contractor during the execution of the works as indicated in the Schedule

of Foreign Currency Requirements and the foreign and local currency portions of the balance of

the Contract Price shall then be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.

23.9. In the event that an advance payment is granted, the following shall apply:-

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.

No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.

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.

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

$$R = \frac{A(X_1 - X_{11})}{20} \times 80$$

Where:

R = the amount to be reimbursed

A = the amount of the advance which has been granted

X<sub>1</sub> = 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%.

With each reimbursement the counterpart of the directly liable guarantee may be reduced accordingly.

### **Compensation Events**

24.1. The following issues shall constitute Compensation Events.

The Employer does not give access to a part of the site by the Site Possession Date stated in the Appendix to Conditions of Contract.

The Employer modifies the List of Other Contractors, etc., in a way that affects the Work of the Contractor under the Contract.

The Project Manager orders a delay or does not issue drawings, specifications or instructions required for execution of the works on time.

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.

The Project Manager unreasonably does not approve a subcontract to be let.

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.

The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer or additional works required for safety or other reasons.

Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.

The effects on the Contractor of any of the Employer's risks.

The Project Manager unreasonably delays issuing a Certificate of Completion.

Other compensation events described in the Contract or determined by the Project manager shall apply

- 24.2. If a compensation event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 24.3. 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.
- 24.4. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 24.5. The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having co-operated with the Project Manager.
- 24.6. Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Appendix to Conditions of Contract.
- 24.7. 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.

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

## **25. Price Adjustment**

25.1. The Project Manager shall adjust the Contract Price if taxes, duties and other levies are changed between the date 30 days before the submission of tenders for the Contract and the date of Completion. The adjustment shall be the change in the amount of tax payable by the Contractor.

25.2. The Contract Price shall be deemed to be based on exchange rates current at the date of tender submission in calculating the cost to the Contractor of materials to be specifically imported (by express provision in the Contract Bills of Quantities or Specifications) for permanent incorporation in the Works.

25.3. 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.

25.4. 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;

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.

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 or 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.

No adjustment shall be made in respect of changes in the rates of wages and other emoluments and expenses which occur after the date of Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.

25.5. 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.

25.6. Upon the J.B.C. determining that any of the said basic prices are increased or decreased then the Contract Price shall be increased or decreased by the amount to be assessed by the Project Manager based upon the difference between the price set out in the schedule of basic rates issued 30 days before the date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of the relevant materials which have not been taken into account in arriving at the amount of any interim certificate under clause 23 of these Conditions issued before the date of publication of such increase or decrease.

25.7. No adjustment shall be made in respect of changes in basic prices of materials which occur after the date for Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.

25.8. 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**

26.1. The Employer 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. Liquidate Damages**

- 27.1. The Contractor shall pay liquidated damages to the Employer at the rate stated in the Appendix to Conditions of Contract for each day that the actual Completion Date is later than the Intended Completion Date. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not alter the Contractor's liabilities.
- 27.2. If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rate specified in Clause 23.30.

## **28. Securities**

- 28.1. The Performance Security shall be provided to the Employer 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 the Employer, and denominated in Kenya shillings. The Performance Security shall be valid until a date 30 days beyond the date of issue of the Certificate of Completion.

## **29. Dayworks**

- 29.1. If applicable, the Dayworks rates in the Contractor's tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 29.2. All work to be paid for as Dayworks shall be recorded by the Contractor on Forms approved by the Project Manager. Each completed form shall be verified and signed by the Project manager within two days of the work being done.
- 29.3. The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

## **30. Liability and Insurance**

- 30.1. From the Start Date until the Defects Correction Certificate has been issued, the following are the Employer's risks



The risk of personal injury, death or loss of or damage to property (excluding the works, plant, materials and equipment), which are due to;

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 negligence, breach of statutory duty or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.

The risk of damage to the works, plant, materials, and equipment to the extent that it is due to a fault of the Employer or in Employer's design, or due to war or radioactive contamination directly affecting the place where the works are being executed.

30.2. From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the works, plant, and materials is the Employer's risk except loss or damage due to;

a defect which existed on or before the Completion Date.  
An event occurring before the Completion Date, which was not itself the Employer's risk.  
The activities of the Contractor on the Site after the Completion Date.

30.3. From the Start Date until the Defects Correction Certificate has been issued, the risks of personal injury, death and loss of or damage to property (including, without limitation, the works, plant, materials, and equipment) which are not Employer's risk are contractor's risks.

The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts stated in the Appendix to Conditions of Contract for the following events;

a) loss of or damage to the works, plant and materials;

loss of or damage to Equipment;  
loss of or damage to property (except the works, plant materials, and equipment) in connection with the Contract,  
and  
Personal injury or death.

- 30.4. Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation required to rectify the loss or damage incurred.
- 30.5. If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 30.6. Alterations to the terms of insurance shall not be made without the approval of the Project Manager. Both parties shall comply with any conditions of insurance policies.

### **31. Completion and Taking over**

- 31.1. Upon deciding that the works are complete, the Contractor shall issue a written request to the Project Manager to issue a Certificate of Completion of the works. The Employer shall take over the site and the works within seven (7) days of the Project manager's issuing a Certificate of Completion.

### **32. Final Account**

- 32.1. The Contractor shall issue the Project Manager with a detailed account of the total amount that the Contractor considers payable to him by the Employer under 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.
- 32.2. 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.
- 32.3. The Employer shall pay the Contractor the amount due in the Final certificate within 60 days.

### **33. Termination**

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

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.

The Project Manager instructs the Contractor to delay the progress of the works, and the instruction is not withdrawn within 30 days.

The Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation.

A payment certified by the Project Manager is not paid by the Employer to the Contractor within 30 days (for Interim Certificate) or 60 days (for Final Certificate) of issue.

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.

The Contractor does not maintain a security, which is required.

33.2. 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.

33.3. Notwithstanding the above, the Employer may terminate the Contract for convenience.

33.4. 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.

33.5. The Project Manager shall immediately thereafter arrange for a meeting for the purpose of taking record of the works executed and materials, goods, equipment and temporary buildings on site.

#### **34. Payment Upon Termination**

34.1. If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and materials ordered and delivered to site up to the issue of the certificate. Additional liquidated damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable by the contractor.

34.2. If the contract is terminated for the Employer's convenience or because of a fundamental breach of contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, materials ordered, the reasonable cost of removal of equipment, repatriation of the Contractor's personnel employed solely on the works, and the Contractor's costs of protecting and securing the works.

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

34.4. The contractor shall, during the execution or after the completion of the works under this clause remove from the site as and when required, within such reasonable time as the Project Manager may in writing specify, any temporary building, plant, machinery, appliances, goods or materials belonging to or hired by him, and in default the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, hold the proceeds less all costs incurred to the credit of the Contractor.

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

### **35. Release from Performance**

35.1. If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it.

### **Corrupt gifts and Payment of Commission**

36.1. The Contractor shall not;

Offer or give or agree to give to any person in the service of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract for the Employer.

Enter into this or any other contract with the Employer in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Employer.

36.2. 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**

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

Arbitrator shall be appointed by the Chairman or Vice Chairman of any of the following professional institutions;

Architectural Association of Kenya

Institute of Quantity Surveyors of Kenya

Association of Consulting Engineers of Kenya

Chartered Institute of Arbitrators (Kenya Branch)

Institute of Engineers of Kenya

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

37.3. 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.

37.4. Provided that no arbitration proceedings shall be commenced on any dispute or difference where notice of a dispute or difference has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

37.5. Notwithstanding the issue of a notice as stated above, the arbitration of such a dispute or difference shall not commence unless an attempt has in the first instance been made by the parties to settle such dispute or difference amicably with or without the assistance of third parties. Proof of such attempt shall be required.

37.6. 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.

37.7. 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 the Employer and the Contractor agree otherwise in writing.

37.8. 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.

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

**APPENDIX TO CONDITIONS OF CONTRACT**

**CONDITIONS OF CONTRACT CLAUSE 1**

The Employer is: **THE TURKANA COUNTY  
ASSEMBLY,**

Represented by: **The Clerk,  
TURKANA COUNTY  
ASSEMBLY,**

Address: **P.O. Box 25-30500,  
LODWAR**

**CONDITIONS OF CONTRACT  
CLAUSE 1**

The Project Manager is: Shall be appointed by the County  
Clerk

Turkana county Assembly

Address: **P. O. Box 25 - 30500,  
Lodwar**

**CONDITIONS OF CONTRACT CLAUSE 1**

The name (and identification number) of the Contract is: **Proposed county cafeteria**

**CONDITIONS OF CONTRACT CLAUSE 1**

The Contract Works consist of **construction of county cafeteria**

**CONDITIONS OF CONTRACT CLAUSE 1**

The start date shall be **as stated in the letter of acceptance**

**CONDITIONS OF CONTRACT CLAUSE 1**

The Intended Completion Date for the whole of the Works shall be **as stated in the Letter of Acceptance.**

**CONDITIONS OF CONTRACT CLAUSE 2**

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 **as stated in the Letter of Acceptance.**

**CONDITIONS OF CONTRACT CLAUSE 1**

The Site is located along Turkana county

**CONDITIONS OF CONTRACT CLAUSE 13**

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

**CONDITIONS OF CONTRACT CLAUSE 1**



The Defects Liability Period is 6 months from practical completion date

**CONDITIONS OF CONTRACT CLAUSE 32**

Period of final measurement: **6 months after practical completion**

**INSTRUCTION TO TENDERERS CLAUSE 20**

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

**INSTRUCTION TO TENDERERS CLAUSE 20**

The name and Address of the Employer's representative for the purposes of submission of Tenders is **as stated in the Tender Invitation Notice**

**INSTRUCTION TO TENDERERS**

**CLAUSE 13** Amount of Tender Security is 2% of construct amount

**INSTRUCTION TO TENDERERS CLAUSE 29**

The amount of performance security is **10 percent** bank guarantee of the Contract Price.

**CONDITIONS OF CONTRACT CLAUSE 27**

Liquidated and Ascertained damages: **At the rate of 0.15% OF THE CONTRACT SUM thereof.**

**CONDITIONS OF CONTRACT CLAUSE 23**

Period of honouring certificate : **30 days**

Percentage of certified value retained : **10%**

Limit of certified value retained : **10%**

Period between program updates is : **28 days**

The completion period for the Contract works: **48 Weeks**

**OMIT CLAUSE 23.7**

## SPECIAL CONDITIONS OF CONTRACT

### TENDER EVALUATION CRITERIA

#### STAGE ONE – PRELIMINARY EVALUATION

TCA/CAF/10/2022-2023

#### EVALUATION CRITERIA

Evaluation of tenders shall be carried out in accordance with the criteria set out in this tender document. The evaluation shall be as follows:

- a) Preliminary Evaluation
- b) Technical and
- c) Financial Evaluation

#### **Preliminary Evaluation**

<b>Evaluation and Comparison of Tenders- Documentary Evidence in form of copies</b>		
<b>No</b>	<b>1. Mandatory Requirements</b>	<b>Yes/No</b>
1	Bid security of Kshs. <b>600,000</b> from a bank or a reputable insurance company approved by PPRA	
2	Form of Tender duly completed, signed and stamped.	
3	Business questionnaire duly completed, signed and stamped.	
4	Copy of Certificate of Incorporation/Registration	
5	Copy of KRA PIN certificate	
6	Copy of Valid Tax Compliance Certificate/exemption certificate	
7	Valid certified NCA 6 registration certificate as a building works contractor.	
8	Valid single business permit from the relevant County Government	

**At this stage, the tenderer's submission will either be responsive or non-responsive. Failure to provide ANY of the above mandatory requirements will lead to disqualification**

### Technical Evaluation Criteria

No	Requirements	Evidence	Max. Score	Score Awarded
1	Experience	Previous experience detailing similar projects undertaken successfully evidenced by letters of reference from clients, completion certificates for the respective projects to the proposed works in terms of the physical size and complexity (10 marks, each client 2 mark) Over 5 clients – 10 marks	10	
		One of the contracts should be valued at least 5 million and above. (5marks). Experience under the construction contracts in the role as a main contractor or sub-contractor for at least 3 years (5marks)	5  5	
	Qualified  Technical Staff	CVs, academic and professional certificates and evidence of registrations with professional bodies. Building/ civil engineer- 10 mks Diploma in building/ quantity surveyor- 5 marks Project manager-5mks	20	

No	Requirements	Evidence	Max. Score	Score Awarded
	Equipment	Give a list and type of relevant equipment (related to this tender) owned by firm evidenced by ownership Documents. Where not owned by company, provide documentary evidence of leased equipment as required. At least 2 mks each.	20	
	Site Agent	Qualification = DIP In Construction Engineering or Equivalent(5marks)	5	
	Foreman	General Experience= 5 Yrs=(2mark) Specific Experience = 3Yrs (5mark)  Qualification = Dip. Construction Engineering or Equivalent General Experience = 5 yrs(3marks) Specific Experience = 3 Yrs (5marks)	15	

#### Financial capacity

No	Requirements	Evidence	Max. Score	Score Awarded
	Audited statements	Audited Statements for the last two years 2020-2021-2022	20	
	Total Score		100	

**Only bidders who score 70% and above will proceed to financial evaluation stage. Those who score below 70% will be eliminated at this stage from the entire evaluation process and will not be considered for further evaluation**

#### **STAGE 3 – FINANCIAL EVALUATION**

*Technically qualified bids to be compared and ranked as per evaluation criteria.*

**RECOMMENDATIONS:**

*Award to the lowest evaluated bidder and whose offer has been determined to be substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.*

*The Procuring Entity (The Turkana County Assembly ) reserves the right to award the contract for the construction of new assembly*

Introduction

- |                    |  |
|--------------------|--|
| Scope of<br>Tender | <p><b>1.1</b> The Procuring Entity indicated in the <b>Tender Data Sheet</b> (TDS) invites Tenders for the construction of works as specified in the <b>Tender Data Sheet</b> and Sections VI (Technical Specifications) and VII (Drawings).</p> <p><b>1.2</b> The successful Tenderer will be expected to complete the works by the required completion date specified in the <b>Tender Data Sheet</b>.</p> <p><b>1.3</b> The objectives of the works are listed in the <b>Tender Data Sheet</b>. These are mandatory requirements. Any subsequent detail is offered to support these objectives and must not be used to dilute their importance.</p>   |
| Source of<br>Funds | <p><b>2.1</b> The Government of Kenya has set aside funds for the use of the Procuring Entity named in the <b>Tender Data Sheet</b> during the Financial Year indicated in the <b>Tender Data Sheet</b>. It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the works as described in the <b>Tender Data Sheet</b>.</p> <p><b>Or</b><br/>The Government of Kenya through Procuring Entity named in the <b>Tender Data Sheet</b> has applied for/received/ intends to apply for a [loan/credit/grant] from the financing institution named in the <b>Tender Data Sheet</b> towards the cost of the Project named in the <b>Tender Data Sheet</b>. The Government of Kenya intends to apply a part of the proceeds of this [loan/credit/grant] to payments under the Contract described in the <b>Tender Data Sheet</b></p> <p><b>2.2</b> Payments will be made directly by the Procuring Entity (or by financing</p> |

Eligible

Tenderers

institution specified in the **Tender Data Sheet** upon request of the Procuring Entity to so pay) and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring Entity.

- 3.1** A Tenderer may be a natural person, private or public company, government-owned institution, subject to sub-Clause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the **Tender Data Sheet**, all parties shall be jointly and severally liable.
- 3.2** The Invitation for Tenders is open to all suppliers as defined in the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006 except as provided hereinafter.
- 3.3** National Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry of Public Works or the Energy Regulatory Commission.
- 3.4** A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:
- Are associated or have been associated in the past directly or indirectly with employees or agents of the Procuring Entity or a member of a board or committee of the Procuring Entity;
  - Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the works under this Invitation for Tenders;
  - Have controlling shareholders in common; or
  - Receive or have received any direct or indirect subsidy from any of them; or

Have the same legal representative for purposes of this Tender; or

Have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or

Submit more than one Tender in this Tendering process, However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderer and subcontractor simultaneously.

**3.5** A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the project and related services that are the subject of the Tender.

**3.6** Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya in accordance with GCC sub-Clause 3.2.

**3.7** Government owned enterprises in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.

**3.7** Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

One Tender  
per  
Tenderer

**4.1** A firm shall submit only one Tender, in the same Tendering process, either individually as a Tenderer or as a partner in a joint venture pursuant to ITT Clause 5.

**4.2** No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same Tendering process.

**4.3** A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity.

**4.4 A**  
Tenderer who  
submits or  
participates in  
more than one  
Tender (other

65



than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the Tenders in which the Tenderer has participated to be disqualified.

Alternative  
Tenders  
by  
Tenderer  
s

**5.1** Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderer's technical design as indicated in the specifications and Drawings and Bill of Quantities. Alternatives will not be considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, sub-Clause 5.2 and 5.3 shall govern.

**5.2** When alternative times for completion are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** as will the method of evaluating different times for completion.

**5.3** If so allowed in the **Tender Data Sheet**, Tenderers wishing to offer technical alternatives to the requirements of the Tendering documents must also submit a Tender that complies with the requirements of the Tendering documents, including the basic technical design as indicated in the specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including technical specifications, breakdown of prices, and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Procuring Entity.

Cost of  
Tenderin  
g

**6.1** The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

Site Visit  
and  
Pre-  
Tender  
Meeting

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

**7.2** The  
Procuring  
Entity may

conduct a site visit and a pre-Tender meeting. The purpose of the pre-Tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

- 7.3** The Tenderer's designated representative is invited to attend a site visit and pre-Tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.
- 7.4** The Tenderer is requested as far as possible, to submit any questions in writing or by electronic means to reach the procuring Entity before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions, but questions and responses will be transmitted in accordance with sub-Clause 7.5.
- 7.5** Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within the time stated in the **Tender Data Sheet** to all purchasers of the Tendering documents. Any modification of the Tendering documents listed in sub-Clause 8.1 that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT sub Clause 10.2 and not through the minutes of the pre-Tender meeting.
- 7.6** Non attendance during the site visit or pre-Tender meeting will not be a cause for disqualification of a Tenderer unless specified to the contrary in the **Tender Data Sheet**.

#### Tendering Documents

Content of  
Tendering  
Documents

**8.1** The works required, Tendering procedures, and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders, Tendering documents which should be read in conjunction with any addenda issued in accordance with ITT sub Clause 10.2 include:

- Section II Instructions to Tenderers
- Section III Tender Data Sheet
- Section IV General Conditions of Contract
- Section V Contract Data Sheet
- Section VI Specifications
- Section VII Drawings
- Section VIII Bill of Quantities

Section IX Forms of Tender  
Form of Tender  
Appendix to Tender  
Confidential Business  
Questionnaire Integrity  
Declaration  
Letter of Acceptance  
Form of Contract Agreement

Section X Forms of Security

Tender Security

Form

Tender Securing Declaration

Performance Bank or Insurance

Guarantee Advance Payment

Guarantee

Section XI Form RB 1 Application to Public

Procurement Administrative Review

Board

**8.2** The number of copies to be completed and returned with the Tender is specified in the **Tender Data Sheet**.

**8.3** The Invitation for Tenders (Section I) issued by the Procuring Entity is not part of the Tendering Documents and is included for reference purposes only. In case of discrepancies between the Invitation for Tenders and the Tendering Documents listed in sub-Clause 8.1 above, the said Tendering Documents will take precedence.

**8.4** The Procuring Entity is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the authorized staff of the Procuring Entity.

Clarification of  
Tendering  
Documents

**8.5** The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tendering documents. Failure to furnish all information required by the Tendering Documents or to submit a Tender substantially responsive to the Tendering documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

**9.1** A prospective  
Tenderer  
requiring  
any  
clarification

of the Tendering documents may notify the Procuring  
Entity in writing, e-mail or facsimile at the Procuring  
Entity's address indicated in the **Tender Data Sheet**.

**9.2** The Procuring Entity will within the period stated in the **Tender Data Sheet** respond in writing to any request for clarification provided that such request is received no later than the period indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in sub-Clause 22.1.

**9.3** Copies of the procuring entity's response will be forwarded to all Purchasers of the Tendering documents, including a description of the inquiry, but without identifying its source.

**9.4** Should the Procuring Entity deem it necessary to amend the Tendering documents as a result of a clarification, it shall do so following the procedure under ITT Clause 10.

Amendments of  
the  
Tendering  
Documents

**10.1** Before the deadline for submission of Tenders, the Procuring Entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, modify the Tendering documents by issuing addenda.

**10.2** Any addendum issued shall be part of the Tender documents pursuant to sub-Clause 8.1 and shall be communicated in writing, by e-mail or facsimile to all who have obtained the Tendering documents directly from the Procuring Entity.

**10.3** In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity at its discretion shall extend, as necessary, the deadline for submission of Tenders, in accordance with sub-Clause 22.2

#### Preparation of Tenders

Language of Tender **11.1** The Tender, and all correspondence and documents related to the Tender exchanged by the Tenderer and the Procuring Entity shall be written in the Tender language stipulated in the **Tender Data Sheet**. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the

relevant passages in the above stated language, in which case, for purposes of interpretation of the

Tender, the translation shall prevail.

Documents  
Constituting  
the  
Tender

**12.1** The Tender submitted by the Tenderer shall consist of the following components:

The Form of Tender (in the format indicated in Section IX) completed in accordance with ITT Clause 15, 16 and 17;

Information requested by Instructions to Tenderers ITT sub-Clause 13.2; 13.3 and 13.4;

Tender Security or Tender Securing Declaration in accordance with Instructions to Tenderers ITT Clause 19;

Priced Bill of Quantities;

Qualification Information Form and Documents;

Alternative offers where invited in accordance with Instructions to Tenderers ITT Clause 5;

Written confirmation authorizing the signatory of the Tender to commit the Tenderer in accordance with Instructions to Tenderers ITT sub Clause 19.2; and

And any information or other materials required to be completed and submitted by Tenderers, as specified in the **Tender Data Sheet**.

Documents  
Establishing  
Eligibility and  
Qualifications of  
the Tenderer

**13.1** Pursuant to ITT Clause 13, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.

**13.2** In the event that pre-qualification of potential Tenderers has been undertaken, only Tenders from pre-qualified Tenderers will be considered for award of contract. These qualified Tenderers should submit their Tenders with any information updating the original pre-qualification applications or,



alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially

correct as of the date of Tender submission. The update or confirmation should be provided in Section IX.

**13.3** If the Procuring Entity has not undertaken pre-qualification of potential Tenderers, to qualify for award of the contract, Tenderers shall meet the minimum qualifying criteria specified in the **Tender Data Sheet**:

**13.4** Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the **Tender Data Sheet**:

The Tender shall include all the information listed in the **Tender Data Sheet** pursuant to sub-Clause 13.3 above for each joint venture partner;

The Tender shall be signed so as to be legally binding on all partners;

One of the partners will 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;

The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of a joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;

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 statement to this effect shall be included in the authorization mentioned under (c) above as well as in the Tender and in the Agreement (in case of a successful Tender); and

A copy of the joint venture agreement entered into by all partner shall be submitted with the Tender.

Alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful Tender shall be signed by all partners

and submitted with the Tender, together with a copy of the proposed Agreement.

- g) The Tender Security and Tender Securing Declaration as stated in accordance with ITT Clause 19, and in case of a successful Tender, the Agreement, shall be signed so as to be legally binding on all partners.

