

REPUBLIC OF KENYA



THE COUNTY GOVERNMENT OF KISUMU

TENDER DOCUMENT

FOR

THE PROPOSED

**CONSTRUCTION TO COMPLETION
OF KISUMU DAIRY DEVELOPMENT
CENTRE (KDDC)**

TENDER NO: CGK/EU/MUH/T/18-19/001

FULL CONTRACT

Employer:

County Government of Kisumu/EU
P.O. Box 2738-40100,
KISUMU

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INTRODUCTION

- 1.1 This standard tender document for procurement of works has been prepared for use by procuring entities in Kenya in the procurement of works (i.e. Buildings and associated Civil Engineering Works).
- 1.2 The following guidelines should be observed when using the document:-
- (a) Specific details should be furnished in the Invitation to tender and in the special conditions of contract (where applicable). The tender document issued to tenderers should not have blank spaces or options.
 - (b) The instructions to tenderers and the General Conditions of Contract should remain unchanged. Any necessary amendments to these parts should be made through Appendix to instructions to tenderers and special conditions of contract respectively.
- 1.3
- (b) Information contained in the invitation to tender shall conform to the data and information in the tender documents to enable prospective tenderers to decide whether or not to participate in the tender and shall indicate any important tender requirements
 - (c) The invitation to tender shall be as an advertisement in accordance with the regulations.
- 1.4 The cover of the document shall be modified to include:-
- I. Tender number.
 - II. Tender name.
 - III. Name of procuring entity.

SECTION I
INVITATION FOR TENDERS

Date:, 2018

Tender reference no. CGK/EU/MUH/T/18-19/001

Tender Name: **CONSTRUCTION TO COMPLETION OF KISUMU DAIRY
DEVELOPMENT CENTRE (KDDC).**

1.1 Invitation for Tenders

The County Government of Kisumu (CGK) now invites sealed Tenders from qualified contractors duly registered in the Republic of Kenya with the National Construction **Authority (NCA) class 5 and above Building Works.**

Tendering will be conducted through the procurement procedures specified in the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Disposal Regulations, 2006 and are under the category of Open Tendering method.

1.2 Interested eligible candidates may obtain further information and inspect **Tender Documents** and the **Design Drawings** at County Government of Kisumu Headquarters at the Procurement Office during normal working hours.

1.4 Prices quoted should be net inclusive of all taxes, must be in Kenya shillings and shall remain valid for **90** days from the closing date of tender.

1.5 Completed Tender Documents are to be enclosed in plain sealed envelopes marked with Tender name and reference number and deposited in the Tender Box located at the **Main Reception, County Government Headquarters, Prosperity House – 2nd Floor**, or to be addressed to The County Secretary, County Government of Kisumu, P.O Box 2738-40100 Kisumu so as to be received on or before **Tuesday 8th January, 2019 at 12.00 NOON.**

1.6 Tenders will be opened immediately thereafter in the presence of the candidates or their representatives who choose to attend at **Conference Hall, 1st Floor, Prosperity Building.**

1.7 Interested bidders should enclose Tender Security worth 1% of the Bid Sum in the Form of a Sealed Bank Guarantee or a Banker's Cheque, from a reputable Commercial Bank.

COUNTY SECRETARY

SECTION II

INSTRUCTIONS TO TENDERERS

INSTRUCTIONS TO TENDERERS.

1. General/Eligibility/Qualifications/Joint venture/Cost of tendering

- 1.1 The Employer as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The successful tenderer will be expected to complete the Works by the Intended Completion Date specified in the tender documents.
- 1.2 All tenderers shall provide the Qualification Information, a statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or has not been associated in the past, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications, and other documents for the project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the Works, and any of its affiliates, shall not be eligible to tender.
- 1.3 All tenderers shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.
- 1.4 In the event that pre-qualification of potential tenderers has been undertaken, only tenders from pre-qualified tenderers will be considered for award of Contract. These qualified tenderers should submit with their tenders any information updating their original pre-qualification applications or, alternatively, confirm in their tenders that the originally submitted pre-qualification information remains essentially correct as of the date of tender submission.
- 1.5 Where no pre-qualification of potential tenderers has been done, all tenderers shall include the following information and documents with their tenders , unless otherwise stated:
 - (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the tender to commit the tenderer:
 - (b) total monetary value of construction work performed for each of the last five years:
 - (c) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and names and addresses of clients who may be contacted for further information on these contracts;