**14.1** Lots Package When Tendering for more than one contract under the lots arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the lots being tendered in regard to:

- a) Average annual turnover;
- b) Particular experience including key production rates;
- c) Financial means, etc;
- d) Personnel capabilities; and
- e) Equipment capabilities.

**14.2** In case the Tenderer fail to fully meet any of these criteria, it may be qualified only for those lots for which the Tenderer meets the above requirement.

**15.1** Form of Tender The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.

**16.1** Tender Prices The Contract shall be for the whole Works, as described in sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.

**16.2** The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Bill of

quantities.

**16.3** All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 15 days prior to the deadline for submission of Tenders, shall be

included in the rates, prices and total Tender price submitted by the Tenderer.

**16.4** The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the **Tender Data Sheet** and the provisions of the Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the **Contract Data Sheet**.

Tender Currencies **17.1** The unit rates and prices shall be quoted by the Tenderer in the currency as specified in the **Tender Data Sheet**.

**17.2** Tenderers shall indicate details of their expected foreign currency requirements in the Tender, if any. The rates of exchange to be used by the Tenderers in arriving at the local currency equivalent shall be the selling rates for similar transactions established by the authority specified in the **Tender Data Sheet** prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. In any case, payments will be computed using the rates quoted in the Tender.

**17.3** Tenderers may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data Sheet are reasonable and responsive to sub-Clause 17.1.

Tender  
Validity  
Period

**18.1** Tenders shall remain valid for the period specified in the **Tender Data Sheet** after the Tender submission deadline prescribed by the Procuring Entity, pursuant to ITT Clause 22. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non responsive.

**18.2** In exceptional circumstances, prior to expiry of the original Tender validity period, the Procuring Entity may

request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be

executed its Tender Securing declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of its Tender Security or Tender Securing declaration for the period of the extension, and in compliance with ITT Clause 19 in all respects.

**18.3** In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation shall be based on the Tender price without taking into consideration on the above correction.

Tender Security and Tender Securing Declaration **19.1** Pursuant to ITT Clause 12, where required in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a

Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet** . A Tender Securing Declaration as specified in the **Tender Data Sheet** in the format provided in section X shall be provided as a mandatory requirement.

**19.2** The Tender Security or Tender Securing Declaration is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to ITT sub-Clause 19.9.

**19.3** The Tender Security shall be denominated in the currency of the Tender and shall be in one of the following forms:

a) Cash;

b) A Bank Guarantee;

An Insurance Bond issued by an insurance firm  
c) approved by



the PPOA located in Kenya;

An irrevocable letter of credit issued by a reputable  
d) bank.

**19.4** The Tender Security shall be in accordance with the Form  
of  
the Tender Security included in Section X or another  
form

approved by the Procuring Entity prior to the Tender submission.

**19.5** The Tender Security shall be payable promptly upon written demand by the Procuring Entity in case any of the conditions listed in sub-Clause 19.8 are invoked.

**19.6** Any Tender not accompanied by a Tender Security in accordance with sub-Clauses 19.1 or 19.3 shall be rejected by the Procuring Entity as non-responsive, pursuant to ITT Clause 28.

**19.7** The Procuring Entity shall immediately release any Tender Security if:

The procuring proceedings are terminated;

The Procuring Entity determines that none of the submitted Tenders is responsive;

A contract for the procurement is entered into.

**19.8** The Tender Security shall be forfeited and the Tender Securing Declaration executed if the Tenderer:

Withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which Tenders must remain valid;

Rejects a correction of an arithmetic error pursuant to sub-Clause 29.2;

Refuse to enter into a written contract in accordance with ITT Clause 40;

Fails to furnish the Performance Security in accordance with ITT Clause 41.

**19.9** The Tender Security and Tender Securing Declaration of a joint venture must be in the name of the joint venture submitting the Tender.

**19.10** A Tenderer shall be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time indicated in the Tender Securing Declaration:

If the Tenderer withdraws its Tender, except as provided in ITT sub-Clauses 18.2 and 29.2; or

In the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:

Sign the contract; or

Furnish the required Performance Security.

Format and  
Signing  
of Tender

- 20.1** The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT Clause 12 of these Instructions to Tenderers, with the Form of Tender, and clearly marked “**ORIGINAL**”. In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **Tender Data Sheet**, and clearly marked as “**COPIES**”. In the event of discrepancy between them, the original shall prevail.
- 20.2** The original and all copies of the Tenders 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. This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialled by the person or persons signing the Tender.
- 20.3** Any interlineations, erasures, or overwriting shall be valid only if they are initialled by the person or persons signing the Tender.
- 20.4** The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any,

paid or to be paid to agents relating to this Tender and to  
contract execution if the Tenderer is awarded the contract

## Submission of Tenders

### Sealing and Marking of Tenders

**21.1** The Tenderer shall seal the original and each copy of the Tender in separate envelopes, duly marking the envelopes as “**ORIGINAL**” and “**COPY**”. The envelopes shall then be sealed in an outer envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.

**21.2** The inner and outer envelopes shall:

Be addressed to the Procuring Entity at the address given in the **Tender Data Sheet**; and

Bear the Project name indicated in the **Tender Data Sheet**, the Invitation for Tenders (IFB) title and number indicated in the **Tender Data Sheet**, and a statement: **“DO NOT OPEN BEFORE,”** to be completed with the time and the date specified in the **Tender Data Sheet**, pursuant to ITT sub-Clause 22.1.

**21.3** In addition to the identification required in sub-Clause 21.2, the inner envelopes shall also indicate the name and address of the Tenderer to enable the Tender be returned unopened in case it is declared late, pursuant to sub-Clause 22.1 and for matching purpose under ITT Clause 23

**21.4** If the outer envelope is not sealed and marked as required by ITT sub clause 21.2, the Procuring Entity shall assume no responsibility for misplacement or premature opening of the Tender.

Deadline for  
Submission  
of Tenders

**22.1** Tenders shall be received by the Procuring Entity at the address specified under ITT sub-Clause 21.2 no later than the date and time specified in the **Tender Data Sheet**.

**22.2** The Procuring Entity may, in exceptional circumstances and at its discretion, extend the deadline for the submission of Tenders by amending the Tendering documents in accordance with ITT Clause 9, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline will thereafter be subject to the new deadline.

Late Tenders

Modification,  
Substitution  
and  
Withdrawal  
of  
Tenders

**22.3** The extension of the deadline for submission of Tenders shall not be made later than the period specified in the **Tender Data Sheet** before the expiry of the original deadline.

**23.1** The Procuring Entity shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 22.

**23.2** Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected and returned unopened to the Tenderer

**24.1** A Tenderer may modify or substitute or withdraw its Tender after it has been submitted, provided that written notice of the modification, including substitution or withdrawal of the Tender, is received by the Procuring Entity prior to the deadline prescribed for submission of Tenders prescribed under ITT sub-Clause 22.1.

**24.2** The Tenderer's modification or substitution or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITT Clauses 20 and 21 with the outer and inner envelopes additionally marked "**MODIFICATION**" or **SUBSTITUTION** or "**WITHDRAWAL**" as appropriate. The notice may also be sent by electronic mail and facsimile, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of Tenders.

**24.3** No Tender may be withdrawn, replaced or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Tender Form. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of Tender Securing Declaration, pursuant to the ITT sub-Clause 19.9.

**24.4** Withdrawal of a Tender between the deadline for submission of Tenders and the expiration of the period of Tender validity specified in the **Tender Data Sheet** or as extended pursuant to sub-Clause 22.2 shall result in the forfeiture of

the Tender Security and execution of Tender Securing Declaration  
pursuant to ITT sub-



Clause 19.9.

- 24.5** Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause, or included in the original Tender submission.

#### Opening and Evaluation of Tenders

#### Opening of Tenders

- 25.1** The Procuring Entity will open all Tenders including modifications, substitution or withdraw notices made pursuant to ITT Clause 24, in public, in the presence of Tenderers or their representatives who choose to attend and other parties with legitimate interest and Tender proceedings, at the place on the date and at time specified in the **Tender Data Sheet**. The Tenderers' representatives who are present shall sign a register as proof of their attendance.
- 25.2** Envelopes marked "**WITHDRAWAL**" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 24 shall not be opened but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked "**MODIFICATION**" shall be opened and the submissions therein read out in appropriate detail. Thereafter all envelopes marked or "**SUBSTITUTION**" opened and the submissions therein read out in appropriate detail.
- 25.3** All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender security, and such other details as the appropriate tender opening committee may consider appropriate, will be announced by the Secretary of the Tender Opening Committee at the opening.

**25.4**

Tenders or modifications that are not opened and not read out at Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at Tender opening

shall not be considered further.

**25.5** Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any un-read information by the sent Tenderer's representative shall indemnify the Procuring Entity against any claim or failure to read out the correct information contained in the Tenderer's Tender.

**25.6** No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to ITT Clause 23.

The Secretary of the appropriate tender opening committee shall  
**25.7** shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security or Tender Securing Declaration.

**25.8** The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record.

A copy of the minutes of the Tender opening shall be  
**25.9** furnished to individual Tenderers upon request.

Confidentiality **26.1** Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.

**26.2** Any effort by a Tenderer to influence the Procuring Entity's

processing of Tenders or award decisions may result in the rejection of his Tender.

Notwithstanding sub-Clause 26.2, from the time of Tender  
**26.3** opening

to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

Clarification  
of  
Tenders

**27.1** To assist in the examination, evaluation, comparison of Tenders and post-qualification of the Tenderer, the Procuring Entity may, at its discretion, ask a Tenderer for clarification of its Tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered.

**27.2** The request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of Tenders in accordance with ITT Clause 29.

**27.3** From the time of Tender opening to the time of Contract award if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tender it should do so in writing.

Preliminary  
Examination  
of Tenders

**28.1** Prior to the detailed evaluation of Tenders, the Procuring Entity will determine whether:

The Tender has been submitted in the required format;

Any Tender Security submitted is in the required form, amount and validity period;

The Tender has been signed by the person lawfully authorized to do so;

The required number of copies of the Tender have been submitted;

The Tender is valid for the period required;

All required documents and information have been submitted; and

Any required samples have been submitted.

**28.2** The Procuring Entity will confirm that the documents and information specified under ITT Clause 12 and ITT Clause 13 have been provided in the Tender. If any of these documents or information is missing, or is not provided in accordance with the Instructions to Tenderers, the Tender shall be rejected.

**28.3** The Procuring Entity may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer

**28.4** A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation or reservation. A material deviation or reservation is one that:

Affects in any substantial way the scope, quality, or execution of the Works;

Limits in any substantial way, inconsistent with the Tendering documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or

If rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

**28.5** If a Tender is not substantially responsive, it will be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

Correction  
of  
Errors

**29.1** Tenders determined to be substantially responsive will be checked by the Procuring Entity for any arithmetic errors. Errors will be corrected by the Procuring Entity as follows:

If there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected, unless in the opinion of the Procuring

Entity there is an obvious misplacement of the decimal point in the unit price, in which the



total price as quoted shall govern and the unit price shall be corrected;

If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.

**29.2** The amount stated in the Tender will, be adjusted by the Procuring Entity in accordance with the above procedure for the correction of errors and, with, the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender Security may be forfeited and the Tender Securing Declaration may be executed in accordance with sub-Clause 19.9.

Conversion  
to  
Single  
Currency

**30.1** To facilitate the evaluation and comparison, the Procuring Entity will convert all Tender prices expressed in the amounts in various currencies in which the Tender prices are payable to Kenya Shillings at the selling exchange rate established for similar transactions by the Central Bank of Kenya ruling on the date specified in the **Tender Data Sheet**.

Comparison  
of  
Tenders

**31.1** The Procuring Entity shall evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT Clause 28.

**31.2** In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender price by adjusting the Tender price as follows:

Making any correction for errors pursuant to ITT Clause 29; Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work , where priced competitively ; and

Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with sub-Clause 24.5.

### 31.3

The Procuring Entity may waive any minor informality or non-conformity, which does not constitute a material deviation, provided

such waiver does not prejudice or affect the relative standing of any Tenderer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.

National Preference

**32.1** In the evaluation of Tenders the Procuring Entity shall apply exclusive preference to citizens of Kenya where:

The funding is 100% from the Government of Kenya or a Kenyan body;

The amounts are below the prescribed threshold of KShs.200 million;

**32.2** To qualify for the preference the candidate shall provide evidence of eligibility by:

Proving Kenyan citizenship by production of a Kenyan Identity Card; or

Providing proof of being a “citizen contractor” in terms of section

3(1) of the Act, i.e. being a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Kenya.

**32.3** The Minister of Finance may prescribe additional preference and/or reservation schemes, for example for procurements above these thresholds. If such additional preference schemes apply, details will be given in the **Tender Data Sheet**.

Determination of the Lowest Evaluated Tender Post-qualification of Tenderer

**33.1** The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.

**34.1** If specified in the **Tender Data Sheet**, post-qualification shall be undertaken.

**34.2**

The Procuring Entity will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated

responsive Tender is qualified to perform the contract satisfactorily, in accordance with the criteria listed in sub-Clause 13.3.

**34.3** The determination will take into account the Tenderer's financial,

technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to sub-Clause 13.3, as well as such other information as the Procuring Entity deems necessary and appropriate. Factors not included in these Tendering documents shall not be used in the evaluation of the Tenderer's qualifications.

**34.4** An affirmative determination will be a prerequisite for award of the contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Procuring Entity will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

#### Award of Contract

#### Criteria of Award

**35.1** Subject to ITT Clause 35 and 36, the Procuring Entity will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:

a) Eligible in accordance with the provisions of ITT

Clause 3;

b) Is determined to be qualified to perform the Contract satisfactorily;

c) Successful negotiations have been concluded.  
)

**35.2** If, pursuant to sub-Clause 14.1, this Contract is being awarded on a “lot and package” basis, the lowest evaluated Tender price will be determined

when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderer for award of more than one Contract.

Clarifications	<p><b>36.1</b> Clarifications may be undertaken with the lowest evaluated Tenderer relating to the following areas:</p> <ul style="list-style-type: none"><li>A minor alteration to the technical details</li><li>a) of the statement of requirements;</li><li>Reduction of quantities for budgetary</li><li>b) reasons, where the reduction is in excess of any provided for in the Tendering documents;</li><li>A minor amendment to the Contract Data</li><li>c) Sheet;</li><li>d) Finalizing payment arrangements;</li><li>e) Mobilization arrangements;</li><li>f) Agreeing final delivery or work schedule to accommodate any changes required by the Procuring Entity;</li><li>g) The methodology or staffing; or</li><li>Clarifying details that were not apparent or</li><li>h) could not be finalized at the time of Tendering.</li></ul>
Procuring Entity's Right to Accept any Tender and to Reject any or all Tenders	<p><b>36.2</b> Clarifications shall not change the substance of the tender.</p> <p><b>37.1</b> Notwithstanding ITT Clause 35, the Procuring Entity reserves the right to accept or reject any Tender, and to cancel the Tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected</p>

Tenderer or Tenderers.

**37.2** Notice of the rejection of all Tenders shall be given



promptly within 14 days to all Contractors that have submitted Tenders.

**37.3** The Procuring Entity shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.

Procuring Entities Right to Vary Quantities at the Time of Award

**38.1** The Procuring Entity reserves the right at the time of contract award to increase or decrease the quantity of goods or related services originally specified in these Tendering documents (schedule of requirements) provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tendering documents.

Notification of Award

**39.1** The Tenderer whose Tender has been accepted will be notified of the award by the Procuring Entity prior to expiration of the Tender validity period by e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Procuring Entity will pay the Contractor in consideration of the provision and maintenance of the Work(s) as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

**39.2** The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with ITT Clause 41 and signing the Contract in accordance with sub-Clause 40.2

**39.3** At the same time as the person submitting the

successful Tender is notified, the Procuring Entity will notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security and Tender

Securing Declaration of the Tenderer pursuant to ITT sub Clause 19.7.

**39.4** If, after notification of award, a Tenderer wishes to ascertain the grounds on which it's Tender or application for pre-qualification was unsuccessful, it should address its request to the secretary of the Tender Committee that authorized the award of contract. The secretary of the Tender Committee shall, within fourteen days after a request, provide written reasons as to why the Tender, proposal or application to be pre-qualified was unsuccessful. However, failure to take this opportunity to clarify the grounds for rejection does not affect the Tenderer's right to seek immediate review by the Public Procurement Administrative Review Board under Clause 45.

#### Signing of Contract

**40.1** Promptly, and in no case later than 14 days, after notification, Procuring Entity shall send the successful Tenderer the Agreement and Contract Data Sheet, incorporating all agreements between the parties obtained as a result of Contract negotiations.

**40.2** Within the period specified in the notification or Tender Data Sheet but not earlier than fourteen (14) days since notification of award of contract, the successful Tenderer shall sign and date the contract and return it to the Procuring Entity.

#### Performance Security

**41.1** Within thirty (30) days but after 14 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Procuring Entity a Performance Security in the amount and in the form stipulated in the Tender Data Sheet and the Contract Data Sheet, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

**41.2** If the Performance Security is provided by the



successful Tenderer in the form of a Bank Guarantee or Insurance Bond, it shall be issued either:

- a) At the Tenderer's option, by a bank or insurance firm located in Kenya, or a foreign bank or insurance firm through a correspondent bank or insurance firm located in Kenya;
- b) With the consent of the Procuring entity, directly by a foreign bank acceptable to the Procuring entity.

**41.3** Failure of the successful Tenderer to comply with the requirement of sub-Clause 41.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security, in which event the Procuring Entity may make the award to the next lowest evaluated Tenderer or call for new Tenders.

#### Advance Payment

**42.1** The Procuring Entity will provide an Advance Payment as stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the Tender Data Sheet.

**42.2** The Advance Payment request shall be accompanied by an Advance Payment Security (Guarantee) in the form provided in Section X. For the purpose of receiving the Advance Payment, the Tenderer shall make an estimate of, and include in its Tender, the expenses that will be incurred in order to commence work. These expenses will relate to the purchase of equipment, machinery, materials, and on the engagement of labour during the first month beginning with the date of the Procuring Entity's "Notice to Commence" as specified in the Contract Data Sheet.

Adjudicator

**43.1** The Procuring Entity proposes the person named in the Tender Data Sheet to be appointed as

Adjudicator under the Contract, at an hourly fee specified in the Tender Data Sheet, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in the Tender. If, in the Letter of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Contract Data Sheet at the request of either party.

### Review of Procurement Decisions

#### Right to Review

**44.1** A Tenderer who claims to have suffered or risk suffering, loss or damage or injury as a result of breach of a duty imposed on a Procuring Entity or an Approving Authority by the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations 2006, the procurement proceedings or processes, may seek administrative review as prescribed by the Act. The following matters, however, shall not be subject to the administrative review:

- a) The choice of procurement method;
- b) a decision by the Procuring Entity to reject all Tenders, proposals or quotations;
- c) Where a contract is signed in accordance to Section 68 of the Public Procurement and Disposal Act, 2005;
- d) Where an appeal is frivolous.

#### Time Limit on Review

**45.1** The Tenderer shall submit an application for review in the number of copies and pay fees as prescribed by the Public Procurement and Disposal Regulations 2006 within fourteen

(14) days of the time the Tenderer became or should have become aware of the circumstances giving rise to the complaint or dispute.



Submission of  
Applications for  
Review by the  
Public Procurement  
Administrative  
Review Board

**46.1** Any application for administrative review shall be submitted in writing to the Secretary, Public Procurement Administrative Review Board on Form RB 1 at the address shown in the Tender Data Sheet. The secretary to the review board shall immediately after filing of the request, serve a copy thereof on the Procuring Entity or Director-General as the case may be.

**46.2** The application for administrative review shall be in accordance with the requirements of Regulation 73 of the Public Procurement and Disposals Regulations, 2006, including:

Reasons for the complaint, including any alleged breach of the Act or Regulations;

An explanation of how the provisions of the Act and or Regulation has been breached or omitted, including the dates and name of the responsible public officer, where known;

Statements or other evidence supporting the complaint where available as the applicant considers necessary in support of its request;

Remedies sought;

Any other information relevant to the complaint.

Decision by the  
Public  
Procurement  
Administrative  
Review Board

**47.1** The Administrative Review Board shall within thirty days after receipt of an application for administrative review deliver a written decision which shall indicate:

Annuling anything the Procuring Entity has done in the procurement proceedings, including annulling the procurement proceedings in their entirety;

Giving directions to the Procuring Entity with respect to anything to be done or redone in the procurement proceedings;

Substituting the decision of the Review Board for any decision of the Procuring Entity in the procurement

proceedings;

Order the payment of costs as between parties to the review.

**47.2** The decision made by the Review Board shall, be final and binding on the parties unless judicial review thereof commences within fourteen (14) days from the date of the Review Board's decision.

Appeal on the  
decision of the  
Review Board

**48.1** Any party to the review aggrieved by the decision of the Review Board may appeal to the High Court and the decision of the High Court shall be final.

SECTION III: TENDER DATA SHEET

## Tender Data Sheet (TDS)

### Instructions to Tenderers Clause Reference

TDS Reference Number	ITT Clause Number	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
<b>A. Introduction</b>		
1.	1.1	The Procuring Entity is The Turkana county Assembly
2.	1.1	Name of Project is <b>PROPOSED CONSTRUCTION OF CAFETRIA TURKANA COUNTY ASSEMBLY</b>
3.	1.2	The expected completion date of the works is 48wks
4.	2.1	Name of financing institution is Government of Kenya  Name of the Procuring is Turkana county assembly  Financial Year: .....  Describe works under the contracts: construction of assembly
5.	2.2	The loan/ credit number is .....N/A..... [insert number if available].
6.	5.1	Alternative Tenders are <i>NOT ALLOWED</i> in this Tender.
7.	5.2	Alternative time for completion TO BE DETERMINED
8.	3.1	Only Tenderers registered as Building Contractors with the Contractors Registration with the <i>National Construction Authority</i>  This Tender is: NOT EXCLUSIVELY RESERVED FOR NATIONAL CONTRACTORS
	7.6	Non-attendance at the pre-tender meeting will result in disqualification



<b>B. Tendering Documents</b>		
<b>11.</b>	<b>8.2</b>	The number of copies to be completed and returned with the Tender is one original and two copies.
<b>12.</b>	<b>8.1</b>	Address for clarification of Tendering Document is: The Clerk Turkana county Assembly P.O Box 25 – 30500 Lodwar
<b>13.</b>	<b>8.2</b>	Period to Respond to request for clarification by the Procuring Entity <i>7days</i>  Period Prior to deadline for submission of Tenders for Tenderers to request clarification <i>7 days</i>

<b>C. Preparation of Tenders</b>		
<b>14.</b>	<b>11.1</b>	Language of Tender and all correspondence shall be <i>English</i>
<b>15.</b>	<b>13.3</b>	Other information or materials required to be completed and submitted by Tenderers : a) Copies of original documents defining the constitution or legal status, place of registration, and principal, place of business; written power of attorney authorizing the signatory of the Tender to commit the Tenderer. b) The minimum required annual volume of construction work for the successful Tenderer in any of the last 2 years shall be: 20 million Kenya Shillings. c) Experience as prime contractor in the construction of at least one project of a nature and complexity equivalent to the Works the last 2 years or the period stated in a) above (to comply with this

		<p>requirement, works cited should be at least 70 percent complete).</p> <p>d) The essential equipment to be made available for the Contract by the successful Tenderer (proposals for timely acquisition or own, lease,</p>
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		<p>hire, etc) shall be:</p> <ul style="list-style-type: none"> <li>i) Concrete Mixer</li> <li>ii) Transport Vehicles</li> <li>iii) Water Bowsers</li> <li>iv) Excavator</li> </ul> <p>e) A Site Manager with a minimum of 10 years experience in works of an equivalent nature and volume.</p> <p>f) Evidence of adequate working capital for this contract.</p> <p>g) Information regarding litigation, current</p>
<b>16</b>	<b>13.4</b>	<p>In the case of joint venture each partner shall submit information required under Clause ITT Clause 13.4. In addition the Tenderer shall furnish the following ,</p> <ul style="list-style-type: none"> <li>a) Joint Venture Agreement</li> <li>b) .....</li> <li>c) .....</li> </ul>
<b>19.</b>	<b>16.4</b>	<p>The price shall be <i>FIXED AND SHALL BE IN KENYA SHILLINGS</i></p> <p>Information to be submitted with the Tender are: (state if any).</p>
<b>20.</b>	<b>17.1</b>	<p>The currency in which the prices shall be quoted shall be: <i>Kenyan Shilling</i></p>
<b>21.</b>	<b>17.2</b> <b>30.2</b>	<p>The authority for establishing the rates of exchange shall be Central Bank of Kenya.</p> <p>The applicable date for exchange rates for tendering and evaluation purposes is 28 days earlier than the final deadline for the submission of tenders</p> <p>.</p>
<b>22.</b>	<b>18.1</b>	<p>The Tender validity period shall be 120 days.</p>
<b>23.</b>	<b>19.1</b>	<p>The amount of Tender Security shall be 2% of contract amount from</p>

		a reputable bank or insurance registered in Kenya
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23.	20.1	In addition to the original of the Tender, the Tenderer should submit two copies of the Tender
24.	20.2	Written confirmation of authorization are: Power of Attorney

#### D. Submission of Tenders

26.	21.2 b)	Project name: Tender for <b>PROPOSED CONSTRUCTION OF CAFETERIA Y SSEMBL TURKANA COUNTY</b>  Tender number: TCA/CAF/10/2022-2023 Time and date for submission: 26 <sup>TH</sup> APRIL 2023 at 11.00a.m local time
27.	22.1	The deadline for Tender submission is a) Day: Tuesday b) Date: 26/4/2023 c) Time: 11.00am local time
28.	22.3	The extension of the deadline for submission of Tenders shall be made not later than 7 days before the expiry of the original deadline.
29	24.4	Expiry of Tender validity is 120 days after the closing date of the tender

#### E. Opening and Evaluation of Tenders

30.	32.3	Additional Preference: <i>None</i>
31.	34.1	Post- qualification will be undertaken
32.	38.1	Percentage for quantities increase or decrease is 15%

#### F. Award of Contract

<b>33.</b>	<b>41.1</b>	The amount of Performance Security shall be 10%
<b>34.</b>	<b>42.1</b>	The Advance Payment shall be NIL

<b>35.</b>	<b>43.1</b>	The proposed adjudicator for the project is: Chartered Institute of Arbitratoros (Kenya Branch)
<b>G. Review of Procurement Decisions</b>		
<b>37.</b>	<b>46.1</b>	The address for submitting appeals to Administrative Review Board : The Secretary, Public Procurement Administrative Review Board , The Public Procurement Oversight Authority, 10th Floor ,National Bank House, P.O. Box 58583-00200, NAIROBI, Kenya. Tel: +254 (0) 20 3244000 Email: <a href="mailto:info@ppoa.go.ke">info@ppoa.go.ke</a> Website: <a href="http://www.ppoa.go.ke">www.ppoa.go.ke</a>

## CONT'D - SPECIAL CONDITIONS OF CONTRACT

### General

#### Definitions

1. Boldface type is used to identify defined terms.
- 1 The **Adjudicator** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in Clauses 27 and 28 hereunder.  
**Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Tender.  
**Compensation Events** are those defined in Clause 47 hereunder.  
The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with Sub-Clause 58.1.  
The **Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works.  
It consists of the documents listed in Clause 2.3 below.  
The **Contractor** is a person or corporate body whose Tender to carry out the Works has been accepted by the Procuring Entity.  
The **Contractor's Tender** is the completed Tendering document submitted by the Contractor to the Procuring Entity.  
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.  
**Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.  
A **Defect** is any part of the Works not completed in accordance with the Contract.  
The **Defects Liability Certificate** is the certificate issued by the Project Manager upon correction of defects by the Contractor.

The **Defects Liability Period** is the period named in the **Contract**

**Data Sheet** and calculated from the Completion Date.

**Drawings** calculations and other information provided or approved by the Project Manager for the execution of the **Contract**.

**Contractor** The **Procuring Entity** is the party who employs the Contractor to carry out the Works.

**Contractor's Equipment** is the Contractor's machinery and vehicles brought

temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed in the Procuring Entity's Letter of Acceptance.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the **Contract Data Sheet**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

**Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.

**Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.

The **Project Manager** is the person named in the **Contract Data Sheet** (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract 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.

The **Site** is the area defined as such in the **Contract Data Sheet**.

**Site Investigation Reports** are those that were included in the Tendering documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

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

The **Start Date** is given in the **Contract Data Sheet**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.

**Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.



A **Variation** is an instruction given by the Project Manager that

varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, as defined in the **Contract Data Sheet**.

“**Force Majeure**” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way round. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

2.2 If sectional completion is specified in the **Contract Data Sheet**, references 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 Completion Date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the order of priority given in the **Contract Data Sheet**:

Agreement;

Letter of Acceptance;

Contract Data Sheet;

Conditions of Contract;

Technical Specifications;

Contractor’s Tender;

Drawings;

Bill of Quantities; and

Any other document listed in the **Contract Data Sheet** as

forming part of the Contract.

3.1 The language of the Contract and the law governing the Contract are stated in the **Contract Data Sheet**.

3.2 The Government requires that Procuring Entities (including beneficiaries of Government funded projects) as well as Tenderers/Suppliers/Contractors under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. It is the responsibility of the Procuring Entity to ensure

Language, Law,  
Fraud  
and Corruption

that Tenderers,  
suppliers, and  
contractors and their  
subcontractors  
observe the

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highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy:

For the purpose of this provision, the following definitions are provided:

- (i). **“Corruption”** has the meaning assigned to it in the Anti Corruption and Economic Crime Act 2003 and includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution;
- (ii). **“Fraudulent Practice”** includes a misrepresentation of fact in order to influence a procurement or disposal process or the execution of a contract to the detriment of the Procuring Entity and includes collusive practices amongst Tenderers prior to or after Tender submission designed to establish Tender prices at artificial non competitive levels and deprive the Procuring Entity of the benefits of free and open competition;
- (iii). **“Collusive Practice”** means an arrangement between two or more suppliers, contractors and subcontractors designed to achieve an improper purpose, including to influence improperly the actions of the Procuring Entity prior to or after Tender submission, designed to establish Tender prices at artificial non competitive levels and to deprive the Procuring Entity of the benefit of free and open competition.

competition;

- (iv). **“Coercive Practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly a supplier, contractor or subcontractor or the property of any of them to influence improperly the actions of a

Procuring Entity;

- (v). **“Obstructive Practice”** means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and  
t, /or

threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

A Procuring Entity has the right to require that Tenderers, suppliers, and contractors and their subcontractors permit persons duly appointed by KACC/PPOA/KNAO to inspect their accounts and records and other documents relating to the Tender submission and contract performance;

The Procuring Entity will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt, fraudulent practices or others stated under Clause 44.1.a in competing for the contract;

In pursuit of the policy defined in sub-Clause 44.1 the Procuring Entity will cancel the portion of the funds allocated to a contract for goods, works, or services if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Procuring Entity or Approving Authority or of a beneficiary of the funds during the procurement or the execution of that contract;

In the event that the Procuring Entity or Approving Authority does not take timely and appropriate action satisfactory to the Government of Kenya to remedy the situation, then the Director-General may order an investigation of procurement proceedings for the purpose of determining whether there has been a breach of the Public Procurement and Disposal Act, 2005.

3.3 The Director-General may, on the advice of the Advisory Board, debar a person from participating in procurement proceedings on the ground that the person has committed an offence under the Public Procurement and Disposal Act, 2005. A debarment shall be for a period of time of not less than five years. Before a person is so debarred, he/she will be given an opportunity to make representations to the Director-General and may request the Review Board to review the debarment.

3.4 Any communication between the Tenderers and the Procuring Entity related to matters of alleged fraud or corruption must be

made in writing.

- Confidentiality 4.1 The Service Providers, their Subcontractors, and the Personnel of either of them shall not disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Procuring Entity's business or operations without the prior written consent of the Procuring Entity.
- Project Manager's Decisions 5.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.
- Delegation 6.1 The Project Manager may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.
- Communications 7.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.
- Subcontracting 8.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Procuring Entity in writing. Subcontracting shall not alter the Contractor's obligations.
- Other Contractors 9.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as referred to in the **Contract Data Sheet**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification
- Personnel 10.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the **Contract Data Sheet**, who shall be appropriately qualified and registered with the appropriate bodies to carry out the functions stated in the Schedule 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 Schedule.
- 10.2 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.

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|---|---|
| Procuring Entity's and Contractor's Risks | 11.1 The Procuring Entity carries the risks which this Contract states are Procuring Entity's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.  |
| Procuring Entity's Risks                  | 12.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Procuring Entity's risks:<br><p>The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:</p> <ul style="list-style-type: none"><li>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</li><li>Negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.</li></ul> <p>The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.</p> |
| Contractor's Risks                        | 12.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Procuring Entity's risk except loss or damage due to:<br><ul style="list-style-type: none"><li>A Defect which existed on the Completion Date;</li><li>An event occurring before the Completion Date, which was not itself an Procuring Entity's risk; or</li><li>The activities of the Contractor on the Site after the Completion Date.</li></ul>   |
| Insurance                                 | 13.1 From the Starting 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 Procuring Entity's risks are Contractor's risks.   |
|   | 14.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from  |

the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the **Contract Data Sheet** for the following events which are due to the Contractor's risks:

Loss of or damage to the Works, Plant, and Materials;  
Loss of or damage to Equipment;  
Loss of or damage to property (except the Works,  
Plant, Materials, and Equipment) in connection with  
the Contract; and  
Personal injury or death.

- 14.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 14.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 14.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- Site Investigation Reports 14.5 Both parties shall comply with any conditions of the insurance policies.
- Queries about the Contract Data Sheet Contractor to Construct the Works 15.1 The Contractor, in preparing the Tender, shall rely on any Site Investigation Reports referred to in the **Contract Data Sheet**, supplemented by any information available to the Tenderers.
- 16.1 The Project Manager will clarify queries on the **Contract Data Sheet**.
- Commencement and Completion 17.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 18.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Programme submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.
- Approval by the Project Manager 19.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.
- 19.2 The Contractor shall be responsible for the design of Temporary Works.

19.3 The Project Manager's approval shall not alter the Contractor's

		responsibility for design of the Temporary Works. The Contractor shall obtain approval of third parties to the
	19.4	design of the Temporary Works, where required. All Drawings prepared by the Contractor for the execution
	19.5	of the temporary or permanent Works, are subject to prior approval by the Project Manager before their use. The Contractors shall take all reasonable steps to protect
Protection of the Environment	20.1	the environment and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations. The Contractors shall ensure that emissions, surface
	20.2	discharges and effluent from his activities shall not exceed prescribed values in the environmental laws. The Contractor shall comply with all the relevant labour
Labour Laws	21.2	laws applicable in the Country, including laws relating to workers employment, working hours, health, safety, welfare, and immigration, and shall allow them all their legal rights. The Contractor shall require his employees to obey
	21.2	all applicable laws, including those concerning safety at work. The Contractor shall at all times take all reasonable
Health and Safety	22.1	precautions to maintain the health and safety of his personnel. The Contractor shall ensure that first aid facilities are
	22.2	available at all times at the site and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics. The Contractor shall notify the Procuring Entity details of
	22.3	any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety, and welfare of persons, and damage to the

property, as the Procuring Entity may reasonably require.  
The Contractor shall conduct an HIV-Aids

22.4 awareness

programme, and shall take other such measures as specified in the **Contract Data Sheet** to reduce the risk of transfer of HIV virus between and among Contractor personnel, the Procuring Entity's Staff and the surrounding community.

Discoveries

23.1 Anything of historical or other interest or of significant value

unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

Possession of the Site	24.1 The Procuring Entity shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the <b>Contract Data Sheet</b> , the Procuring Entity will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.
Access to the Site	25.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
Instructions, Inspections and Audits	26.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located. 26.2 The Contractor shall permit the Kenya Government to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Kenya Government, if so required by the Kenya Government
Disputes	1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the
Procedure for Disputes	Adjudicator within 14 days of the notification of the Project Manager's decision. 28.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute. 28.2 The Adjudicator shall be paid by the hour at the rate specified in the <b>Tender Data Sheet</b> and <b>Contract Data Sheet</b> , together with reimbursable expenses of the types specified in the <b>Contract Data Sheet</b> , and the cost shall be divided equally between the Procuring Entity and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
Replacement of Adjudicator	28.3 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the <b>Contract Data Sheet</b> . 29.1 Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the



Adjudicator is not functioning in accordance with the provisions  
of the Contract, a

new Adjudicator will be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the **Contract Data Sheet** at the request of either party, within 14 days of receipt of such request.

### Time Control

#### Programme

- 30.1 Within the time stated in the **Contract Data Sheet**, the Contractor shall submit to the Project Manager for approval a Programme showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 30.2 An update of the Programme shall be a programme 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.
- 30.3 The Contractor shall submit to the Project Manager for approval an updated Programme at intervals no longer than the period stated in the **Contract Data Sheet**. If the Contractor does not submit an updated Programme within this period, the Project Manager may withhold the amount stated in the **Contract Data Sheet** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Programme has been submitted.
- 30.4 The Project Manager's approval of the Programme shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time. A revised Programme shall show the effect of Variations and Compensation Events



Extension of the Intended Completion Date	<p>31.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.</p> <p>31.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.</p>
Acceleration	<p>32.1 When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.</p> <p>32.2 If the Contractor's priced proposals for acceleration are accepted by the Procuring Entity, they shall be incorporated in the Contract Price and treated as a Variation.</p>
Delays Ordered by the Project Manager Management Meetings	<p>33.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.</p> <p>34.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.</p> <p>34.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.</p>
Early Warning	

35.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that

may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

35.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

#### Quality Control

Identifying Defects 36.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a

Defect.

Tests 37.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a

Compensation Event.

Correction of Defects 38.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the **Contract Data Sheet**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

38.2 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.

38.3 If the Contractor has not corrected a defect within the

time  
specified in the Procuring Entity's notice, a penalty for lack  
of  
performance will be paid by the Contractor. The amount to  
be  
paid will be calculated as a percentage of the cost of having  
the  
defect correct, assessed as described in Clause 39.  
If the Contractor has not corrected a Defect within the  
time  
specified in the Project Manager's notice, the Project  
Manager will

Uncorrected Defects 39.1

assess the cost of having the Defect corrected, and the Contractor will pay this amount.

### Cost Control

- Bill of Quantities
- 40.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 40.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor shall be paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
- Changes in the Quantities
- 41.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 41.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.
- 41.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.
- Variations
- 42.1 All Variations shall be included in the updated Programmes produced by the Contractor.
- Payments for Variations
- 43.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 43.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work is above the limit stated in Sub-Clause 41.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.



- If the Contractor's quotation is unreasonable, the
- 43.3 Project  
 Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 43.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event. The Contractor shall not be entitled to additional payment
- 43.5 for costs that could have been avoided by giving early warning.
- Cash Flow Forecasts 44.1 When the Programme is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.
- Payment Certificates 45.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 45.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor within twenty eight 28 days of receipt of the certificate from the contractor.
- 45.3 The value of work executed shall be determined by the Project Manager.
- 45.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.
- 45.5 The value of work executed shall include the valuation of Variations and Compensation Events.
- 45.6 The Project Manager may exclude any item certified

in a  
previous certificate or reduce the proportion of any  
item  
previously certified in any certificate in the light of  
later  
information.

45.7 The Project Manager shall not be bound to certify any  
payment, if  
the net amount, after all retentions and deductions would  
be less  
than minimum amount of Interim Payment Certificate  
stated in  
the **Contract Data Sheet**.

Payments

46.1 Payments shall be adjusted for deductions for advance  
payments and retention. The Procuring Entity shall  
pay the  
Contractor the amounts certified by the Project Manager  
within  
28 days of the date of each certificate. If the Procuring  
Entity

makes a late payment, the Contractor shall be paid interest on the late payment in the next payment Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made as indicated in the **Contract Data Sheet.**

46.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

46.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.

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

Compensation Events 47.1 The following shall be Compensation Events:

The Procuring Entity does not give access to a part of the Site by the Site Possession Date stated in the **Contract Data Sheet.**

(b) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.

(c) The Project Manager delays 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 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.

The Project Manager gives an instruction for dealing with 114

an unforeseen condition, caused by the Procuring Entity,  
or additional work required for safety or other reasons.

(h) Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.

(i) The advance payment is delayed.  
The effects on the Contractor of any of the

(j) Procuring Entity's Risks.  
The Project Manager unreasonably delays issuing

(k) a Certificate of Completion.  
Other Compensation Events described in the Contract

(l) or determined by the Project Manager shall apply.

If a Compensation Event would cause additional cost or

47.2 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.

47.3 As soon as information demonstrating the effect of each

Compensation Event upon the Contractor's forecast cost has

been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted

accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract

Price based on the Project Manager's own forecast. The Project

Manager will assume that the Contractor will react competently

and promptly to the event.

47.4 The Contractor shall not be entitled to compensation to the

extent that the Procuring Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

- Taxes
- 48.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of Tenders for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 50.
- Currencies
- 49.1 Kenya Where payments are made in currencies other than the

Shillings, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Tender.

Price Adjustment

50.1 The amounts payable to the Contractor, in various currencies pursuant to Sub-Clause 45.1, shall be adjusted in respect of the rise or fall in the cost of labour, Contractor's Equipment, Plant, materials, and other inputs to the Works, by applying to such amounts the formulae prescribed in this clause based on the prevailing consumer price index obtained from the Central Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya.

50.2 To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

50.3 The adjustment to be applied to amount payable to the Contractor as certified in Payment Certificates shall be determined formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be as follows;

$$P_n = a + b \frac{L_n - L_o}{L_o} + c \frac{M_n - M_o}{M_o} + d \frac{E_n - E_o}{E_o} \text{ etc.}$$

where;

**P<sub>n</sub>** is a price adjustment factor to be applied to the amount in each specific currency for the payment of the work carried out in the subject month, where such variations and daywork are not otherwise subject to adjustment;

**a** is a constant, specified in the **Appendix to Tender**, representing the nonadjustable portion in contractual payments;

**b, c, d, etc.**, are weightings or coefficients representing the estimated proportion of each cost element (labour, materials, equipment usage, etc.) in the Works or sections thereof, net of Provisional Sums, as specified in the **Appendix to Tender**; the sum of a, b, c, d, etc., shall be one;

**Ln, Mn, En**, etc., are the current cost indices or reference prices of the



cost elements in the specific currency of origin for month “**n**,” determined pursuant to Sub-Clause 50.5, applicable to each cost element; and

**Lo, Mo, Eo**, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 50.5

The value of net work done, certified by the Project Manager, in any monthly Interim or Final Certificate as payable by the Procuring Entity to the Contractor before deduction of any retention money shall be increased or decreased by an amount of ‘**F**’.

$$F = P_n x P_c$$

where;

The effective value **Pc** of work done which is to be subjected to increase or decrease shall be the difference between:

the amount which, in the opinion of the Project Manager, is due to the Contractor under Clause 45 (before deduction of retention money and before deducting sums previously paid on account) less:

any amount for payment or repayment of any advance payment;

any amount for materials on site (if any);

any amounts for nominated sub-contractors (if any)

any amounts for any other items based on actual cost or current prices; or

any sums for increase or decreases in the Contract Price paid under this Sub-Clause

and

the amount calculated in accordance with (i) above of this Sub-clause and included in the last preceding statement.

50.4 The sources of indices shall be those listed in the **Appendix to Tender**, as approved by the Engineer. Indices shall be appropriate for their purpose and shall relate to the Contractor’s proposed source of supply of inputs on the

basis of which his Contract Price and expected foreign  
currency requirements shall

have been computed. As the proposed basis for price adjustment, the Contractor shall have submitted with his Tender the tabulation of Weightings and Source of Indices in the **Appendix to Tender**, which shall be subject to approval by the Engineer.

50.5 The base cost indices or prices shall be those prevailing on the

day 28 days prior to the latest date for submission of Tenders.

Current indices or prices shall be those prevailing on the day 28

days prior to the last day of the period to which a particular

Interim Payment Certificate is related. If at any time the current

indices are not available, provisional indices as determined by the

Engineer will be used, subject to subsequent correction of the

amounts paid to the Contractor when the current indices become

available.

50.6 If the Contractor fails to complete the Works within the time for

completion prescribed under Clause 58 adjustment of prices

thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the

prescribed time for completion, or the current indices or prices, whichever is

more favourable to the Procuring Entity, provided that if an

extension of time is granted pursuant to Clause 28, the above

provision shall apply only to adjustments made after the expiry

of such extension of time.

50.7 The weightings for each of the factors of cost given in the

**Appendix to Tender** shall be adjusted if, in the opinion of the

Engineer, they have been rendered unreasonable, unbalanced,

or inapplicable as a result of varied or additional work already

already

executed or instructed under Clause 43 or for any other reason.

Retention

51.1 The Procuring Entity shall retain from each payment due to the Contractor the proportion stated in the **Contract Data Sheet** until Completion of the whole of the Works.

51.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and the other half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

51.3 On completion of the whole Works, the Contractor may substitute

		retention money with an “on demand” Bank guarantee. The Contractor shall pay liquidated damages to the
Liquidated Damages	52.1	Procuring Entity at the rate per day stated in the <b>Contract Data Sheet</b> for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the <b>Contract Data Sheet</b> . The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.
	52.2	If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 46.1.
	52.3	If the Contractor has not corrected a defects within the time specified in the Procuring Entity’s notice, the Procuring Entity will assess the cost of having the defect corrected, the Contractor will pay this amount, and a penalty for lack of performance calculated as described in Clause 38.
Bonus	53.1	The Contractor shall be paid a Bonus calculated at the rate per calendar day stated in the <b>Contract Data Sheet</b> for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.
Advance Payment	54.1	The Procuring Entity shall make advance payment to the

Contractor of the amounts stated in the **Contract Data Sheet** by the date stated in the **Contract Data Sheet**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.

54.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by

supplying copies of invoices or other documents to the Project

Manager.

54.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

The Performance Security shall be provided to the

Performance  
Securities

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

If applicable, the Dayworks rates in the Contractor's

Dayworks

56.1 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 Dayworks shall be recorded by

56.2 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 Dayworks subject to

56.3 obtaining signed Dayworks forms.

Cost of Repairs 57.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

Finishing the Contract

Completion Certificate 58.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon deciding that the work is completed.