- (d) major items of construction equipment proposed to carry out the Contract and an undertaking that they will be available for the Contract.
- (e) Qualifications and experience of key site management and technical personnel proposed for the Contract and an undertaking that they shall be available for the Contract.
- (f) reports on the financial standing of the tenderer, such as profit and loss statements and auditor's reports for the past five years;
- (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- (h) authority to seek references from the tenderer's bankers;
- (i) information regarding any litigation, current or during the last five years, in which the tenderer is involved, the parties concerned and disputed amount; and
- (j) Proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.

1.6 Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated:

- (a) the tender shall include all the information listed in clause 1.5 above for each joint venture partner;
- (b) the tender shall be signed so as to be legally binding on all partners;
- (c) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (d) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of all partners of the joint venture; and
- (e) The execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

1.7 To qualify for award of the Contract, tenderers shall meet the following minimum qualifying criteria;

- (a) annual volume of construction work of at least 2.5 times the estimated annual cash flow for the Contract;
- (b) experience as main contractor in the construction of at least five years
- (c) two works of a nature and complexity equivalent to the Works over the last 10 years (to comply with this requirement, works cited should be at least 70 percent complete);

- (d) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed as required for the Works;
 - (e) a Contract manager with at least five years' experience in works of an equivalent nature and volume, including no less than three years as Manager; and
 - (f) Liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than 4 months of the estimated payment flow under this Contract.
- 1.8 The figures for each of the partners of a joint venture shall be added together to determine the tenderer's compliance with the minimum qualifying criteria of clause 1.7 (a) and (e); however, for a joint venture to qualify, each of its partners must meet at least 25 percent of minimum criteria 1.7 (a), (b) and (e) for an individual tenderer, and the partner in charge at least 40 percent of those minimum criteria. Failure to comply with this requirement will result in rejection of the joint venture's tender. Subcontractors' experience and resources will not be taken into account in determining the tenderer's compliance with the qualifying criteria, unless otherwise stated.
- 1.9 Each tenderer shall submit only one tender, either individually or as a partner in a joint venture. A tenderer who submits or participates in more than one tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the tenderer's participation to be disqualified.
- 1.10 The tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.
- 1.11 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.
- 1.12 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 1.13 The procuring entity shall allow the tenderer to review the tender document free of charge.

2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed below and any addenda issued in accordance with Clause 2.4.
- (a) These Instructions to Tenderers
 - (b) Form of Tender and Qualification Information
 - (c) Conditions of Contract
 - (d) Appendix to Conditions of Contract
 - (e) Specifications

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

3. Preparation of Tenders

- 3.1 All documents relating to the tender and any correspondence shall be in English language.
- 3.2 The tender submitted by the tenderer shall comprise the following:
- (a) These Instructions to Tenderers, Form of Tender, Conditions of Contract, Appendix to Conditions of Contract and Specifications;
 - (b) Tender Security;
 - (c) Priced Bill of Quantities ;
 - (d) Qualification Information Form and Documents;
 - (e) Alternative offers where invited; and
 - (f) Any other materials required to be completed and submitted by the tenderers.
- 3.3 The tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. All duties, taxes, and other levies payable by the Contractor

under the Contract, or for any other cause relevant to the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the tenderer.