Taking Over 59.1 The Procuring Entity shall take over the Site and the Works within



seven days of the Project Manager's issuing a certificate of Completion.

Final Account

60.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

Operating and  
Maintenance  
Manuals

61.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **Contract Data Sheet**.

61.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the **Contract Data Sheet**, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the **Contract Data Sheet** from payments due to the Contractor.

Termination

62.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

62.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

The Contractor stops work for 28 days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;

The Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;

The Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;

A payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days of the date of the Project Manager's certificate;

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;

The Contractor does not maintain a Security, which is required; and

The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the **Contract Data Sheet**.

If the Contractor, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this paragraph:

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution and includes inter alia, bribery and extortion or coercion which involves threats of injury to person ,property or reputation, and.

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.

62.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 62.2 above, the Project Manager shall decide whether the breach is fundamental or not.

62.4 Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.

62.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

63.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated

Payment upon  
Termination

in the **Contract Data Sheet**. Additional Liquidated Damages shall not apply. If the total

amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.

63.2 If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

Property

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

Release from  
Performance

65.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

Suspension of  
Financing

66.1 In the event that the source of financing is suspended to the Procuring Entity, from which part of the payments to the Contractor are being made:

The Procuring Entity is obligated to notify the Contractor of such suspension within 7 days of having received the financing agency's suspension notice.

If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 46.1, the Contractor may immediately issue a 14-day termination notice.



CONTRACT DATA SHEET (CDS)

## Contract Data Sheet

### Instructions for completing the Contract Data Sheet

CDS Clause	GCC Clause	Description
		<p style="text-align: center;"><b>General</b></p> <p><b>1.1(Items Definitions to take the same numbering as per the General Conditions)</b></p> <p>The Procuring Entity: Turkana county Assembly P.o Box 25 – 30500 Lodwar</p> <p>The Adjudicator is <i>Chartered Institute of Arbitrators (Kenya Branch)</i></p> <p>The Defects Liability Period is <i>180</i> days.</p> <p>The Project Manager WILL BE APPOINTED BY THE Clerk Turkana county Assembly</p> <p>The name and identification number of the Contract is:</p> <p>Tender for the Proposed Construction of new assembly: Tender No. TCA/CAF/10/2022-23</p> <p>The Works consists of <i>Construction of</i> <b>PROPOSED CONSTRUCTION OF CAFETERIA FOR TURKAN COUNTY ASSEMBLY</b></p> <p>The objectives of the contract are <i>to provide</i> which are mandatory requirements that override any detail which may be provided below.</p> <p>The Start Date shall be <i>determined</i></p>



The Intended Completion Date for the whole of the Works shall be 48WK *after tender award*.

The following documents also form part of the Contract: [*Performance*

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		<p><i>guarantee, Work Programme, and Insurance for bidders assets, equipment, motor vehicles and workers)</i></p> <p>The Site is located at <i>Athi River</i> and is defined in drawings No: <i>TO BE PROVIDED</i></p>
<b>2.</b>	<b>2.2</b>	Indicate whether there is sectional completion: NOT SPECIFIED
<b>3.</b>	<b>2.3(9)</b>	<p>List other documents that form part of the contract if any:</p> <p>a) Work Programme</p> <p>b) Performance Gurantee</p> <p>c) Insurance for bidders assets, equipment, motor vehicles and workers</p>
<b>4.</b>	<b>3.1</b>	<p>The language of the Contract documents is <i>English</i></p> <p>The law that applies to the Contract is the Kenyan Law.</p>
<b>5.</b>	<b>9.1</b>	Include the Schedule of Other Contractors, if any. N/A
<b>6.</b>	<b>10.1</b>	<p>Include the Schedule of Key Personnel.</p> <ol style="list-style-type: none"> <li><i>1. Project Manager</i></li> <li><i>2. Site Agent (Supervisor)</i></li> <li><i>3. Building Technicians</i></li> </ol>
<b>7.</b>	<b>14.1</b>	<p>The minimum insurance covers shall be:</p> <p>(a) loss of or damage to the Works, Plant, and Materials</p> <p style="text-align: center;"><i>SHALL BE THE FULL COST OF WORKS</i></p> <p>(b) loss of or damage to Equipment <i>Kshs 5 million</i></p> <p>(c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract</p> <p style="text-align: center;"><i>Kshs 5 million and</i></p> <p>(d) personal injury or death <i>an indemnity of Kshs 1 million at any one occurrence with a number of occurrences unlimited</i></p>
<b>8.</b>	<b>15.1</b>	<p>Site Investigation Reports available to the Tenderers are: NONE</p> <p>a).....</p> <p>b).....</p> <p>c).....</p>

<b>9.</b>	<b>22.4</b>	The other measures include: a. Minimising the number of migrant workers employed on the
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		<p>project and household in the site camp</p> <p>Providing access to voluntary counselling and testing (VCT)</p> <p>Providing psychological support and health care including prevention and treatment of opportunistic infections for workers infected and affected, as well as their families</p> <p>Providing condoms (male and female) to workers</p>
	<b>24.1 &amp; 47.1</b>	The Site Possession Date shall be: TO BE DETERMINED

	<b>28.2</b>	<p>Hourly rate of Fees payable to the Adjudicator is: TO BE DETERMINED</p> <p>Types of reimbursable expenses to be paid to the Adjudicator include: <i>[insert types of reimbursable expenses]</i>. TO BE DETERMINED</p> <p>a).....</p>
	<b>28.3</b>	<p>Arbitration will take place at <i>CHARTERED INSTITUTE OF ARBITRATORS – KENYA BRANCH</i> in accordance with rules and regulations published by the Republic of Kenya and The Public Procurement and Disposal Act (2005) and Regulations(2006) and subsequent amendments - Kenya</p>
	<b>29.1</b>	<p>Appointing Authority for the Adjudicator: <i>Public Procurement Oversight Authority or the Kenya Institute of Supplies Management</i></p>
<b>Time Control</b>		
	<b>30.1</b>	<p>The Contractor shall Submit a Programme for the Works within 7 days of delivery of the Letter of Acceptance.</p>
	<b>30.3</b>	<p>The period between Programme updates is <i>[number]</i> days.</p> <p>The amount to be withheld by the Project Manager in the case the contractor does not submit an updated programme is:.....</p> <p><i>[State amount]</i>.</p>



<b>C. Quality Control</b>		
<b>17.</b>	<b>38.1</b>	The Defects Liability Period is 28days.
<b>D. Cost Control</b>		
<b>18.</b>	<b>45.7</b>	Minimum Amount of Interim Payment Certificate will be <i>Kshs</i> <i>10,000,000</i>
<b>19.</b>	<b>46.1</b>	The interest rate shall be 3.% above prevailing interest rate for commercial borrowing from the contractors bank
<b>20.</b>	<b>47.1(a)</b>	The Site Possession Date shall be : <i>TO BE DETERMINED</i>
<b>21.</b>	<b>50</b>	The contract <i>IS NOT</i> subject to price adjustment in accordance with Clause 50 of the General Conditions of Contract.
<b>22.</b>	<b>51.1</b>	The amount of retention is 10% of value of works of Interim Payment Certificate’.
		Limit of retention will be <i>10%</i> of contract price.
<b>23.</b>	<b>52.1</b>	The rate of liquidated damages is <i>0.15% OF CONTRACT PRICE PER DAY</i>
	<b>52.1</b> <b>62.2 (g)</b>	The maximum amount of liquidated damages is 10% OF CONTRACT PRICE
<b>24.</b>	<b>53.1</b>	The bonus for early completion is NOT APPLICABLE
<b>25.</b>	<b>54.1</b>	The amount of advance payment shall be NOT APPLIC
		Monthly Recovery of Advance Payment: .....N/A.....percent of amount of Interim Payment Certificate. – NOT APPLICABLE
<b>26.</b>	<b>55.1</b>	The Performance Security shall be 10% OF THE CONTRACT PRICE

		<b>E. Finishing the Contract</b>

27.	61.1	As built drawings shall be supplied by the contractor by WITHIN 30 DAYS UPON COMPLETION OF PROJECT Operating manual shall be supplied by the contractor by WITHIN 30 DAYS UPON COMPLETION OF PROJECT
28.	61.2	The amount to be withheld by the Project Manager in the case the contractor does not submit as built drawings is 50% OF INTERIM PAYMENT CERTIFICATE  The amount to be withheld by the Project Manager in the case the contractor does not submit operating manual is 50% OF INTERIM PAYMENT CERTIFICATE
29.	63.1	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is 15%

**PART C - PRELIMINARIES AND GENERAL CONDITIONS**

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## **PART C**

### **PRELIMINARIES AND GENERAL CONDITIONS**

#### **3.01 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 Engineer at once and have the same rectified. All tenderers shall be deemed to have carefully examined the following:

- Work detailed in the Specification and in the Contract Drawings.
- The Republic of Kenya Document “General Conditions of Contract for Electrical and Mechanical Works”.
- 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.

#### **3.02 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.

#### **3.03 Payment**

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

#### **3.04 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 Clerk Turkana county**

**Architect:** The term “**Architect**” shall mean Tego Arch Systems.

**Quantity Surveyor:** The term “**Quantity Surveyor**” shall mean **Bill**

**Consults Quantity Surveyors**



**Civil/Structural Engineers:** The term “**Civil/Structural Engineers**” shall mean **Bosco Engineering Consultants**

**Engineer:** The term “**Engineer**” shall mean **Engineer, The Clerk Turkana county Assembly**

**Contractor:** The term “**contractor**” shall mean the persons or person, firm or Company whose tender for this work has been accepted, and who has entered into a contract with the government for the execution of the contract Works, and shall include his or their heirs, executors, administrators, assigns, successors and duly appointed representatives.

**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.

**Contract Drawings:** The term “**Contract Drawings**” shall mean those drawings required or referred to herein and forming part of the Bills of Quantities.

**Working Drawings:** The term “**Working Drawings**” shall mean those drawings required to be prepared by the Sub-contractor as hereinafter described.

**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.

**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**

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

**London W1, England KEBS** shall mean **Kenya Bureau of Standards**

“**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.

**3.05 Site Location**

The site of the contract Works is situated in **Athi River along the Namanga – Nairobi highway**.

The tenderer is recommended to visit the site and shall be deemed to have satisfied himself with regard to access, possible conditions, the risk of injury or damage to property on/or adjacent to the site, and 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.

### **3.06 Duration of Contract**

The Contractor shall be required to phase his work in accordance with programme (or its revision).

### **3.07 Scope of Contract Works**

The contractor shall supply, deliver, unload, hoist, fix, test, commission and hand-over 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 by the Contractor but to be fixed and commissioned under this contract.

### **3.08 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 Sub-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.

### **3.09 Execution of the Works**

The works shall be carried out strictly in accordance with:



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

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

### **3.10 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 the Employer before the official opening.

### **3.11 Firm – Price contract**

Unless specifically stated in the documents or the invitation to tender, this is a firm-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 Sub-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.

### **3.12 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 Engineer requires additional work to be performed, the contractor, if he considers it necessary, will give notice within seven ( 7 ) days to the Contractor of the length of time 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.

### **3.13 Prime Cost and Provisional Sums**

A specialist contractor may be nominated by the Engineer 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 Engineer.

The whole or any part of these sums utilized by the contractor shall be deducted from the value of the contract price when calculating the final account.

### **3.15 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.

### **3.16 Import Duty and Value Added Tax**

The contractor, unless exempted by Kenyan Laws or by the Government of Kenya, 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.

### **3.17 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.

### **3.18 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.

### **3.19 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.

### **3.20 Administrative Procedure and Contractual Responsibility**

Wherever within the Specification it is mentioned or implied that the contractor shall deal direct with the Employer or Engineer, it shall mean “through the Contractor” who is responsible to the Employer for the whole of the contract Works.

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

### **3.22 Contractor’s Office in Kenya**

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

The Engineer Manager and his staff shall be empowered by the contractor to represent him at meetings, 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.

### **3.23 Builder’s Work**

All chasing, cutting away and making good will be done by the Contractor but he shall mark out in advance and shall 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.

Any purpose made fixing brackets shall not constitute builder's work and shall be provided and installed by the contractor unless stated hereinafter to the contrary.

**3.24 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 Main Contractor.

### **3.25 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 siting 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.

### **3.26 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.

### **3.27 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 Sub-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.

### **3.28 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.

### **3.29 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.

### **3.30 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 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 other contractors whose installations and works might be affected, then he shall be liable to pay for any alterations or modification to his own, 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:

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.

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.

Schematic Layout Drawings of services and of control equipment.

Layout Drawings of all embedded and non-embedded paperwork, ducts and electrical conduits.

Complete circuit drawings of the equipment, together with associated circuit description.

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 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 Engineer 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 Engineer.

### **3.31 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:

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.

Fully dimensioned drawings of all plant and apparatus.

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.

Routes, types, sizes and arrangement of all pipework and ductwork including dates of installation of underground pipework.

Relay adjustment charts and manuals.

Routes, types, sizes and arrangement of all electric cables, conduits, ducts and wiring including the dates of installation of buried works.

System schematic and trunking diagrams showing all salient information relating to control and instrumentation.

Grading Charts.

Valve schedules and locations suitability cross-referenced.

Wiring and piping diagrams of plant and apparatus.

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.

Operating Instruction

Schematic and wiring diagrams shall not be manufacturer's multipurpose general issue drawings. They shall be prepared especially 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:-

The Marked-up Drawings during the execution of the contract Works or

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 Sub-contractor.

### **3.32 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:

System Description.

Plant

Valve Operation

Switch Operation

Procedure of Fault Finding

Emergency Procedures

Lubrication Requirements

Maintenance and Servicing Periods and Procedures

Colour Coding Legend for all Services

Schematic and Writing Diagrams of Plant and Apparatus

Record Drawings, true to scale, folded to International A4 size

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.

### **3.33 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 the Employer, provided always that the handing over of the contract Works shall be coincident with the handing over of the Contract Works. The procedure to be followed will be as follows:

On the completion of the contract Works to the satisfaction of the Engineer and the Employer, the contractor shall request the Engineer, at site to arrange for handing over.

The Engineer shall arrange a Hand-over Meeting or a series thereof, at site.

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 the Employer.

In the presence of the Employer and the Engineer, Hand-over will take place, subject to

Agreement of the Hand-over Certificates and associated check lists.

### **3.34 Painting**

It will be deemed that the Sub-contractor allowed for all protective and finish painting in the Sub-contract Sum for the Sub-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.

### **3.35 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.

### **3.36 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 Sub-contractor's own risk and should the test certificate not be approved new tests may be ordered by the Engineer at the Sub-contractor's expense.

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

### **3.37 Testing and Inspection -Installation**

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

### **3.38 Labour Camps**

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

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 Sub-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 Sub-contractor will be required to keep the same clean and disinfected, to make good any damage thereto and leave in good condition.

### **3.39 Storage of Materials**

Space for storage will be provided by the contractor will be responsible for the provision of any lock-up sheds or stores required. No materials shall be stored or stacked on suspended slabs without the prior approval of the Engineer.

### **3.40 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.

### **3.41 Maintenance and Servicing After Completion of the Initial Maintenance**

The contractor shall, if required, enter into a maintenance and service agreement with the employer 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 the employer than the terms of Agreements for either similar installation. The contractor shall submit with his tender for the works, 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 the Employer to and including the last day of the fifth complete calendar month following the end of the liability for Defects Period.

### **3.42 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.

### **3.43 Water and Electric Cluster for the Works**

These will be made available by the Contractor. The contractor shall be liable for the cost of any water or electric current used and for any installation provided.

### **3.44 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.

### **3.45 Defects after Completion**

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

### **3.46 Damages for Delay**

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

### **3.47 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.

### **3.48 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 claimed sub-divided as follows: 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 - Summarising statement A and B giving the net grand total due to the contractor for the execution of the contract.



### **3.49 Fair Wages**

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

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 the district where work is carried out.

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 Sub-contractor is engaged are similar.

### **3.50 Supervision**

During the progress of the works, the contractor shall provide and keep constantly available for consultation on site 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 Architect or Engineer.

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

### **3.51 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.

### **3.54 Labour**

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

### **3.55 Discount to the Contractor**

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

### **3.56 Guarantee**

The whole of the work will be guaranteed for a period of six months from the date of the Engineer's certification of completion and under such guarantee the Sub-



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.

## APPENDIX TO PRELIMINARIES AND GENERAL CONDITIONS

### Clause 3.38

There is no labour camp.

### Add to Clause 3.16

The unit rates shall include import duty and 16% VAT where applicable, and shall be expressed in Kenya Shillings. In accordance with Government Policy, **the 16% VAT shall be deducted** from all payments made in favour of the tenderer, and the same shall be forwarded to the **Kenya Revenue Authority (KRA)**.

*SECTION C:*

*CONDITIONS OF CONTRACT – PART I*  
**(GENERAL CONDITIONS)**

CONDITIONS OF CONTRACT, PART 1 – GENERAL CONDITIONS

The Conditions of Contract, Part 1 General Conditions, shall be those forming Part 1 of the “Conditions of Contract for works of Civil Engineering Construction, Fourth Edition 1987, re-printed in 1992 with further amendments prepared by the federation Inaternationale desingenieus conseils (FIDIC). The Conditions are subject to variations and additions set out in Part II hereof entitled “Conditions of Contract Part II – Conditions of particular Application”.

Note

The standard text of the General Conditions of Contract must be retained intact to facilitate its reading and interpretation by tenderers. any amendments and additions to the General Conditions, specific to a given Contract, should be introduced in the Conditions of Particular Application or in the Appendix to Form of Tender.

The Conditions of Particular Application take precedence over the General Conditions of Contract.

Copies of the FIDIC Conditions of Contract can be obtained from:

FIDIC  
Secretariat P.O  
Box 86  
1000 Lausanne 12

**Switzerlan**  
**d**

Fax: 41 21 653 5432

Telephone: 41 21 653 5003



## **SECTION C:**

### **CONDITIONS OF CONTRACT PART II**

#### **(CONDITIONS OF PARTICULAR APPLICATION)**

#### ***CONDITIONS OF PARTICULAR APPLICATION***

##### **Definitions**

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 [where applicable].

**“Schedule of Rates”** means the priced Schedule of Rates forming part of the tender [where applicable].

**“The Completion Date”** means the date of completion of the Works as certified by the Employer’s Representative.

**“The Contract”** means the agreement entered into by the Employer and the Contractor as recorded in the Agreement Form and signed by the parties.

**“The Contractor”** refers to the person or corporate body, whose tender to carry out the Works has been accepted by the Employer.

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

**“The Contract Price”** is the price stated in the Letter of Acceptance.

**“Days”** are calendar days; **“Months”** are calendar months.

**“A Defect”** is any part of the Works not completed in accordance with the Contract.

**“The Defects Liability Certificate”** is the certificate issued by Employer’s Representative upon correction of defects by the Contractor.

**“The Defects Liability Period”** is the period named in the Appendix to Conditions of Contract and calculated from the Completion Date.

**“Drawings”** include calculations and other information provided or approved by the Employer’s Representative for the execution of the Contract.

**“Employer”** includes Central or Local Government administration, Universities, Public Institutions and Corporations and 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.

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

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

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

**“Specification”** means the Specification of the Works included in the Contract.

**“Commencement 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.

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



**“The Works”** are what the Contract requires the Contractor to construct, install, and handover to the Employer.

### **Contract Documents**

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

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Contractor’s Tender,
- (4) Conditions of Contract,
- (5) Specifications,
- (6) Drawings,
- (7) Bills of Quantities or Schedule of Rates [whichever is applicable]

### **Employer’s Representative’s Decisions**

3.1 Except where otherwise specifically stated, the Employer’s Representative will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

### **Works, Language and Law of Contract**

4.1 The Contractor shall construct and install the Works in accordance with the Contract documents. The Works may commence on the Start Date and shall be carried out in accordance with the Programme submitted by the Contractor, as updated with the approval of the Employer’s Representative, and complete them by the Intended Completion Date.

4.2 The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya.

### **Safety, Temporary works and Discoveries**

5.1 The Contractor shall be responsible for design of temporary works and shall obtain approval of third parties to the design of the temporary works where required.



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

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

### **Work Programme and Sub-contracting**

6.1 Within seven days after Site possession date, the Contractor shall submit to the Employer's

Representative for approval a programme showing the general methods, arrangements, order and timing for all the activities in the Works.

The Contractor may sub-contract the Works (but only to a maximum of 25 percent of the

Contract Price) with the approval of the Employer's Representative. However, he shall not

assign the Contract without the approval of the Employer in writing. Sub-contracting shall

not alter the Contractor's obligations.

### **7. The site**

7.1 The Employer shall give possession of all parts of the Site to the Contractor.

7.2 The Contractor shall allow the Employer's Representative and any other person authorized by the Employer's Representative, 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.

### **8. Instructions**

8.1 The Contractor shall carry out all instructions of the Employer's Representative, which are in accordance with the Contract.

## **9. Extension of Completion Date**

- 9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by

the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.

9.2 For the purposes of this Clause, the following occurrences shall be valid for consideration;

Delay by:-

force majeure, or

reason of any exceptionally adverse weather conditions, or

reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or

reason of the Employer's Representative's instructions issued under these Conditions, or

reason of the contractor not having received in due time necessary instructions, drawings, details or levels from the Employer's

Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this Clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or

delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or

reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or

reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or

reason of delay in appointing a replacement of Employer's Representative, or

reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or

Delay in receiving possession of or access to the Site.

## **10. Management Meetings**

- 10.1 A Contract management meeting shall be held regularly and attended by the Employer's Representative and the Contractor. Its business shall be to review the plans for the remaining Work. The Employer's Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer's Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.
- 10.2 Communication between parties shall be effective only when in writing.

## **11. Defects**

- 11.1 The Employer's Representative 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 Employer's Representative may instruct the Contractor to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor. However, if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.
- 11.2 The Employer's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.
- 11.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Contractor has not corrected a defect

within the time specified in the Employer's Representative's notice, the Employer's Representative 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.

## **12. Bills of Quantities/Schedule of Rates**

- 12.1 The Bills of Quantities/Schedule of Rates 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 rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.
- 12.2 Where Bills of Quantities do not form part of the Contract, the Contract Price shall be a lump sum (which shall be deemed to have been based on the rates in the Schedule of Rates forming part of the tender) and shall be subject to re-measurement after each stage.

## **13. Variations**

- 13.1 The Contractor shall provide the Employer's Representative with a quotation for carrying out the variations when requested to do so. The Employer's Representative shall assess the quotation and shall obtain the necessary authority from the Employer before the variation is ordered.
- 13.2 If the Work in the variation corresponds with an item description in the Bill of Quantities/Schedule of Rates, the rate in the Bill of Quantities/Schedule of Rates shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in the Bill of Quantities/Schedule of Rates, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 13.3 If the Contractor's quotation is unreasonable, the Employer's Representative may order the variation and make a change to the Contract Price, which shall be based on the Employer's Representative's own forecast of the effects of the variation on the Contractor's costs.

## **14. Payment Certificates and Final Account**

- 14.1 The Contractor shall be paid after each of the following stages of Work listed herebelow (subject to re-measurement by the Employer's

Representative of the Work done in each stage before payment is made). In case of lump-sum



Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.

(i) First stage (*define stage*) **AS PER PROGRESS**

Second stage (*define stage*) **AS PER PROGRESS**

(iii) Third stage (*define stage*) **AS PER PROGRESS**

(iv) After defects liability period.

- 14.2 Upon deciding that Works included in a particular stage are complete, the Contractor shall submit to the Employer's Representative his application for payment. The Employer's Representative shall check, adjust if necessary and certify the amount to be paid to the Contractor within 21 days of receipt of the Contractor's application. The Employer shall pay the Contractor the amounts so certified within 30 days of the date of issue of each Interim Certificate.
- 14.3 The Contractor shall supply the Employer's Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect 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 Employer's Representative shall issue within 21 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 Employer's Representative shall decide on the amount payable to the Contractor and issue a Final Payment Certificate. The Employer shall pay the Contractor the amount so certified within 60 days of the issue of the Final Payment Certificate.
- 14.4 If the period laid down for payment to the Contractor upon each of the Employer's Representative's Certificate by the Employer has been exceeded, the Contractor shall be entitled to claim simple interest calculated pro-rata on the basis of the number of days delayed at the Central Bank of Kenya's average base lending rate prevailing on the first day the payment becomes overdue. The Contractor will be required to notify the Employer within 15 days of receipt of delayed payments of his intentions to claim interest.



- 15.1 The Contractor shall be responsible for and shall take out appropriate cover against, among other risks, personal injury; loss of or damage to the Works, materials and plant; and loss of or damage to property.

### **Liquidated Damages**

- 16.1 The Contractor shall pay liquidated damages to the Employer at the rate of **one tenth per cent (0.1%)** of the Contract price per day for each day that the actual Completion Date is later than the Intended Completion Date except in the case of any of the occurrences listed under Clause 9.2. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

### **Completion and Taking Over**

- 17.1 Upon deciding that the Work is complete the Contractor shall request the Employer's Representative to issue a Certificate of Completion of the Works, upon deciding that the Work is completed.

The Employer shall take over the Site and the Works within seven days of the Employer's Representative issuing a Certificate of Completion.

### **Termination**

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

The Contractor stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;

The Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;



If a payment certified by the Employer's Representative is not paid by the Employer to the Contractor within 30 days after the expiry of the payment periods stated in Sub-Clauses 14.2 and 14.3 hereabove.

The Employer's Representative 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.

- 18.2 If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative 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.

### **Payment Upon Termination**

- 19.1 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works.
- 19.2 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 Employer's Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.
- 19.3 Until after completion of the Works under this Clause, the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefore the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

## **Corrupt Gifts and Payments of Commission**

20.1 The Contractor shall not:

Offer or give or agree to give to any person in the service of the Employer any gifts or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract with the Employer.

Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the Laws of Kenya.

**Settlement of Disputes**

- 21.1 Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred by either party 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 of the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.





**SECTION D**

**GENERAL SPECIFICATIONS**

**OF**

**MATERIALS AND WORKS**

## **GENERAL SPECIFICATIONS OF MATERIALS AND WORKS**

### **1. GENERAL**

This specification is to be read in conjunction with the drawings which are issued with it. Bills of quantities shall be the basis of all additions and omissions during the progress of the works.

### **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 new and the best of the respective kind and shall be of a uniform pattern.

### **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.

### **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.

## **5. SHOP DRAWINGS**

Before manufacture or Fabrication is commenced the contractor shall submit two copies of detailed drawings of all control pillars, meter cubicles, medium voltage switchboards including their components showing all pertinent information including sizes, capacities, construction details, etc, as may be required to determine the suitability of the equipment for the approval of the Engineer. Approval of the detailed drawings shall not relieve the contractor of the full responsibility of errors or the necessity of checking the drawings himself or of furnishing the materials and equipment and performing the work required by the plans and specifications.

## **6. 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.

## **7. REGULATIONS AND STANDARDS**

All work executed by the contractor shall comply with the current edition of the "Specifications for Civil Engineering Works, issued by the Directorate of Public Works, or the relevant Local Authority bye-Laws.

Where two sets of regulations appear to conflict, they shall be clarified with the Engineers. All materials used shall comply with relevant Kenya Bureau of Standards Specification or the appropriate British Standard.

## **8. 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.

### **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 or the standards for Civil engineering Works issued by the Directorate of Public Works or the latest Kenyan or British Standards Specification or Local Authority **By-Laws**.

The contractor shall provide accurate instruments and apparatus and all labour required to carry out all the necessary tests. The instruments and apparatus shall be made available to the engineer to enable him to carry out such tests as he may require.

The Contractor shall generally attend on other Contractors employed on the project and carry out such tests as may be necessary.

The Contractor shall test to the engineer's approval and as specified elsewhere in this specification or in Standards and regulations already referred to, all equipment, plant and apparatus forming part of the works and before connecting to any other setting or work.

Where such equipment, etc. forms part of or is connected to a system whether primarily or of whatever nature or otherwise, the Sub-Contractor shall attend on and assist in balancing, regulating testing and commissioning, or if primarily an electrical or other system forming part of works, shall balance, regulate, test and commission the system to the engineer's approval.

**SECTION F**

**SCHEDULE**

**OF**

**CONTRACT DRAWINGS**

**SCHEDULE OF CONTRACT DRAWINGS**

<b>DRAWING NO.</b>	<b>DRAWING TITLE</b>

**NOTE:**

Tenderers are advised to inspect the drawings at the office of Turkana county assembly during normal working hours.

S

**SECTION G**

**SPECIAL SPECIFICATIONS**

**OF**

**MATERIALS AND WORKS**



## **SPECIAL SPECIFICATION**

### **SITE LOCATION**

The site of the proposed works is as specified in the Bills of Quantities.

### **SCOPE OF WORKS**

The works to be carried out under this contract comprise the work described under (ii) below.

### **DESCRIPTION OF WORKS**

The main items of work are as follows:-

- Site Clearance.
- Excavation
- Builders Works
- Electrical Works
- Mechanical Works
- External works

### **iii) SITE VISIT**

The Employer shall organize a mandatory site visit for the contractor to acquaint himself with

topography, soil condition, access, sources of construction materials, reliability of water source,

periods during which execution of work will be possible etc as specified in clause number 4 of

instructions to tenderers and no claims incurred due to lack of knowledge of the said and other

site conditions will be considered.

### **ACCESS TO SITE**

The site can be approached as specified in the Bills of Quantities.

### **DRAWINGS**

All drawings are deemed to be self-explanatory. However, where doubts exist, the contractor should liaise with the Engineer before proceeding with the works. The scales are as shown and only figured dimensions are to be applied.

### **ENGINEER'S STATIONERY**

The tenderer shall be required to provide stationery, as described in Bills of Quantities, to be used by the Engineer in running of the project.

## **SITE OFFICE**

The main contractor shall be required to construct and maintain a site office for the Project Manager and his team together with all standard furniture, fittings and telephone. The contractor shall be responsible for paying all connections, rent and call charges in connection therewith.

## **LABOUR CAMP**

The contractor is not permitted to house labour on site. He will be responsible for the transportation of workmen to and from site at his own cost and risk.

## **THE MANAGEMENT OF THE CONTRACT**

The Project Manager responsible for the contract management and site supervision will be determined

All materials and workmanship shall comply with the latest edition of the Directorate of Public Works specifications for Civil Engineering.

## **EXTENT OF CONTRACT AND ALTERATION OF DESIGN**

The works specified under this contract shall include all general work preparatory to execution of all matters, things, requisites and work of any kind necessary for the due and satisfactory construction, completion and maintenance of the work to the intent and meaning of the drawings and this specification and further drawings and orders, that may be issued by the Engineer from time to time. Compliance by the Contractor with all the General Conditions of Contract, whether specifically mentioned or not in the clause of this specification, all materials, apparatus, plant, machinery, tools, fuel, water, timbering and tackle of every description, transport, offices, stores, workshops, staff, labour, the provision of proper and sufficient protective works, temporary fencing, lighting and watching required for the safety of the public and protection of the works and adjoining lands: first aid equipment, sanitary , accommodation for the staff and workmen; the effecting and maintenance of all insurances, the payment of all wages, salaries, fees, royalties, duties or other charges arising out of the execution of the works and the regular clearance of rubbish, re-instatement and clearing and leaving perfect on completion. The Contractor will be deemed to have included in his rates the cost of complying with the requirements of this Specification and General Conditions of the Contract unless otherwise specified.

Should the Contractor have comments regarding soundness of the design of any part of the work, or should he consider that the execution of the design is

impossible on any part of the Contract, the Contractor is required to notify the Engineer in writing at

the time of the tender and provide factual evidence substantiating his opinion when required to do so by the Engineer.

Notices given by the Contractor in respect of the above after the tender is submitted will not be considered as the basis of a claim for additional costs or extensions of the time.

The Engineer may require to alter the design of any part of the structure should site conditions warrant such a change and the rates entered in the Bill of Quantities should be applicable for the similar items. The rates for the items of the work not covered by the Bill of Quantities shall be established by the Engineer.

### **PROGRAMME FOR EXECUTION OF THE WORKS**

In accordance with the terms of Clause 14 of the General Conditions of the Contract, the Contractor shall submit to the Engineer within 14 days from the order to commence fully detailed programme showing the order, procedure and method by which he proposes to carry out the construction and completion of the works

The information to be supplied to the Engineer shall include drawings showing the general arrangement of the temporary offices and any other temporary structures, which the Contractor proposes to use together with details of the construction plant and temporary works and all other devices, which he proposes to adopt for the construction and completion of the whole of the works, and in addition to details of the labour strength, skilled and unskilled, and supervision arrangements.

The Order in which it is proposed to execute the permanent works is subject to adjustment and approval by the Engineer and the Contract Price shall be held to include for any reasonable and necessary adjustment required by the Engineer during the course of the Works.

The Contractor will be deemed to have considered the effect of seasonal weather variations, when programming his operations it must be clearly understood, that rains of up to 75mm per day will be deemed to be normal and expected. No claims by the sub-Contractor for extension of time due to rains or floods less than 75mm per day as measured by the Meteorological Department will be considered by the Engineer.

The Contractor, when preparing his programme has to consider the time for the delivery of any imported material and the Engineer's normal working hours.

The Engineer's normal working hours shall be defined as 8a.m. to 5p.m. on weekdays with Saturdays and Sundays set aside for rest. If the Contractor wishes to execute permanent works outside these hours, he shall obtain the written permission of the engineer to make provision for supervision of such works.

The Contractor shall carry out the Contract in accordance with the Programme agreed with the Engineer, but he shall in no manner be relieved by the Engineer's approval of the programme of his obligations to complete the works by the prescribed completion date, and he shall from time to time review his progress and make such amendments to his rate of execution of the works as may be necessary to fulfill his obligations.

If in the opinion of the Engineer the plant or the equipment used by the Contractor for any specific item of the work does not fulfill the requirements of the specifications in respect of the workmanship, quality and safety of structures, some items of plant and equipment shall be replaced with similar or equivalent items of plant or equipment to the satisfaction of the Engineer. No extra payment will be made in respect of such replacements.

### ***TEMPORARY WORKS***

After the Contract is placed and before the work commences, the Contractor shall submit to the Engineer drawings showing the general arrangement of his offices, quarters, workshops, etc and other temporary works with diagrams and descriptions showing how he proposes to execute such temporary works and how they fit into his programme for the permanent works, all to be subject to adjustment and approval by the Engineer.

The Contractor shall be fully responsible for the sufficiency, stability and safety of all temporary works and their care in accordance with the Conditions of Contract.

The Contractor shall at his own expense, supply in advance to the Engineer for his approval detailed drawings and calculations of stability of such temporary works as the Engineer may direct, but no approval given or implied by the Engineer shall relieve the Contractor of his responsibilities in connection with the temporary works

Unless otherwise instructed, upon completion of the contract and after receiving approval in writing from the Engineer, the Contractor shall take down and remove all structures forming part of his own camp and that of the Engineer, and shall arrange for the disconnection of water supply, remove all drains and culverts, backfill trenches, fill in all latrine pits, soak away and other sewage disposal excavations, with the exception of items and services to revert to the ownership of the Employer and shall restore the site as far as practicable to its original condition and leave it neat and tidy to the satisfaction of the Engineer.





## ***SITE PERSONNEL***

The Engineer will require the contractor to submit a list of professional and sub-professional personnel to be employed on the site stating their qualifications and experience.

The contractor shall be responsible for ensuring, that all personnel of Non-Kenyan origin employed on site by himself or his sub-contractors or who are otherwise connected with the construction contract through the sub-contractor must be approved and cleared individually in writing by the appropriate government official to work on the project. Where personnel are not approved, the Contractor shall be responsible at his own expense for obtaining and employing suitable and approved personnel.

The Engineer reserves the right to determine suitability of the persons employed by the contractor and may request replacement at any time of any member of the team employed by the contractor. If in the opinion of the Engineer the presence of such a person is deleterious to the execution of the Contract, the Engineer's decision is final and binding.

The Site Agent to be a competent person approved by the engineer.

The contractor shall always keep a literate, English speaking Agent or Engineer as his representative on the site, competent and experienced in the type of works Involved, who shall give his whole time to the Supervision of the contractor's operations.

The name of such Agent or Representative shall be submitted in writing to the Engineer for approval and he shall receive on behalf of the contractor all directions and instructions from the Engineer or his representative and such directions and instructions shall be deemed to have been given to the contractor in accordance with the conditions of contract.

## **NOTICE OF OPERATIONS**

No important operations shall be carried out without the consent of the Engineer in writing, or without full and complete notice also in writing, being given to the Engineer by the contractor sufficiently in advance of the time of the operation as to enable the Engineer to make such arrangements, as he may deem necessary for its inspection.

The contractor shall supply, from time to time, to the Engineer in writing, full information with respect of locations in which the work is being prepared.

The contractor shall give the Engineer not less than 24 hours notice of his intentions to set out or give levels for any part of the works, in order that arrangements may be made for checking. The Contractor shall carefully preserve any benchmarks, setting out pegs or other line or level markings installed or made by the Engineer. Working shall be suspended for such times as may be necessary for checking the lines and levels on any part of the work.

### ***SETTING OUT***

It will be the responsibility of the Contractor to obtain before commencing work the value and location of the benchmarks to be used for the works from the Engineer. All temporary benchmarks will be referred hereto. The Contractor shall construct such temporary benchmarks as the engineer may direct and agree the level thereof with the Engineer. The establishment of such temporary benchmarks will be deemed to be part of the Contractor's responsibility in setting out the works and no additional payment will be allowed.

Should the Contractor discover any error in the alignment or levels of the basic setting out, he shall at once notify the Engineer, who will then issue amended drawings or instructions regarding the correction of the error.

All approved setting out points, lines, stations etc shall be marked by concrete markers and steel pegs or as otherwise approved by the Engineer.

The contractor shall allow in the Bill of Quantities for complying with the provisions of this Clause and any abortive setting out occasioned by errors in the alignment of levels of the Contractor's basic setting out.

### **09. HEALTH AND SAFETY ON SITE**

The Contractor shall ensure, so far as is reasonably practicable and to the satisfaction of the Engineer, the health, safety and welfare at work of his employees including those of his sub-contractors and of all other persons on the site.

From the time any portion of the works is commenced, until the end of the maintenance period, the Contractor shall be responsible for protecting the public from anything dangerous to persons or property and for the safe and easy passage of pedestrians and vehicular traffic.

The Contractor shall designate one of his senior staff, who shall have specific knowledge of safety regulations and experience of safety precautions on similar

works and who shall advise on matters affecting the safety of workmen and on measures to be taken to promote safety in compliance with the factories Act Cap. 514 as a safety officer.

The Contractor shall provide protective clothing and equipment, first aid stations with such personnel and equipment as are necessary. The appropriate information, instruction, training and supervision will be arranged by the Contractor to ensure the safety and health of all the persons employed on the works, all in accordance with the laws of Kenya.

The Contractor shall provide adequate waterborne sanitation and refuse collection and disposal complying with the laws of Kenya and all local by-laws, and to the satisfaction of the Engineer, for all houses, offices, workshops erected on site. Construction of pit latrines will not be permitted unless the Engineer has given his approval in writing.

During the period of execution of the works the Contractor shall ensure that no pollution of existing water courses or of reservoir catchment areas is allowed to take place as a result of his operation.

#### **10. PRIVATELY OWNED AND PUBLIC UTILITY SERVICES**

The Contractor shall make himself acquainted with the position of all existing works and services inter alia sewers, storm water drains, cables for electric and telephone and lighting poles and water mains before any excavation commences.

The Contractor will be held responsible for damage caused in the course of the execution of the works to some existing works and services and shall indemnify the Employer against any claims arising from such damage (including consequential damages). Any damage caused must be made good at the Contractor's own expense.

Such existing works and services, where exposed the execution of the works, must be properly shored, hung-up and supported to the satisfaction of the Engineer and of the Authority concerned. The Contractor shall exercise special care, when refilling trenches or other excavations around some existing works / services.

Poles supporting cables, etc adjacent to the works will be kept securely in place, until the work is completed and will then be made as safe and permanent as before.

Notwithstanding the foregoing requirements and without lessening the Contractor's responsibility, the contractor shall inform the Engineer immediately when existing

works have been exposed and conform to any requirements of the Authority concerned and of the Engineer.

Any damage to or interference with existing services occasioned during the progress of the works, will be deemed to be the responsibility of the Contractor who shall undertake to make good at his own expense any damage so caused to the existing underground services or other features, and shall be liable in respect of all claims arising from such damage or interference, however occasioned.

Only when and as directed by the Engineer the position of an existing work or service can be changed by the Contractor to meet the requirements of the proposed work. The cost of such work will be paid for on a day work basis, except where a specific item has been provided in the Bills of Quantities.

### **EXISTING ROADS AND ACCESSES**

The Contractor shall comply with all requirements of the Employer, owners or the competent Authority concerning the use of traded equipment or other construction plant on any public or private road.

The cost of providing all *diversions*, signs, operators, flagmen and all reinstatement to *the* approval of the Engineer will be deemed to be included in the rates entered in the Bill of Quantities, as will the cost of any road opening permit.

Before excavating across any public road, the Contractor shall give 10 days notice in writing to the Engineer and the Local Authority his intention to excavate. He shall satisfy the Engineer, the Local Authority and the Police as to the precautions he proposes to take and the signs and lights to be provided and operated. On *any* road or track at least 4 red lights shall be suitably placed on either side of the trench and diversions shall be clearly marked, signed and maintained.

The Contractor shall further give to the Engineer a 24 hours notice before excavating across a private road. Existing access to lands, property and all other things will be maintained by the Contractor during the continuance of the Works to the Engineer's satisfaction. The cost of such maintenance will be deemed to be covered by and included in the rates entered on the Bills of Quantities.

When a road, used *by* the Contractor for transporting labour or construction plant or for delivery of any materials for the works, is closed under Section 71 of the traffic ordinance 1962 or amendments thereto, the Contractor shall obey such closure and shall use alternative roads.

**12. COMPLIANCE WITH STATUTES AND REGULATIONS**

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In addition to the requirements of Clause 26 of the General Conditions of Contract, the Contractor shall be responsible for acquainting himself with all current valid statute ordinances or bye-laws or building regulations, which may affect the Works and shall include in his rates for all costs arising from compliance with the same. This applies in particular to the training levy and similar taxes for which no claims on the part of the Contractor will be entertained.

The Contractor shall also keep in close touch with Police and other Government Officials of the area regarding their requirements in the control of traffic or other matters, and shall provide all assistance or facilities, which may be required by such officials in the execution of their duties.

The Contractor's attention is drawn to legal Notice No.237 of October, 1971, which requires payment by the Contractor for Training Levy at the rate of 0.25% of the Contract sum on all contracts of more than KSh50,000.00 value and his tender must include for all costs arising or resulting thereof. The Contractor without delay shall pay the Training levy. The original receipt shall be given to the Engineer for verification. The Engineer will certify no payment certificate, until the Contractor complies with the above legal notice

### **13. WATER SUPPLY**

The Contractor shall provide clean and sufficient supply of fresh water both for construction of the works and for all offices and workshops, etc. including the arrangement of pipe lines, metres, etc for connecting to local water main, the provision of storage tanks or water conveyance where necessary, payment of all fees and water charges.

The water shall be reasonably clear of suspended solids and free from any matter in quantities considered by the Engineer to be deleterious to the proposed work. Water supplied to the Engineer's offices, laboratories, etc. shall be drinkable to the satisfaction of the Medical Officer in the area. No separate payment shall be made for the provision of water or its attendant facilities and the Contractor shall allow for all these in his tender rates.

In the event that a water main is not available on or near the site, or that any available mains will not have sufficient capacity to provision of water adequate for the works, then the Contractor shall provide temporary tanks or other means of collecting, storing and distributing water on the site.



**14. LIGHTING, POWER AND TELEPHONE**

The Contractor shall make his own arrangements for the supply of light, power and telephone required for the construction of the works and shall pay all fees and charges in connection therewith.

The Contractor shall arrange with the appropriate authority for a temporary meter and supply of electricity and provide all temporary wiring, power and lighting points as he may consider necessary. In the event no fixed electricity being available, the Contractor shall provide the necessary power generating plant his own expense.

**15. WORKING AREA**

The Contractor shall restrict his operations to those areas made available to him by the Engineer and shall at all times provide and maintain an adequate access for the Employer's employees and vehicles to carry out their normal duties in and around the existing works.

The Contractor shall, before entering upon any land purchased, rented, or for the use of which compensation has been paid, ensure that all formalities have been completed and the agreement of the Owner, Tenant and the Engineer has been obtained.

All requirements of land for temporary works and construction purposes shall be to the approval of the Engineer but the Contractor will make all necessary arrangements with the property owners concerned and pay all charges arising there from. On or before completion of the Contract, the Contractor shall remove all temporary works and shall restore all such land to the condition in which it was immediately prior to the occupation thereof as far as is reasonable and practicable. No separate payment will be made to the Contractor on account of these items and the Contractor must make due allowance for them in his rates.

**16. CO-ORDINATION OF THE WORKS**

The Employer reserves the right to execute works on the site which are not included in this Contract. He will employ for this purpose either his own employees or another Contractor. The Contractor shall ensure that neither his own operations nor trespass by his employees will interfere with the operations of the Employer nor his Contractor employed on such works.



The Contractor will be required to carefully co-ordinate his activities and work, both on and off site, with the activities and work of the other Contractors, Sub-Contractors, statutory, undertaking and all supervisory staff for the works appointed by the Employer. He shall allow all works to proceed without undue hindrance and will cooperate to expedite execution of the works.

If any dispute or difference of any kind whatsoever shall arise between the Contractor or statutory undertaking regarding the phasing, progress or execution of the works then the Engineer shall have full power to direct in what order the works, or any portion thereof shall be carried on or completed and he may from time to time require the whole or any portion of the works to be discontinued or the execution thereof postponed for such a period as he may think fit.

The Contractor shall respect any works executed by others and articles supplied or installed by others and will be held responsible for any loss or damage thereto, if caused by him or his Sub-Contractors.

#### **17. COPIES OF ORDERS AND TEST CERTIFICATES**

Before entering into any sub-Contract for the supply of any material or article the Contractor shall obtain the Engineer's approval in writing of the Sub-Contractor from whom he proposes to obtain such materials or goods. Should the Engineer at any time be dissatisfied with such materials or goods or with the method of operations carried out at such Sub-Contractor's works or place or business, he shall be empowered to cancel his previous given approval of sub-contract and shall specify any other supplier whom he may choose, or shall approve another sub-contractor for the supply of such materials or goods. The Contractor shall then obtain such said materials or goods from such other supplier and shall bear any additional cost thereof, together with the costs and consequences of replacing any unsatisfactory materials already incorporated in the work.