- 3.4 The rates and prices quoted by the tenderer shall only be subject to adjustment during the performance of the Contract if provided for in the Appendix to Conditions of Contract and provisions made in the Conditions of Contract.
- 3.5 The unit rates and prices shall be in Kenya Shillings.
- 3.6 Tenders shall remain valid for a period of ninety (90) days from the date of submission. However in exceptional circumstances, the Employer may request that the tenderers extend the period of validity for a specified additional period. The request and the tenderers' responses shall be made in writing. A tenderer may refuse the request without forfeiting the Tender Security. A tenderer agreeing to the request will not be required or permitted to otherwise modify the tender, but will be required to extend the validity of Tender Security for the period of the extension, and in compliance with Clause 3.7 - 3.11 in all respects.
- 3.7 The tenderer shall furnish, as part of the tender, a Tender Security in the amount and form specified in the appendix to invitation to tenderers. This shall be in the amount not exceeding 2.5 percent of the tender price
- 3.8 The format of the Tender Security should be in accordance with the form of Tender Security included in Section G - Standard forms or any other form acceptable to the Employer. Tender Security shall be valid for 30 days beyond the validity of the tender.
- 3.9 Any tender not accompanied by an acceptable Tender Security shall be rejected. The Tender Security of a joint venture must define as "Tenderer" all joint venture partners and list them in the following manner: a joint venture consisting of ".....", ".....", and ".....".
- 3.10 The Tender Securities of unsuccessful tenderers will be returned within 28 days of the end of the tender validity period specified in Clause 3.6.
- 3.11 The Tender Security of the successful tenderer will be discharged when the tenderer has signed the Contract Agreement and furnished the required Performance Security.
- 3.12 The Tender Security may be forfeited
 - (a) if the tenderer withdraws the tender after tender opening during the period of tender validity;
 - (b) if the tenderer does not accept the correction of the tender price, pursuant to Clause 5.7;
 - (c) in the case of a successful tenderer, if the tenderer fails within the specified time limit to
 - (i) sign the Agreement, or

(ii) Furnish the required Performance Security.

- 3.13 Tenderers shall submit offers that comply with the requirements of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. Alternatives will not be considered, unless specifically allowed in the invitation to tender. If so allowed, tenderers wishing to offer technical alternatives to the requirements of the tendering documents must also submit a tender that complies with the requirements of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. In addition to submitting the basic tender, the tenderer shall provide all information necessary for a complete evaluation of the alternative, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated tender conforming to the basic technical requirements shall be considered.
- 3.14 The tenderer shall prepare one original of the documents comprising the tender documents as described in Clause 3.2 of these Instructions to Tenderers, bound with the volume containing the Form of Tender, and clearly marked “ORIGINAL”. In addition, the tenderer shall submit copies of the tender, in the number specified in the invitation to tender, and clearly marked as “COPIES”. In the event of discrepancy between them, the original shall prevail.
- 3.15 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer, pursuant to Clause 1.5 (a) or 1.6 (b), as the case may be. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.
- 3.16 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 3.17 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.
- 3.18 The tender security shall be in the amount of 0.5 – 2 per cent of the tender price.

4. Submission of Tenders

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

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

5. Tender Opening and Evaluation

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

tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered in the evaluation of the tenders in accordance with Clause 5.7.

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

- 5.8 The Employer will evaluate and compare only the tenders determined to be substantially responsive in accordance with Clause 5.5.
- 5.9 In evaluating the tenders, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:
- (a) making any correction for errors pursuant to clause 5.7;
 - (b) Excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities, but including Day works where priced competitively.
 - (c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with clause 3.12; and
 - (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with clause 4.6
- 5.10 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in tender evaluation.
- 5.11 The tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.
- 5.12 Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding Provisional Sums to a Non-indigenous sub-contractor.

6. Award of Contract

- 6.1 Subject to Clause 6.2, the award of the Contract will be made to the tenderer whose tender has been determined to be substantially responsive to the tendering documents and who has offered the lowest evaluated tender price, provided that such tenderer has been determined to be (a) eligible in accordance with the provision of Clauses 1.2, and (b) qualified in accordance with the provisions of clause 1.7 and 1.8.
- 6.2 Notwithstanding clause 6.1 above, the Employer reserves the right to accept or reject any tender, and to cancel the tendering process and reject all tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the action.
- 6.3 The tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile.