The Contractor shall deposit with the Engineer samples of materials and manufactured articles including the manufacturer's specification, when and where appropriate.

When instructed by the Engineer, the Contractor shall submit test-certificates from the suppliers of the materials and goods to be used for the contract to the Engineer. Such certificates shall certify that the materials or goods concerned have been tested in accordance with the requirements of the specifications and shall give the results of all tests carried out. The

Contractor shall provide adequate means of identifying the materials and goods delivered to the site with the corresponding certificates.

The Contractor shall provide the Engineer with copies of all orders for the supply of materials and goods required in connection with the works as the Engineer may require.

All materials and manufactured articles shall be stored on site in a manner acceptable to the Engineer. The Contractor shall carefully protect from weather and vermin all work, materials and manufactured articles, which may be affected.

### **PROGRESS PHOTOGRAPHS AND RECORD DRAWINGS**

Colour negatives showing the progress of the works shall be taken every month by the Contractor from positions to be selected by the Engineer. The Contractor shall supply proof prints of each negative from which the Engineer shall select negatives. The Contractor shall produce 2No. sets of those selected colour prints which shall be handed over to the Engineer together with all the negatives. Each photograph shall be marked with the number of negative and a statement shall be submitted giving location and date when taken and a brief description or title.

The photographs shall be mounted on A4 loose-leaf sheets, minimum 200g, with transparent plastic sheets...

After the work has been completed, the Contractor shall furnish as built drawings, showing the works as constructed together with all other information that may either be required or be useful for the operation and maintenance of the works in the future, such as alignment and depth of cover of pipelines, type of soil, rock levels, type, dimensions and location of structures, size of pipelines and cables encountered during excavation

All drawings shall be A 1 in size to the ink border and drawn on a permatrace paper.



**SECTION H**

**OTHER TENDER FORMS**

TENDER QUESTIONNAIRE

Please fill in block letters.

Full names of Tenderer:

.....

Full address of Tenderer to which tender correspondence is to be sent (unless an agent has been appointed below):

.....

Telephone number (s) of Tenderer:

.....

Telex/Fax Address of Tenderer:

.....

Name of Tenderer's representative to be contacted on matters of the tender during the tender period:

.....

Details of Tenderer's nominated agent (if any) to receive tender notices. This is essential if the Tenderer does not have his registered address in Kenya (name, address, telephone, telex):

.....

.....  
.....  
Signature of  
Tenderer

Make copy and deliver to:

The Clerk,  
Turkana County Assembly  
P.O. Box 25 – 30500,  
**Lodwar**

**CONFIDENTIAL BUSINESS QUESTIONNAIRE**

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2(c) and (2d) 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: Country/Town.....

Plot No..... Street/Road .....

Postal Address..... Tel No.....

Nature of Business.....

Current Trade Licence No..... Expiring date.....

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

Kenya Shillings.....

Name of your bankers.....

Branch.....

***Part 2 (a) – Sole Proprietor***

Your name in full..... Age.....

Nationality..... Country of Origin.....

Citizenship details .....

***Part 2 (b) – Partnership***

*Give details of partners as follows:*

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>
1.	.....	.....	.....	.....



.....

.....

.....

**Part 2(c) – Registered Company**

Private or Public .....

State the nominal and issued capita of the company:

Nominal KShs. ....

Issued KShs. ....

Give details of all directors as follows:

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details*Shares</i>
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....

**Part 2(d) Interest in the Firm:**

Is there any person/persons in the employment of the Government of Kenya WHO has interest in this firm? Yes/No ..... (Delete as necessary)

I certify that the above information is correct.

.....  
.....

Title  
Date

Signature

*Attach proof of citizenship*

**KEY PERSONNEL**

Qualifications and experience of key personnel proposed for administration and execution of the Contract.

<b>POSITION</b>	<b>NAME</b>	<b>YEARS OF EXPERIENCE (GENERAL)</b>	<b>YEARS OF EXPERIENCE PROPOSED POSITION</b>	<b>OF IN</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				



--	--	--	--

--	--	--	--

I certify that the above works were successfully carried out and completed by ourselves.

.....

Title

.....

....

Signature  
e

.....

Date



**SCHEDULE OF ON-GOING PROJECTS**

Details of similar on-going or committed projects, including expected completion date.

PROJECT NAME	NAME OF CLIENT	CONTRACT SUM	% COMPLETE	COMPLETION DATE

I certify that the above works are currently being carried out by  
ourselves.....

.....

Title

Date

.....

Signature





**LITIGATION STATUS**

Give full information and particulars of your company’s litigation history and the nature of any litigation.

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

<b>Client</b>	<b>Contract</b>	<b>Contract</b>	<b>Commencement Date</b>	<b>Completion Date</b>	<b>Date of Litigation</b>
	<b>Name</b>	<b>Sum</b>			

**N.B.** Indicate “NONE” in case your company does not have any litigation history.

**NATURE AND DETAIL OF LITIGATION**

**Note: More sheets may be attached if necessary.**

.....  
**(Signature of Contractor)**

.....  
.....  
**(Date)**

**DECLARATION FORM**

**STATEMENT OF VERIFICATION THAT THE BIDDER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND DISPOSAL ACT 2005.**

I, .....of P. O. Box  
..... being a resident of  
..... in the Republic of Kenya do hereby make a statement as follows:-

THAT I am the Chief Executive/Managing Director/Principal Officer/Director of  
.....  
..... (Name of the Company) who is a Bidder in respect of **Bid No.**  
..... To supply goods, render services and/or carry out works for Turkana County Assembly and duly authorized and competent to make this statement.

THAT the aforesaid Bidder has not been debarred from participating in procurement proceeding under Part IX.

THAT the aforesaid Bidder will not engage in any corrupt 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 Turkana County Assembly , which is the procuring entity.

THAT the aforesaid Bidder, its servants and/or agents have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of Turkana county assembly

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

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



**FORM OF WRITTEN POWER-OF-ATTORNEY**

The Tenderer consisting of a joint venture shall state here below the name and address of his representative who is authorized to receive on his behalf correspondence in connection with the Tender.

.....  
.....

...  
(Name of Tenderer's Representative in Block Letters)

.....  
.....

...  
(Address of Tenderer's Representative)

.....  
.....

...  
(Signature of Tenderer's Representative)



Tender-Securing Declaration (Mandatory)

Date: *[insert date (as day, month and year)]*

Tender No.: *[insert number of Tendering process]*

Alternative No.: *[insert identification No if this is a Tender for an alternative]*

To: *[insert complete name of Procuring Entity]*

We, the undersigned, declare that:

We understand that, according to your conditions, Tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Tendering in any contract with the Procuring Entity 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 Tender conditions, because we;

Have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or

Having been notified of the acceptance of our Tender by the Procuring Entity during the period of Tender 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 ITT.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of;

Our receipt of your notification to us of the name of the successful Tenderer; or  
Thirty days after the expiration of our Tender.

Signed: ..... In the capacity of.....

Name:

Duly authorized to sign the Tender for and on behalf of: .....

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_20..

Corporate Seal (where appropriate)





Confidential Business Questionnaire

1 **Individual Tenderer or Individual Members of joint Ventures**

1.1 Constitution or legal status of Tenderer: *[attach copy]*

Place of registration: *[insert]*

Principal place of business: *[insert]*

Power of attorney of signatory of Tender: *[attach]*

Registration certificate *[attach]*

current

Business License

*[attach]*

1.2 Total annual volume of construction work performed in two years, in Kenyan shillings as specified in the Tender Data Sheet; *[insert]*

1.3 Work performed as prime Contractor on works of a similar nature and volume over the last two years or as specified in the Tender Data Sheet in Kenyan Shillings. Also list details of work under way or committed, including expected completion dates.

Project name and country	Name of client and contact person	Contractors Participation	Type of work performed and year of completion	Value of contract
(a)				
(b)				

1.4 Major items of Contractor's Equipment proposed for carrying out the works. List all information requested below. Refer also to sub-Clause 12.3 of the Instructions to Tenderers.

Item of	Description, make,	Condition (new,	Owned, leased
---------	--------------------	-----------------	---------------

<b>equipment</b>	<b>and age (years)</b>	<b>good, Poor) and number available</b>	<b>(from whom?) or to be purchased (from whom?)</b>
(a)			

(b)			
(c)			
(d)			

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to sub-Clause 12.3 of the Instructions to Tenderers and Sub- Clause 10.1 of the General Conditions of Contract.

<b>Position</b>	<b>Name</b>	<b>Years of Experience (general)</b>	<b>Years of experience in proposed position</b>
(a)			
(b)			

1.6 Proposed sub-contractor and firms involved. Refer to Clause 7 of General Conditions of Contract.

<b>Sections of the Works</b>	<b>Value of subcontract</b>	<b>Subcontractor (name and address)</b>	<b>Experience in similar work</b>
(a)			
(b)			

1.7 Financial reports for the number of years specified in the Tender Data Sheet.

1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.

1.9 Name, address, and telephone, e-mail address, and facsimile numbers of banks that may provide references if contracted by the Procuring Entity

1.10 Information on current litigation in which the Tenderer is involved.



Other party(ies)	Cause of dispute	Amount involved
(a)		
(b)		

1.11 Statement of compliance with the requirements of sub-Clause 3.2 of the Instructions to Tenderers.

1.12 Proposed Program (work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the Tendering documents.

**2. Joint Ventures**

2.1 The information listed in 1.1 – 1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory (ies) of the Tender authorizing signature of the Tender on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;

one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and

the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

3. **Additional Requirements**
  - 3.1 Tenderers should provide any additional information required in the **Tender Data Sheet** or to fulfil the requirements of sub-Clauses 12.1 of the Instructions to Tenderers, if applicable.

## Integrity Declaration

### **UNDERTAKING BY TENDERER ON ANTI – BRIBERY POLICY / CODE OF CONDUCT AND COMPLIANCE PROGRAMME**

Each Tenderer must submit a statement, as part of the Tender documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the Tendering company and, where relevant, of its subsidiary in the Kenya. If a Tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.

Tenderers will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners; the Tenderer may cover the subcontractors and consortium partners in its own statement, provided the Tenderer assumes full responsibility.

3.

Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.

Each Tenderer will make full disclosure in the Tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the Tender and, if successful, the implementation of the contract.

The successful Tenderer will also make full disclosure [quarterly or semi-annually] of all payments to agents and other third parties during the execution of the contract.

Within six months of the completion of the performance of the contract, the successful Tenderer will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that they are sufficient to establish the legitimacy of the payments made.

Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.

Tenders which do not conform to these requirements shall not be considered.





If the successful Tenderer fails to comply with its No-bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:

Cancellation of the contract;

Liability for damages to the public authority and/or the unsuccessful competitors in the Tendering possibly in the form of a lump sum representing a pre-set percentage of the contract value (liquidated).

Tenderers shall make available, as part of their Tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.

The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by Tenderers for this contract, and to which in turn all Tenderers and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a Tenderer may be disclosed to another Tenderer or to the public).

## **ANTI-CORRUPTION DECLARATION COMITMENT/ PLEDGE**

*(Sections 39, 40, 41, 42, 43 & of the PPD Act, 2005)*

I/We/Messrs.....

of Street, Building, P O Box.....

.....

Contact/Phone/E mail.....

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We .....

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No .....

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name and Title of Signatory.....

Letter of Acceptance

*[Letter head paper of the Procuring Entity]*

[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 the procuring entity] 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 “the Procuring Entity”) and [name and address of Contractor] (hereinafter called “the Contractor”) of the other part.

Whereas the Procuring Entity 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 the Procuring Entity 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:**

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;

In consideration of the payments to be made by the Procuring Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Procuring Entity to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract;

The Procuring Entity 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 X: FORMS OF SECURITY

## Tender Security (Bank Guarantee)

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

*[insert bank's or 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]* 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;

Has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender; or

Does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT; or

Having been notified of the acceptance of its Tender by the Procuring Entity 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;

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

If the Tenderer is not the successful Tenderer, upon the earlier of;

Our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or

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(s) of authorized representative(s) ]*

Performance Bank [Unconditional]

**[The Bank providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if the Procuring Entity requires this type of security.]**

*[insert bank'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(s) of an authorized representative(s) of the Bank or Insurance Company]*



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 XI: 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 the Procuring Entity*) of

.....dated the...day of .....20.....in the  
matter of Tender No.....of  
.....20...

**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.

etc.

By this memorandum, the Applicant requests the Board for an order/orders that: - 1.

2.

etc

SIGNED ..... (Applicant)

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

---



**FOR OFFICIAL USE ONLY**

Lodged with the Secretary Public Procurement Administrative Review Board on  
..... day of  
.....20.....

SIGNED  
Board Secretary

**CERTIFICATE OF TENDERER’S OR  
REPRESENTATIVES VISIT TO SITE**

This is to certify that I,.....

..... (Name of Tenderer or his Representative)

of the Firm of .....

..... (Name of the Firm Tendering)

Having previously studied the Bidding Documents I carefully examined the site.

I have made myself familiar with all the local conditions likely to influence the Tender and the cost thereof.

I further certify that I am satisfied with description of the scope of the study and that I understand perfectly the work to be done as specified and implied in the Conditions of this Invitation to Tender.

I also confirm that M/S .....

.....Will Perform the contract in accordance with the Terms and Conditions of this Invitation to Tender.

Signed ..... (Tenderer or his Representative)

Witness .....

Signature .....

Date .....

**DETAILS OF SUB-CONTRACTORS**

If the Tenderer wishes to sublet any portions of the Works under any heading, he must give below details of the sub-contractors he intends to employ for each portion. Failure to comply with this requirement may invalidate the tender.

1) Portion of works to be sublet:

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

i. Full Name of sub-contractor:

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

and name of head office:

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

Sub-contractors' experience of similar works carried out in the last 3 years with contractvalue:

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

Portionofworkstobesublet:

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

FullNameofsub-contractor:

.....  
.....

.....  
and name of head office:  
.....  
.....  
.....

ii. Sub-contractors' experience of similar works carried out in the last 3 years with contract value:  
.....  
.....

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

(NOTE: - The above list may be extended depending on the number of sub-contractors required.)

.....  
(Signature of Tenderer)

.....  
(Date)







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





**SECTION J**

**SCHEDULE OF UNIT RATES**

## **SCHEDULE OF UNIT RATES**

The tenderer shall insert unit rates against the items in the following schedules and may add such other items as he considers appropriate.

The unit rates shall include for supply, transport, insurance, delivery to site, storage as necessary, assembling, cleaning, installing, connecting, profit and maintenance in defects liability and any other obligation under this contract.

The unit rates will be used to assess the value of additions or omissions arising from authorised variations to the contract works.

Where trade names or manufacturer's catalogue numbers are mentioned in the specification, the reference is intended as a guide to the type of article or quality of material required. Alternative brands of **equal** and **approved** quality will be accepted.

**SCHEDULE OF MATERIALS:-BASIC PRICES**

MATERIALS	UNIT	ORIGIN AND PRICE			TRANSPORT COST FROM SOURCE OF ORIGIN IF ANY	
Cement	Mg					
Lime	Mg					
Pen Grade 80/100 Bitumen	L					
Diesel	L					
Regular Petrol	L					
Super Petrol	L					
Reinforcement steel	Kg					
Oil and Lubricants	L					
MC 30	L					
K70	L					
Aggregate	Ton					
River Sand	Ton					
160mm dia. uPVC pipe	m					
200 mm dia. uPVC pipe	m					
150mm dia. concrete pipe	m					
300mm dia. concrete pipe	m					
450mm dia. concrete pipe	m					
225mm dia. concrete pipe	m					
600x600x50 paving slab	sm					
125x250 pc road kerb	m					

125x100 pc road channel	m					
150x750x600 pc shallow invert block	m					
450x25x600 pc IBD	m					
457mm dia. x 912 road gulley	No.					

Note

Prices of imported materials to be quoted CIF Mombasa as appropriate regardless of whether materials are imported by the tenderer directly or through a local agent.



**SCHEDULE OF LABOUR: - BASIC RATES**

<b>LABOUR CATEGORY</b>	<b>UNIT (MONTH/SHI FT/ HOUR)</b>	<b>RATES</b>

Categories to be generally in accordance with those used by the Kenya Building Construction and Engineering and Allied Trades Workers' Union.

**SECTION K**  
**BILLS OF QUANTITIES**

## **BILLS OF QUANTITIES**

### 1.0 Preamble To Bill of Quantities

The Bill of Quantities shall form part of the Contract Documents and is to be read in conjunction with the Instructions to Tenderers, Conditions of Contract, Specifications and Drawings.

The brief description of the items in the Bill of Quantities is purely for the purpose of identification, and in no way modifies or supersedes the detailed descriptions given in the conditions of Contract and Specifications for the full direction and description of work and materials.

The Quantities set forth in the Bill of Quantities are estimated and provisional, representing substantially the work to be carried out, and are given to provide a common basis for tendering and comparing of Tenders. There is no guarantee to the Contractor that he will be required to carry out all the quantities of work indicated under any one particular item or group of items in the Bill of Quantities. The basis of payment shall be the Contractor's rates and the quantities of work actually done in fulfillment of his obligation under the Contract.

The prices and rates inserted in the Bills of Quantities will be used for valuing work executed, and the Engineer will measure the whole of the works executed in accordance with this Contract.

A price or rate shall be entered in ink against every item in the Bill of Quantities with the exception of items, which already have provisional sums, affixed thereto. The Tenderers are reminded that no "nil" or "included" rates or "lump-sum" discounts will be accepted. The rates for various items should include discounts if any. Tenderers who fail to comply will be disqualified.

The price and rates entered in the Bill of Quantities shall, except insofar as it is otherwise provided under the Contract, include all Constructional plant to be used, labour, insurance, supervision, compliance, testing, materials, erection, maintenance or works, overheads and profits, taxes (except VAT) and duties together with all general risks, liabilities and obligations set out or implied in the Contract, transport, electricity and telephones, water, use and replenishment of all consumables, including those required under the Contract by the Engineer and his staff.

Errors will be corrected by the Employer for any arithmetic errors in computation or summation as follows:

Where there is a discrepancy between amount in words and figures, the amount in words will govern; and

Where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit price and the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer, there is an obviously gross misplacement of the decimal point in the unit price, in which event the total amount as quoted will govern and the unit rate will be corrected.

If a Tenderer does not accept the correction of errors as outlined above, his Tender will be rejected.

The Bills of Quantities, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement (CESMM).

“Authorised” “Directed” or “Approved” shall mean the authority, direction or approval of the Engineer.

Unless otherwise stated, all measurements shall be net taken on the finished work carried out in accordance with the details shown on the drawings or instructed, with no allowance for extra cuts or fills, waste or additional thickness necessary to obtain the minimum finished thickness or dimensions required in this Contract. Any work performed in excess of the requirements of the plans and specifications will not be paid for, unless ordered in writing by the Engineer.

(a) Hard material, in this Contract, shall be defined as the material which, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for their removal, and which cannot be extracted by ripping with a dozer tractor of at least 150 brake horse power (112 kilowatt) with a single, rear-mounted, hydraulic ripper. Boulders of more than 0.2m<sup>3</sup> occurring in soft material shall be classified as hard material

(b) Soft material shall be all material other than hard material.

Standing Time

Standing time for the plant and crew shall be applicable only to delays resulting from the causes under direct control of the Engineer. Delays to plant and crew arising from the constructional variations, exceptional weather conditions will not be considered applicable to the standing time claims.

Delays to plant and crew arising from the constructional sequence adopted by the contractor, irrespective whether such as constructional sequence has been approved by the Engineer shall not form a basis for the claims of whatsoever nature.

Delays to plant and crew arising from constructional methods adopted by the contractor, misinterpretation of the results given by the contract documents, wrong assumptions arrived at from the information given by the contract documents, mistakes in the information or in phrasing of items in the tender documents shall not form any basis for claims of whatsoever nature.

Delays to plant and crew arising from the fulfillment of the requirements stipulated in the Special Specifications and General Notes shall not form a basis for the claim of whatsoever nature.

Delays to plant and crew arising from use of the unsuitable or faulty plant, delays to plant and crew arising from the Engineers rejection of the plant or equipment as defined under Clause 4 of the Special Specifications, shall not form a basis for claims of whatsoever nature.

The stipulations under (a), (b), (c), (d), and (e), shall refer where applicable to all Bills contained in the tender documents.

## 2.0 The objectives of the Bills of Quantities are:

To provide sufficient information on the quantities of Works to be performed to enable tenders to be prepared efficiently and accurately; and

When a Contract has been entered into, to provide a priced Bills of Quantities for use in the periodic valuation of Works executed.

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

## 3.0 The Bills of Quantities is divided generally into the following sections:

Preliminaries.

---



The preliminaries indicate the inclusiveness of the unit prices, and state the methods of measurement which have been adopted in the preparation of the Bills of Quantities and which are to be used for the measurement of any part of the Works.

The numbers of preliminary items to be priced by the tenderer are limited to tangible items such as site office and other temporary works, otherwise items such as security for the Works which are primarily part of the Contractor's obligations are included in the Contractor's rates.

### Work Items

The items in the Bills of Quantities are grouped into sections to distinguish between those parts of the Works which by nature, location, access, timing or any other special characteristics may give rise to different methods of construction or phasing of the Works or considerations of cost. General items common to all parts of the Works have been grouped as a separate section in the Bills of Quantities.

The brief description of the items in the Bill of Quantities should in no way modify or supersede the detailed descriptions given in the Contract drawings, Conditions of Contract and Specifications.

Quantities are computed net from the Drawings, unless directed otherwise in the Contract, and no allowance has been made for bulking, shrinkage or waste. Quantities have been rounded up or down where appropriate.

The following units of measurement and abbreviations apply:

<i>Unit</i>	<i>Abbreviation</i>	<i>Unit</i>	<i>Abbreviation</i>
cubic meter	m <sup>3</sup> or cm	Millimeter	mm
hectare	ha	Month	mon
hour	h	Number	no
kilogram	kg	Square meter	m <sup>2</sup> or sm
lump sum	sum	Square millimeter	mm <sup>2</sup> or sq mm
meter	m	Week	
metric ton (1,000 kg)	t		wk

The commencing surface should be identified in the description of each item for Work involving excavation, boring or drilling, for which the commencing surface is not also the original surface. The excavated surface should be identified in the description of each item for Work involving excavation for which the excavated surface is not also the final surface. The depths of Work shall be measured from the commencing surface to the excavated surface, as defined.

(c) Daywork Schedule

A Day work Schedule should be included if the probability of unforeseen work, outside the items included in the Bills of Quantities is relatively high. To facilitate checking by the Employer of the realism of rates quoted by the tenderers, the Daywork Schedule should normally comprise:

A list of the various classes of labour, and materials for which basic Daywork rates or prices are to be inserted by the tenderer, together with a statement of the conditions under which the Contractor will be paid for Work executed on a Daywork basis;

and

A percentage to be entered by the tenderer against each basic Daywork Subtotal for labour, materials and plant representing the Contractor's profit, overheads, supervision and other charges.

Provisional Quantities and Provisional Sums

Provisional Sums to cover specialized works normally carried out by Nominated Sub Contractors in the Bills of Quantities as specialized Works have been included in a section of the main Bill of Quantities to be priced by the Main Contractor.

The Main Contractor should be required to indicate the names(s) of the specialized firms he proposes to engage to carry out the specialized Works as his approved domestic sub-contractors. Only Provisional Sums to cover specialized Works by statutory authorities should be included in the Bill of Quantities.

The Provisional Sums included in the Bills of Quantities will be expended in whole or in part at the discretion of the Engineer after full consultation with the Employer.

Summary

The Summary should contain a tabulation of the separate parts of the Bills of Quantities carried forward, with Provisional Sums for Dayworks, Physical (quantity) contingencies, and price contingencies (upward price adjustment where applicable and 16% VAT).



The grand total tender sum shall be entered in the Form of Tender for this tender to be valid.

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**BILLS OF QUANTITIES ATTACHED**

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PROPOSED TURKANA COUNTY CAFETERI

	DESCRIPTION	KSHS	CTS
ITEM			
A	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>DEFINITION OF TERMS</b>                      The following terms, whenever used hereinafter and in all Contract Documents shall be interpreted as hereunder: -</p> <p>"Employer" shall be held to mean : The Clerk Turkana County Assembly.</p> <p>Contractor shall be held to mean the persons partnership, firm or company whose tender for the works has been accepted and who has or have signed the contract and shall include his or their heirs, executors, administrators, assigns, successors and duly appointed representatives.</p> <p>"Architect" shall be held to mean:                      Tego Arch                      Systems                      P.O Box 68035-00200                      NAIROBI</p> <p>"Quantity Surveyor" shall be held to mean:</p> <p>"Civil/Structural Engineers" shall be held to mean</p> <p>c) "Electrical/Mechanical Engineers" shall be held to mean</p> <p>"Employer Representative" - where the terms "Architect" "Quantity Surveyor" as defined above are used in all Contract Documents they shall be deemed to imply the Employer's representative or such persons as they may duly authorize to represent them on behalf of the Employer or the successors in office of such persons and also such persons as may be deputed by such representatives to act on their behalf for the prupose of this Contract.</p>		
	CARRIED TO COLLECTION		

PROPOSED TURKANA COUNTY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p>DEFINITION OF TERMS CTD</p> <p>"Works" shall be held to mean all or any portion of work, materials and articles wherever the same are being manufactured or prepared which are to be used in the execution of this Contract, and whether the same be on the site of the building or not.</p> <p>It shall also be deemed to include the work of all sub-contractors and all variations.</p> <p>"Contract" shall be held to mean the Quotation, Articles of Agreement and Conditions of Contract, form of bond, Drawings and priced and signed Bills of Quantities.</p> <p>"Site" shall be held to mean the Lands and other places on, under, in or through which the works are to be executed or carried out and other lands or places provided by the Employer for the purpose of the Contract.</p> <p>"Approved, Directed and Selected" shall be held to mean the approval, direction and selection of or by the Architect.</p> <p>"Singular and plural" - words importing the singular only shall also include the plural and vise versa where the context requires.</p> <p>"Remove" shall mean taking down, dismantling, hacking up, breaking down etc. and clearing from site or as directed.</p>		
A	<p>LOCATION OF SITE</p> <p>The site of the proposed works is situated AT:Turkan County</p>		
	CARRIED TO COLLECTION		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p>LOCATION OF SITE C'TD</p> <p>The Contractor shall be deemed to have visited the site and satisfied himself as to:</p> <p style="padding-left: 40px;">The nature of the site.</p> <p style="padding-left: 40px;">The amount of bush, rubbish or debris to be cleared away before commencement.</p> <p style="padding-left: 40px;">The nature, current usage, proximity and size of adjoining property and buildings.</p> <p style="padding-left: 40px;">The nature of existing communication by road or otherwise.</p> <p style="padding-left: 40px;">The availability of land for the erection and positioning of all temporary structures and materials necessary for the execution of the works.</p> <p>SCOPE AND DESCRIPTION OF THE WORKS</p> <p>A</p> <p>The Works in this contract comprises: Construction of the County Cafeteria</p>		
	CARRIED TO COLLECTION		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p>SCOPE AND DESCRIPTION FO THE WORKS (CTD)</p> <p>The Client has the authority to issue variations through the Architect to either increase or decrease the scope of works. In event of such happenings, the Contractors rates will be used as allowed in the Conditions of Contract.</p> <p>However, such variations will not entitle the Contractor to claims for loss of profit and other related expenses incase of omissions being made to the scope of works. The Employer therefore, reserves the right to omit any section(s) of the Works before or after the award.</p> <p>It is mandatory for the tenderer to visit the site in order to accurately assess the type of works to be carried out.</p> <p>CONDITIONS OF CONTRACT</p> <p>The Contractor will be required to enter into a contract with the employer as per Agreement and Conditions fo Contract for Building works April 2008 Edition published by the Joint Building Council, Kenya and sanctioned by Architectural Association of Kenya and Kenya Association of Building Contractors and Engineers contractors copies of which may be inspected at the offices of the Architect or Quantity Surveyors by appointment during normal working hours.</p> <p>The Contractor is referred to the main document for full information as number and titles of the clauses only are hereafter given with such additional information as is required. <u>All clauses carrying a monetary value to be priced out opposite to the numbers and titles of each clause.</u></p> <p>All clauses carrying a monetary value to be price out opposite to the numbers and titles of each clause.</p> <p>CARRIED TO COLLECTION</p>		
A			

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p>CLAUSES</p> <p>Definitions</p> <p>Articles of Agreement</p> <p>General Obligations</p> <p>General obligations of the Contractor</p> <p>General obligations of the Architect</p> <p>General obligations of the Quantity Surveyor</p> <p>Contract documents</p> <p>Contract bills and contract price</p> <p>Contractor's site agent and other staff</p> <p>Clerk of Works</p> <p>Liability against injury to person and property</p> <p>Insurance against injury to persons and property</p> <p>Insurance of works (Contractor's liability)</p> <p>Insurance of Works (Employer's liability)</p> <p>Insurance of Works (works of alteration etc.)</p> <p>Performance bond</p> <p>Compliance with regulations, notices etc.</p> <p>Programme of Works</p> <p>Access to the Works</p> <p>Possession of site and commencement of Works</p> <p>Levelling and setting out</p> <p>Architect's Instructions</p> <p>Specifications of goods, materials and workmanship</p> <p>CARRIED TO COLLECTION</p>		



PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b>(01) PRELIMINARIES</b></p> <p>CLAUSES C'TD</p> <p>Samples and tests</p> <p>Royalties Assignment</p> <p>Subletting</p> <p>Suspension fo the Works by the Architect</p> <p>Suspension of the Works by the Contractor</p> <p>Variations Nominated sub-contractors</p> <p>Nominated suppliers Work by other persons engaged by the Employer</p> <p>Payments</p> <p>Fluctuations</p> <p>Extension of time Loss and expense caused by disturbance of regular progress of works</p> <p>Termination of the contract by the Employer</p> <p>Termination of the contract by the Contractor Termination of the contract by either party</p> <p>Practical completion and defects liability</p> <p>Sectional completion Damages of delay in completion</p> <p>Antiquities and other objects of value Settlement of disputes</p> <p>CARRIED TO COLLECTION</p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p><b>(01) PRELIMINARIES</b></p>		
A	<p>Appendix to Conditions of Contract</p> <p>Clauses 13.0</p> <p>Percentage of cover professional fees for insurance purposes only      9% (nine percent)</p> <p>Clause 16.1</p> <p>Name of Contractor's surety      .....</p> <p>Amount of Surety      10% (Ten percent) of Contract sum</p> <p>Clause 16.2</p> <p>Name of Employer's surety      Shall be struct out in full</p> <p>Amount of Surety      Not applicable</p> <p>Clause 18.1</p> <p>Period of submission of programme      Two weeks from date of award of contract</p> <p>Clause 20.1</p> <p>Period of possession of site      To be agreed with Architects</p>		
	CARRIED TO COLLECTION		



PROPOSED TURKANA COUNTY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p><b><u>PRELIMINARIES</u></b></p> <p><b><u>Appendix to Conditions of Contract C'td</u></b></p> <p><b><u>Clause 34.15</u></b></p> <p>Periods for release of interest on retention money to Contractor      To be struct out in full</p> <p><b><u>Clause 34.17</u></b></p> <p>Period of final measurement and valuation      Six months</p> <p><b><u>Clause 35</u></b></p> <p>Fluctuations clause      To be struct out in full</p> <p><b><u>Clause 41.6</u></b></p> <p>Damages for delay in completion      At the rate of Kshs. 10,000/= per week or part thereof</p> <p><b><u>Employer's Address: The Clerk Turkana County Assembly</u></b> PO BOX 25-30500 LODWAR</p> <p>For the service of notices:</p>		
	<b><u>CARRIED TO COLLECTION</u></b>		

PROPOSED TURKANA COUNTY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b><u>METHOD OF MEASUREMENT</u></b></p> <p>The Bills of quantities have been prepared in accordance with the general principles of the Standard Method of Measurement of Building Works for East Africa. Second Edition (Metric), published by the Architectural Association of Kenya. Chapter of Quantity Surveyors in December 1992.</p> <p><b><u>ABBREVIATIONS</u></b></p> <p>Throughout these Bills of Quantities, units of measurements and terms are abbreviated and shall be interpreted as follows:</p> <p>mm shall mean millimetres  cm shall mean centimetres  m shall mean metres  M1 shall mean linear metres  M2 shall mean square metres  M3 shall mean cubic metres  Kgs. Shall mean kilograms  NO. Shall mean number  Prs. Shall mean pairs</p> <p>B.S. Shall mean current British Standard Institution, 2 Park Street, London, WI England</p> <p>K.B.S. Shall mean the current Kenya Bureau of Standards  DITTO shall mean the whole of preceding description except as qualified in the description in which it occurs. Where it occurs in description of succeeding items 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 whole of the preceding description which is contained with the appropriate brackets.</p> <p>Approved shall mean approved by or to the approval of the Architect.  As directed shall mean as directed by the Architect.</p> <p><b>CARRIED TO COLLECTION</b></p>		
	BW/10		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b>(01) <u>PRELIMINARIES</u></b></p> <p><b>ABBREVIATIONS</b></p> <p><b><u>C'TD</u></b></p> <p>(m.s.) shall mean measured separately            (b.m.s.) shall mean both sides measured            (p.c.) shall mean prime cost            100 to 200 shall mean exceeding 100mm but not exceeding 200mm girth and all items described in this manner shall be similarly construed.</p> <p>Works the term 'the works' wherever used hereinafter and in all contract documents shall mean all or any portion of the works materials and articles wherever the same are to be used in the execution of this contract and whether the same be on site or not.</p> <p><b><u>SPECIAL CLAUSES</u></b></p> <p><b>A <u>SAFETY</u></b></p> <p>The Contractor shall take all precautions as necessary to ensure maximum safety for all persons, engaged upon or visiting the works.</p> <p><b>B <u>TRESPASS AND NUISANCE</u></b></p> <p>The Contractor shall not obstruct any public way or otherwise do or suffer to be done anything which may amount to a nuisance or annoyance, and shall not interfere with any right to any way or right to adjoining property and any notice received by him or left upon the site requiring the discontinuance or suspension of any part of the works shall at once be forwarded by him to the Architect or, if given verbally, shall at once be communicated by him to the Architect in writing and the Contractor shall keep the Employer indemnified against any claim or loss consequent upon any act neglect or omission of the Contractor.</p> <p>The Contractor shall take all precautions to eliminate as far as possible, the danger to the public and other persons arising from the entry and exit of vehicles to and from the site.</p>		
	<b><u>CARRIED TO COLLECTION</u></b>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A</b> <b><u>HOARDING</u></b></p> <p>Allow for providing, erecting and maintaining throughout the course of contract and afterwards clearing any approved temporary galvanized sheet or other equal and approved hoarding for the protection of the public.</p> <p>The hoarding shall be full length with a minimum height of 2.10M with crank 900mm set at 45 degrees with suitable timber framing on self supporting system. The hoarding shall allow or make provision for existing access and entrances to the existing buildings to be in use at all times.</p> <p>The external face for the hoarding should be painted to the approved colour 3-coat work.</p> <p><b>B</b> <b><u>CONTRACT RATES TO APPLY</u></b></p> <p>Rates inserted in the tender Bills of Quantities shall apply throughout the period of contract. Any changes will be strictly in accordance with the contract.</p> <p><b>C</b> <b><u>PRICING BILL OF QUANTITIES</u></b></p> <p>The Contractor shall price out individually and in detail all items in this Bill of Quantities and under no circumstances will lumpsums be allowed. All rates and figures entered in the Bill of Quantities must be done in ink.</p> <p>The Contractor is advised to check Bill of Quantities and should he find any pages missing or in duplicate or the figures in writing indistinct or any ambiguity in description, he must inform the Quantity Surveyor at once and have same rectified.</p> <p>Without authority, the Contractor shall not alter or otherwise qualify the test of the Bill of Quantities, otherwise such alterations shall be ignored.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b><u>PRICING BILL OF QUANTITIES (CTD)</u></b></p> <p>Should the priced Bill of Quantities of the Tenderer recommended for acceptance show errors in pricing and/or in arithmetic (after a complete technical and arithmetical check), such errors shall be computed as a percentage (rebated or addition) of the "Builder's Work" (i.e. the arithmetically correct figures less all P.C. and Provisional addition shall be applied on all variation to "Builder's Work".</p> <p>All expense incurred by the Contractor in preparation of this tender shall not be allowed.</p> <p><b><u>TOOLS, PLANTS AND SCAFFOLDING</u></b></p> <p>Provide all necessary cranes, hoists and other plant including ladders, staging, access gangway tackle tarpaulins, tools, moulds, template etc., necessary for the proper execution of the works and properly maintaining them during the contract performance.</p> <p><b><u>SANITATION FOR THE WORKS</u></b></p> <p>The Contractor shall provide and maintain proper sanitation of the Works to the satisfaction of the Local Authorities, Labour Department and the Architect.</p> <p><b><u>SECURITY OF WORKS</u></b></p> <p>The Contractor shall be entirely responsible for the security of all the works, stores, materials, plant, personnel, etc. both his own and sub-contractor's and must provide all necessary watching, lighting and other precautions as necessary to ensure against theft, loss of damage and the protection of the public.</p> <p>All articles and materials supplied by the Client must be signed for by the Contractor at the time of taking delivery as having received them in good order and thereafter the Contractor shall be responsible for any damage or loss.</p> <p><b>CARRIED TO COLLECTION</b></p>		
	BW/13		



PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>LABOUR REGULATIONS</b></p> <p>The Contractor shall strictly adhere to the relevant Current Labour Regulations regarding emoluments, working hours and working conditions. These regulations must be displayed at all times during the execution of this contract for the information of employees in all places used for the execution of the Contract.</p> <p>The Contractor shall recognize the freedom of employees to belong to Trade Unions and maintain daily records in English of the time worked and wages paid to individual employees.</p> <p><b>SUPERVISION AND WORKING HOURS</b></p> <p><b><u>The work shall be executed under the direction and reasonable satisfaction of the Architect who shall at all times during the normal working hours have access to all Works or any other places where such work is being prepared for the Contract.</u></b></p> <p>Working hours shall be those generally in force in the Building and Civil Engineering Trades in Kenya. No work shall be carried out at night or on gazetted holidays unless the Architect shall so direct.</p> <p>No work shall be covered up nor shall any concreting be carried out in the absence of the Clerk of Works without the prior approval fo the Architect in writing.</p> <p><b><u>BLASTING OPERATIONS</u></b></p> <p>Blasting will only be allowed with the express permission of the Architect.</p> <p>Any blasting operations shall be carried out at the Contractor's sole risk and cost in accordance with any Government Regulations in force for the time being and any special regulations laid down by the Architect governing the use and storage of explosives.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A <u>INSURANCES</u></b></p> <p>The Contractor shall insure as required in Clause 11, 12, 13, 14 and 15 of the Articles of Agreement. No payment on account of the work executed shall be made to the Contractor until he has satisfied the Architect either by production of an Insurance Policy or an Insurance Certificate that the foregoing insurance clauses have been complied with.</p> <p><b>B <u>PUBLIC AND PRIVATE ROADS</u></b></p> <p>Maintain as required throughout the execution of the Works and make good any damage to public or private roads arising from or consequent upon the execution of the Works to the satisfaction of the owners and the Architect.</p> <p><b>C <u>WATER FOR WORKS</u></b></p> <p>The Contractor shall provide at his own risk and cost all necessary clean and fresh water for the works including that required by sub-contractors on site, and for any temporary plumbing, meter and storage facilities and clear way on completion and make good works disturbed.</p> <p>Nominated sub-contractors are to be made liable for the cost of any water used or any installations specially provided for their own use.</p> <p><b>D <u>LIGHTING AND POWER FOR THE WORKS</u></b></p> <p>The Contractor shall provide at his own risk and cost the required electricity supply for the works including that required by sub-contractors and others on site.</p> <p>Nominated sub-contractors are to be made liable for the cost of any electrical power used and for any installations provided specially for their own use.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A</b> <b><u>EXISTING PROPERTY</u></b></p> <p>The Contractor shall take all precautions to avoid damage to all existing property including roads, cables, drains and other services and he will be held responsible for and shall make good all such damages arising from the execution of this contract at his own expenses to the satisfaction of the Architect.</p> <p><b>B</b> <b><u>ACCESS TO SITE AND TEMPORARY ROADS</u></b></p> <p>Means of access to the site shall be agreed with the Architect prior to commencement of the work and the Contractor must allow for constructing and maintaining the necessary temporary access roads, removing them and making good and reinstating all works and surfaces disturbed to the satisfaction of the Architect.</p> <p><b>C</b> <b><u>SITE OFFICE</u></b></p> <p>No site office will be required unless directed by the architect. However, the Contractor shall provide a meeting table with seats to sit 10 people.</p> <p>Provide for all power and lighting points.</p> <p>The Contractor shall also provide on site at all times a modern and accurate level together with a levelling staff, ranging rods and one 5 metre, one 30 metre and one 50 metre tapes, Polaroid camera and stationery for use only by the Clerk of Works, Architect or Employer's Representative.</p> <p>The Contractor is to make application and arrange for the installation of one cell phone and pay all charges in respect of installation, rental and removal and for all calls made by his own staff, consultants and nominated Sub-contractors.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A <u>STORAGE OF MATERIALS</u></b></p> <p>The Contractor shall provide on the site weather proof lock up shed for the safe storage and custody of materials for the works both for the main Contractor and nominated Sub-contractors and Suppliers and shall remove them on completion of the works making good damaged or disturbed surfaces to the satisfaction of the Architect.</p> <p>Nominated Sub-contractors shall be made liable for the cost of any special additional storage accommodation provided over and above the normal requirement specifically for their use.</p> <p><b>B <u>TRANSPORT</u></b></p> <p>Allow for transport of workmen, materials, etc. to and from the site at such routes as may be permitted by competent authorities.</p> <p><b>C <u>LABOUR CAMPS</u></b></p> <p>Labour camps will not permitted on the site.</p> <p><b>D <u>PROGRESS CHART</u></b></p> <p>As indicated elsewhere in this Document, the Contractor shall prepare a full detailed programme and progress chart in the form of bar chart, precedence diagram or network analysis to coincide with various sectional completion dates if any.</p> <p>The programme must be updated on monthly basis throughout the progress of Works.</p> <p>The draft is to be submitted and approved by the design team.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M			
	<b><u>PRELIMINARIES</u></b>		
A	<p><b>PROVISIONAL WORK</b></p> <p>All work measured provisionally shall be left uncovered by a reasonable time to allow all measurements needed for such adjustment to be taken by the Quantity Surveyor when such work is completed.</p> <p>Should the Contractor default in these respects, he shall, if the Architect so directs uncover the work at his own expenses to enable measurements to be taken.</p>		
B	<p><b>IMPORTED MATERIALS AND SPECIAL ITEMS</b></p> <p>Where imported materials or special items of goods, materials, or equipment form part of the contract, the Contractor shall be entirely responsible for making all necessary arrangements and placing all necessary orders to ensure their prompt and timely arrival on site to suite the building operations. No claim for an extension of time shall be entertained by the Architect unless the Contractor can produce reasonable proof that he has taken all possible precautions to prevent delay and that the delay is beyond his control.</p>		
C	<p><b>PRIME COST AND PROVISIONAL ITEMS</b></p> <p>Interpretation of these items shall be as in Clause A7 of the Standard Method of Measurement and sums of money included under these terms shall be subject to adjustment at final account.</p>		
	<b><del>CARRIED TO COLLECTION</del></b>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A <u>MATERIALS ARISING FROM EXCAVATIONS</u></b></p> <p>Materials of any kind obtained from the excavations shall be the property fo the Employer and unless the Architect directs otherwise such materials shall only be used in the works in substitution of materials which the Contractor would otherwise have had to supply, with the written permission of the Architect. Should such permission be given, the Contractor shall make due allowance for the value of the materials so used at a price to be agreed.</p> <p><b>B <u>PROTECTION OF THE WORKS</u></b></p> <p>Provide protection of the whole of the works contained in the Bills of Quantities, including casing up, covering or such other means as may be necessary to avoid damage to the satisfaction of the Architect and remove such protection when no longer required and make good any damage which may nevertheless have been done at completion free of cost to the Employer.</p> <p><b>C <u>REMOVAL OF RUBBISH AND CLEANING</u></b></p> <p>Remove all rubbish and debris from the buildings and site as it accumulates and at completion of the works and remove all plant, scaffolding and unused materials at completion, or as directed by the Architect from time to time.</p> <p>Before final inspection and handing over date, the Contractor must clean the building both internally and externally to make the Works perfect and fit for immediate occupation by the Client.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A</b> <b><u>WORKS TO BE DELIVERED UP CLEAN</u></b></p> <p>Clean and flush all gutters, rainwater and waste pipes, manholes and drains, wash (except where such treatment might cause damage) and clean all floors, sanitary fittings, glass inside and outside, and any other parts of the works which may require it, remove all marks, blemishes, stains and defects from joiner, fittings and decorated surfaces generally, polish door furniture and bright parts of metal-work and leave the whole of the buildings water-tight, clean, perfect and fit for occupation to the approval of the Architect.</p> <p><b><u>FIRM PRICE CONTRACT</u></b></p> <p><b>B</b> Unless otherwise specifically stated in Particular Preliminaries, this is a firm price contract and the Contractor must allow in his tender for any increases in the cost of labour and/or materials during the currency of the Contract. No claim for increased costs will be entertained except only in increased costs arising from fluctuation in duties as defined in Condition No. 32 of the Conditions of Contract.</p> <p><b><u>SAMPLES</u></b></p> <p><b>C</b> The Contractor should allow for providing and testing any number of samples of materials or workmanship required by the Architect or Engineer for approval or rejection and any further samples in the case of rejection until such samples are approved. Materials or workmanship not to the standard of approved samples shall be rejected.</p> <p><b>CARRIED TO COLLECTION</b></p>		
	BW/20		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b><u>CONCRETE CUBE TESTS</u></b></p> <p>The Contractor should allow for making, delivery and testing of concrete cube tests during all stages of the Works. Such cubes should be made in accordance with Engineer's instructions and the Contractor shall allow for all costs and expenses associated thereof.</p> <p><b><u>STATUTORY OBLIGATIONS, NOTICES, FEES AND CHARGES</u></b></p> <p><b><u>The Contractor should allow in his tender for all costs incurred in complying with all Statutory Requirements and payment of all Levies currently in force and affecting the Construction Industry.</u></b></p> <p>This Clause will cover among others, the Training Levy as in Legal Notice No. 237 of October 1971 as well as the Standards Levy Order 1990 as in Legal Notice No. 267 of 1st July 1990, Value Added Tax Act 1989 and all amendments enacted upto tender date.</p> <p><b><u>DIRECT PROCUREMENT OF EMPLOYER</u></b></p> <p>Certain items may be directly procured by the Employer for incorporation in the Works.</p> <p>In such cases, the Employer will be required to list such items for notification to the Contractor before the date of possession.</p> <p>Such items shall then rank and be treated as P.C. Sums items for the purposes of the evaluation of profit and attendance. No other claim shall be made against such items by the Contractor except as in accordance with the Contract.</p> <p>Where such items are fixed by the Contractor a fixing rate shall be determined by the Quantity Surveyor in accordance with the Contract.</p> <p><b>CARRIED TO COLLECTION</b></p>		



PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A <u>WITHHOLDING TAX</u></b></p> <p>The Contractor to comply fully with all the requirements under the Act currently in force and affecting the building industry.</p> <p><b>B <u>DEMOLITIONS</u></b></p> <p>The Contractor shall visit the site and ascertain for himself the nature of the work and specific items. The dimensions and quantities where stated in this section are approximate and are given as a guide only without warranty. The work will not be subject to re-measurement and the Contractor must satisfy himself of the exact nature and extent before submission of tender.</p> <p>The items of pulling down and alterations are to include for both labour and materials, all necessary use of plant and for any shoring, propping, strutting and temporary supports. The prices are to include for making good all works disturbed in all trades and for removing and clearing away rubbish.</p> <p>During demolition works, the Contractor shall keep the debris constantly watered to minimize dust arising and all rubbish shall be removed from site as soon as practicable. Dust proof screens and rubbish chutes shall be provided to the Architects approval and will be constructed before work commences in those nearby areas.</p> <p><b><u>NOISE CONTROL</u></b></p> <p>The Contractor shall take all precautions to minimize noise levels and shall comply with all statutory requirements to that effect.</p> <p><b>PERFORMANCE BOND</b></p> <p>The Contractor shall before signing of contract furnish the employer with a performance bond of 10% the contract sum</p> <p><b>CARRIED TO COLLECTION</b></p>		
	BW/22		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b>A <u>OVERLOADING</u></b></p> <p>The Contractor shall avoid damage to existing building and adjoining structures and shall avoid excessive loads by way of plant materials, debris etc. on any part of the existing building without prior approval of the Architect.</p> <p><b>B <u>INTERPRETATION OF TERMS</u></b></p> <p>"Demolish" shall be deemed to mean cutting away, pulling down, breaking up, taking down etc. as the context may require and shall include clearing away and removing from site all debris arising.</p> <p>"Remove" shall mean taking down, dismantling, hacking up, breaking down etc. and clearing from site or as directed.</p> <p><b><u>NOTES:</u></b></p> <p><b>C</b> The Contractor shall exercise extreme care during demolitions to avoid unwarranted damage to existing buildings. Any damage caused through want of care shall be repaired and made good by the Contractor and at his own expense.</p> <p>Where the items required the salvaged materials to be handed over to the Employer/Architect, the Contractor shall make every effort to minimize damage to such items during removal and subsequent handling.</p> <p><b>CARRIED TO COLLECTION</b></p>		

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

ITE	DESCRIPTION	KSHS	CTS
M	<p style="text-align: center;"><b><u>PRELIMINARIES</u></b></p> <p><b><u>NOTES (CTD):</u></b></p> <p>All reusable material arising from demolition work shall be the property of the Employer and will be handed over to the Employer/Architect or stored in a secure place as directed by the Employer/Architect. Such materials shall be identified by the Employer/Architect before demolitions starts.</p> <p>Where such reusable materials are to be reused in the Works, this will be at the sole direction of the Employer/ Architect and the Contractor shall give due credit to the Employer.</p> <p><b><u>COPYRIGHT</u></b></p> <p>The copyright of these Bills of Quantities is vested in the Quantity Surveyors and no part thereof may be reproduced without their express permission given in writing.</p> <p><b>PARTICULAR PRELIMINARIES</b></p> <p><b>PROJECT TEAM</b></p> <p>Allow a provisional sum of Kenya shillings One Hundred Thousand (Kshs. 100,000) only for mobile phone airtime for the project supervision team.</p> <p>Allow a provisional sum of Kenya shillings Three Hundred Thousand (Kshs. 300,000) only for provision of transportation expenses of the project supervision team during the duration of the project as approved by the Architect.</p> <p>Allow a provisional sum of Kenya shillings One Million(Kshs. 1,000,000) only for Consultancy services(Preparation of drawings and documets)</p> <p>Include a percentage for the contractor's administration and profit for the above</p>		

**CARRIED TO COLLECTION**

PROPOSED TURKANA COUNTY CAFETERIA

ITEM	DESCRIPTION	KSHS	CTS
	<b><u>PRELIMINARIES</u></b>		
	<b>COLLECTION</b>		
	Brought forward from page 01/1 .....		
	Brought forward from page 01/2 .....		
	Brought forward from page 01/3 .....		
	Brought forward from page 01/4 .....		
	Brought forward from page 01/5 .....		
	Brought forward from page 01/6 .....		
	Brought forward from page 01/7 .....		
	Brought forward from page 01/8 .....		
	Brought forward from page 01/9 .....		
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	Brought forward from page 01/11 .....		
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	Brought forward from page 01/16 .....		
	Brought forward from page 01/17 .....		
	Brought forward from page 01/18 .....		
	Brought forward from page 01/19 .....		
	Brought forward from page 01/20 .....		
	Brought forward from page 01/21 .....		
	Brought forward from page 01/22 .....		
	Brought forward from page 01/23 .....		
	Brought forward from page 01/24 .....		
	<b>TOTAL CARRIED TO MAIN SUMMARY</b>		

PROPOSED TURKANA COUNTY CAFETERIA

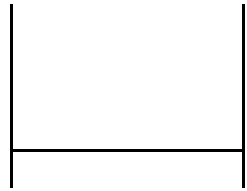
ITEM	DESCRIPTION	KSHS	CTS
	MEASURED WORKS		

*PROPOSED TURKANA COUNTY CAFETERIA*

Item	Description	Qty	Unit	Rate	Shs	Cts
	<u>ELEMENT NO. 1</u>					
	<u>SUBSTRUCTURE</u>					
	(All Provisional)					
	<u>Excavation and Earthworks</u>					
	<b>Include Plunking and strutting and keeping excavation free of water in earth work rates</b>					
A	Excavate 300mm thick top soil and deposit in spoil heaps and later spread on site as directed.	860	SM			
B	Excavate foundation trench not exceeding 1.50 metres deep starting from reduced level	274	CM			
C	Excavate foundation trench exceeding 1.5M but not exceeding 3.0 metres deep starting from reduced level	274	CM			
D	Ditto to column bases	12	CM			
E	Extra over for excavating in hard rock of any depth	15	CM			
F	Return fill and ram excavated materials around foundation externally	345	CM			
G	Load and cart away excess excavation	230	CM			
	<u>Filling</u>					
H	Approved imported hardcore filling rolled and consolidated in layers not exceeding 300mm thick ( Approx. 600mm deep )	516	CM			
I	300mm thick hand packed hardcore filling rolled and compacted in layers not exceeding 150 mm thick	843	SM			
J	50mm thick murrum blinding	843	SM			
K	Treat surface of hardcore with "Termidor" insecticide to manufacturers specification and provide 10 years guarantee certificate	843	SM			
L	1000 gauge polythene sheet damp proof membrane on blinded hardcore	843	SM			
	<u>Concrete Works</u>					
	<u>Mass concrete class 10/40</u>					
M	50mm blinding strip foundation and column bases	209	SM			

N	Vibrated reinforced concrete class 20/20 in:-
	150mm thick floor slab

843	SM
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BW/1  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item	Description	Qty	Unit	Rate	ShsCts
	<b>Total carried to collection</b>				
	<i>Continued</i>				
A	Strip foundation	25	CM		
B	Column bases	9	CM		
C	Columns	6	CM		
	<u>High tensile steel reinforcement bars to BS 4461</u>				
D	T8mm diameter bars	912	KG		
E	T10mm diameter bars	770	KG		
F	T12mm diameter bars	959	KG		
G	T16mm diameter bars	1,036	KG		
	<u>Fabric mesh</u>				
H	Fabric mesh Ref. No. A142 (measured net) (No allowance for laps)	843	SM		
	<u>Sawn formwork to:</u>				
I	Sides of strip foundation	141	SM		
J	Edges of slab between 150mm and 225mm high	96	LM		
K	Sides of colum bases	1	SM		
L	Sides of columns	3	SM		
	<u>Natural stone wall bedded and jointed in cement/sand (1:3) mortar reinforced with hoop iron every alternate course</u>				
M	200mm thick Three ply hessian based bituminous felt damp proof course bedded on cement/sand (1:3) mortar	375	SM		
N	200mm wide	154	LM		
O	100mm wide	16	LM		
	<b>Carried to collection</b>				

<b><u>COLLECTION</u></b>			
	From	page	BW/1
	"	"	BW/2
ELEMENT NO. 1			TOTAL CARRIED



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SUMMARY

BW/2  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	ShsCts
<b>ELEMENT NO. 2</b>				
<b>SUPERSTRUCTURE</b>				
<b>CONCRETE</b>				
<u>Vibrated reinforced concrete class 20/20 in</u>				
A		Floor Beams and lintols	31	CM
B		Columns	15	CM
C		150 mm suspended slab	576	SM
D		150 mm suspended landing	4	SM
E		Staircase	3	CM
<u>Reinforcement - All provisional</u>				
<u>High tensile steel reinforcement to BS 4461</u>				
F		Assorted reinforcement	21,624	KG
<u>Sawn formwork to</u>				
G		Sides of columns	184	SM
H		Sides and soffits of floor beams, ring beams and lintols	304	SM
I		Soffits of suspended slab	576	SM
J		Edges of slab between 75mm and 150mm high	140	LM
K		Open string of staircase not exceeding 300mm wide	16	LM
L		Slopping soffits of staircase	19	SM
<b>ELEMENT NO. 2</b>				
<b>SUPERSTRUCTURE CONCRETE</b>				
<b>TOTAL CARRIED TO SUMMARY</b>				

BW/3  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	ShsCts
<u>ELEMENT NO. 3</u>				
<u>WALLI</u>				
<u>NG</u>				
Machine cut Natural stone wall or other equal and approved bedded and jointed in cement/sand (1:3) mortar reinforced with hoop iron every alternate course				
A	200mm thick externally	428	SM	
B	200mm thick internally	384	SM	
C	150mm thick internally	52	SM	
D	200mm thick parapet wall	115	SM	
<b><u>ELEMENT NO. 3</u></b> <b><u>WALL</u></b> <b><u>ING</u></b>				<b><u>TOTAL CARRIED TO SUMMARY</u></b>

BW/4  
Cafeteria

*PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA*

Item	Description	Qty	Unit	Rate	ShsCts
	<u>ELEMENT NO. 4</u>				
	<u>ROOF</u>				
	Roof				
	<u>Covering</u>				
A	Gauge 28 prepainted IT5 ironsheets on timber trusses (measured seperately)	361	SM		
B	Ditto Matching ridge and hip cover	47	LM		
C	Ditto matching valley	20	LM		
	<u>Treated sawn cypress timber to trusses:</u>				
D	150 x 50mm rafters	273	LM		
E	150 x 50mm ceiling joist	211	LM		
F	150 x 50mm kingpost	64	LM		
G	150 x 50mm under purlins	71	LM		
H	150 x 50mm ridge board	31	LM		
I	100 x 50mm common rafters	164	LM		
J	100 x 50mm struts and ties	364	LM		
K	75 x 50mm purlins	373	LM		
L	100 x 50mm wall plate complete with 10mm diameter, 300mm long High density bolts at 1200mm centres	123	LM		
	<u>Wrot cypress</u>				
M	250 x 25mm fascia complete with painting	96	LM		
	<u>Roof rainwater disposal</u>				
N	75 x 100 mm diameter down pipe fixed to wall with and including hold fasts at 1000mm centres	70	LM		
O	150 x 200 x 150mm mild steel gutter complete with associated painting	134	LM		
	<u>Extra over for</u>				
P	100 x 75 mm swan neck	12	NO		
Q	100 x 75 mm shoe	12	NO		
R	100 x 75 mm stopped ends	12	NO		
	<u>ELEMENT NO. 4</u>				
	<u>TOTAL CARRIED</u>				

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BW/5  
Cafeteria

PROPOSED TURKANA COUNTY ASSEMBLY CAFETERIA

Item	Description	Qty	Unit	Rate	ShsCts
	<u>ELEMENT NO. 5</u>				
	<u>DOOR</u>				
	<u>RS</u>				
	<u>Wrot Mahogany to door frames and finishings</u>				
A	100 x 50mm frame with two labours	134	LM		
B	Ditto transome	18	LM		
C	40 x 20mm moulded Architrave	134	LM		
D	25mm quadrant	134	LM		
	<u>Flush doors</u>				
E	900 x 2100mm high semi - solid core flush doors with internal quality veneer facing	12	NO		
F	Ditto but solid core	6	NO		
	<u>Mild steel doors</u>				
	Supply and fix 1800 x 2550mm high mild steel door in standard frames complete with associated glazing, locks and painting to approval	4	NO		
G	900 x 2550mm single leaf ditto Supply and fix the following ironmongery with matching screws as	1	NO		
	<u>Union East Africa or other equal and Catalogue approved</u>				
H	100 mm brass butt hinges with washers	27	PRS		
I	Two lever mortice lock complete with handles	18	NO		
J	38mm diameter x 59mm deep rubber door stop No. 8400 ref	33	NO		
K	Standard steel hold fasts at 300 mm centres	108	NO		
	<u>Prime back of wood before fixing</u>				
L	Surfaces between 100mm and 200mm girth	134	LM		
M	Surfaces not exceeding 100 mm girth Prepare and apply three coats of clear polyurethane Varnish <u>wooden surfaces</u>	268	LM		
N	General surfaces	89	SM		
<del>O</del>	<del>Surfaces between 200mm and 300mm girth</del>	<del>134</del>	<del>LM</del>		
P	Surfaces not exceeding 100 mm girth Prepare and apply three coats of gloss oil paint to metal surfaces	268	LM		



Q Door general surfaces

9 SM

	TOTAL
<u>ELEMENT NO. 5</u>	<u>CARRIED</u>
	TO
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<u>RS</u>	<u>Y</u>

BW/6  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item	Description	Qty	Unit	Rate	Shs	Cts
	<u>ELEMENT NO. 6</u> <u>WINDOWS</u> <u>(Provisional)</u> Steel casement windows in standard section frame including mullions, transomes in-built mosquito proof gauze permanent vents hood with at top, high quality heavy duty polished brass ironmongery to M/s Kensmetal Ltd or other equal and approved fasteners, window stays, fixing lags, glazing, and apply primer before fixing (Small panel windows) incorporating 40 x 6 mm flat bars burglar proofing welded horizontally and vertically in line with opening light casement transomes and mullions burglar proofing					
A	1500 x 1800mm high	13	NO			
B	1000 x 1800mm high	12	NO			
C	1500 x 900mm high	4	NO			
D	600 x 600mm high Glazing	2	NO			
E	4mm clear glass and glazing with Putty in panes between 0.1sm and 0.5sm	69	SM			
F	Ditto but obscure Touch up primer after fixing, apply undercoat and two coats gloss oil paint to metal	12	SM			
G	Steel casement windows internally	81	SM			
H	Ditto externally Wrot cypress	81	SM			
I	Supply and fix wrot cypress curtain boxes complete complete with curtain rails to approval Prepare and apply three coats of gloss oil paint to wooden surfaces	40	LM			

J General surfaces of curtain boxes

ELEMENT  
NO.6  
  
WINDOWS

TOTAL  
CARRIED  
TO  
SUMMARY

BW/7  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	Shs	Ct s
<u>ELEMENT NO.7</u>					
<u>FINISHES</u>					
<u>External Finishes</u>					
A 12mm thick cement/sand (1:4) wood float render to walls below windows parapet walls, columns, beams externally	843	SM			
B Ditto to surfaces of plinth	28	SM			
<u>INTERNAL FINISHES</u>					
<u>Wall Finishes</u>					
<u>Cement/Lime/ sand plaster</u>					
C 12mm cement/lime/sand (1:1:6) plaster in two coats to walls and beams and reveals internally	1,496	SM			
<u>Cement/Sand render</u>					
D 10mm cement/sand (1:4) render to walls, cill, reveals, jambs to receive wall tiles	124	SM			
<u>Glazed wall tiles to Saj Catalogue</u>					
200 x 250 x 6mm thick patterned glazed wall tiles fixed with adhesive to rendered surfaces (m/s) with and including rounded edge tiles, jambs in dining	124	M			
<u>Floor Finishes</u>					
F 34 mm thick screed to receive ceramic tiles	843	M			
G Ditto to 300mm wide treads	56	M			
H Ditto 150mm high risers	58	M			
<u>Ceramic floor tiles to Approval</u>					
I 330 x 330 mm ceramic floor tiles fixed onto prepared screed with manufacturers approved adhesive	843	M			
J 100mm high skirting ditto	374	M			
K 330 x 330mm non slip ceramic floor tiles fixed onto prepared screed with manufacturers approved adhesive	92	M			

Total Carried to Collection

BW/8  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	ShsCts
<u>20mm thick Terrazzo floor finish</u>				
20mm thick terrazzo floor finish complete with				
A	5	SM		
plastic dividing strips, grinding and polishing to approval to landings				
B	65	LM		
Ditto to 300mm wide treads				
C	67	LM		
Ditto to 150mm high risers				
D	140	LM		
100mm high skirting ditto				
<u>Ceiling</u>				
12mm thick cement lime sand (1:1:6) plaster to				
E	567	SM		
Soffits of suspended slab				
F	6	SM		
Soffits of landing				
G	10	SM		
Slopping soffits of staircase				
<u>Chipboard</u>				
<u>ceiling</u>				
Supply and lay 12mm thick plain chipboard				
H	276	SM		
complete with 50 x 50mm cyprees brandering and matching cornices to Approval				
Total Carried to Collection				
<u>Collection</u>				
From Page 2/8				
From Page 2/9				
<u>ELEMENT NO. 7</u>		<u>TOTAL</u> <u>CARRIED</u> <u>TO</u> <u>SUMMARY</u>		
<u>FINISHES</u>				

BW/9  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	Shs	Ct s
<u>ELEMENT NO. 8</u>					
<u>PAINING AND</u>					
<u>DECORATING</u>					
<u>External paint</u>					
Prepare and apply one undercoat and two coats plastic emulsion					
<u>pai</u>					
<u>nt</u>					
A	843	SM			
Rendered surfaces of beams ringbeams externally					
Prepare and apply three coats of black bituminous paint to					
<u>rendered</u>					
<u>surfaces:</u>					
B	32	SM			
Plinth surfaces					
Internal					
Paint					
Prepare and apply one under coat and two coats silk vinyl paint to					
C	1,496	SM			
Plastered walls, concrete surfaces and jambs internally					
Prepare and apply one under coat and two finishing coats plastic					
<u>emulsion paint to:-</u>					
D	631	SM			
Soffits of suspended slabs and beams internally					
E	7	SM			
Ditto soffits of landing					
F	188	SM			
Ditto soffits of ramp					
G	276	SM			
Ditto soffits of chipboard ceiling					
H	9	SM			
Ditto slopping soffits of staircase					
			<u>TOTAL</u>		
			<u>CARRIED</u>		
			<u>TO</u>		
<u>ELEMENT NO. 8</u>					
<u>PAINING</u>					



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SUMMARY

BW/10  
Cafeteria



BW/11  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	Shs	Ct s
<p><u>ELEMENT NO. 10</u></p> <p><u>Builder's Work</u></p> <p>The contractor shall here allow all builder's work in connection with Electrical and Mechanical Engineering Installation</p> <p>The builders work shall include but not limited to</p> <p>a) Chases in wall, concrete work, and make good Forming, making or leaving holes, etc in</p> <p>b) masonry concrete or wood work</p> <p>c) Making good all disturbed area</p> <p>d) Excavations refill and disposal of spoil</p> <p><u>Electrical Work</u></p> <p>Allow for all builder's work in connection with</p> <p>A. <u>Electrical Engineering Installations</u></p> <p style="text-align: right;">1 Item</p> <p><u>Mechanical Engineering</u></p> <p>Allow for all builder's work in connection with</p> <p>B. <u>Mechanical Engineering Installations</u></p> <p style="text-align: right;">1 Item</p>					
<u>ELEMENT NO. 10</u>			<u>TOTAL CARRIED TO</u>		
<u>BUILDER'S WORK</u>			<u>SUMMARY</u>		

## SUMMARY

BW/12  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item	Description	Qty	Unit	Rate	Shs	Cts
	<u>ELEMENT NO.</u>					
	<u>PAGE</u>					
	Substructure					
	Superstructure					
	Walling					
	Roof					
	Doors					
	Windows					
	Finishes					
	Painting and Decorating					
	Fixture and Joinery					
	Builder's Work					
	<b><u>TOTAL FOR BUILDERS WORKS</u></b>					
	<b><u>CARRIED TO GRAND SUMMARY</u></b>					

BW/13  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item Description	Qty	Unit	Rate	ShsCts
	Qty	Unit		
<b><u>BILL NO. 4</u></b>				
<b>Prime Cost and Provisional Sums</b>				
<b><u>ELECTRICAL INSTALLATION</u></b>				
Allow a prime cost sum for Electrical Installation works to be executed by a nominated specialist sub-contractor.				1,000,000.00
Allow for profit				
Allow for attendance				
<b><u>PLUMBING &amp; DRAINAGE</u></b>				
Allow a prime cost sum for Plumbing and Drainage works to be executed by a nominated specialist sub-contractor.				800,000.00
Allow for profit				
Allow for attendance				
<b><u>CONTINGENCY SUM</u></b>				
D Provide a Sum of Kenya Shillings Two Million only for contingencies				2,000,000.00
<b><u>PROJECT MANAGEMENT</u></b>				
E Provide a Sum of Kenya Shillings One Million Eight Hundred Thousand only for for project Mangement				1,800,000.00



BW/14  
Cafeteria

*PROPOSED TURKANA COUNTY CAFETERIA*

Item	Description	Qty	Unit	Rate	Shs	Ct s
	<b><u>PROPOSED COUNTY CAFETERIA</u></b>					
	<b><u>FOR</u></b>					
	<b><u>TURKANA COUNTY ASSEMBLY</u></b>					
	<b><u>GRAND SUMMARY -</u></b>					
	<b><u>PHASE 1</u></b>					
	Preliminaries					
	Bill No. 1 - CAFETERIA					
	Bill No.4 - PROVISIONAL SUMS					
	SUB TOTAL					
	ADD 16% V.A.T					
8	<b>TOTAL CARRIED TO FORM OF TENDER</b>					

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BW/15  
Cafeteria