This notification (hereinafter and in all Contract documents called the “Letter of Acceptance”) will state the sum (hereinafter and in all Contract documents called the “Contract Price”) that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. At the same time the other tenderers shall be informed that their tenders have not been successful. The contract shall be formed on the parties signing the contract.

- 6.4 The Agreement will incorporate all agreements between the Employer and the successful tenderer. Within 14 days of receipt the successful tenderer will sign the Agreement and return it to the Employer.
- 6.5 Within 21 days after receipt of the Letter of Acceptance, the successful tenderer shall deliver to the Employer a Performance Security in the amount stipulated in the Appendix to Conditions of Contract and in the form stipulated in the Tender documents. The Performance Security shall be in the amount and specified form
- 6.6 Failure of the successful tenderer to comply with the requirements of clause 6.5 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender Security.
- 6.7 Upon the furnishing by the successful tenderer of the Performance Security, the Employer will promptly notify the other tenderers that their tenders have been unsuccessful.
- 6.8 Preference where allowed in the evaluation of tenders shall not be allowed for contracts not exceeding one year (12 months)
- 6.9 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 6.10 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 6.11 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 6.12 Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.
- 6.13 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.
- 6.14 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 6.15 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 6.16 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

7. Corrupt and Fraudulent practices

- 7.1 The procuring entity requires that tenderers observe the highest standards of ethics during procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt and fraudulent practices.

SECTION III
CONDITIONS OF CONTRACT

1. Definitions

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

“Bill of Quantities” means the priced and completed Bill of Quantities forming part of the tender.

“Compensation Events” are those defined in Clause 24 hereunder.

“The Completion Date” means the date of completion of the Works as certified by the Project Manager, in accordance with Clause 31.

“The Contract” means the agreement entered into between the Employer and the Contractor as recorded in the Agreement Form and signed by the parties including all attachments and appendices thereto and all documents incorporated by reference therein to execute, complete, and maintain the Works,

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

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

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

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

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

“The Defects Liability Certificate” is the certificate issued by Project Manager upon correction of defects by the Contractor.

“The Defects Liability Period” is the period named in the Contract Data and calculated from the Completion Date.

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

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

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

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

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

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

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

“Project Manager” is the person named in the Appendix to Conditions of Contract (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract and shall be an “Architect” or a “Quantity Surveyor” registered under the Architects and Quantity Surveyors Act Cap 525 or an “Engineer” registered under Engineers Registration Act Cap 530.

“Site” is the area defined as such in the Appendix to Condition of Contract.

“Site Investigation Reports” are those reports that may be included in the tendering documents which are factual and interpretative about the surface and subsurface conditions at the Site.

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

“Start Date” is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with the Site possession date(s).

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

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

“A Variation” is an instruction given by the Project Manager which varies the Works.

“The Works” are what the Contract requires the Contractor to construct, install, and turnover to the Employer, as defined in the Appendix to Conditions of Contract.

2. Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance.

Words have their normal meaning in English Language unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

- 2.2 If sectional completion is specified in the Appendix to Conditions of Contract, reference in the Conditions of Contract to the Works, the Completion Date and the Intended Completion Date apply to any section of the Works (other than references to the Intended Completion Date for the whole of the Works).
- 2.3 The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;
- (1) Agreement,
 - (2) Letter of Acceptance,
 - (3) Contractor's Tender,
 - (4) Appendix to Conditions of Contract,
 - (5) Conditions of Contract,
 - (6) Specifications,
 - (7) Drawings,
 - (8) Bill of Quantities,
 - (9) Any other documents listed in the Appendix to Conditions of Contract as forming part of the Contract.

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

3. Language and Law

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

4. Project Manager's Decisions

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

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

6. Communications

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

7. Subcontracting

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

8. Other Contractors

The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities etc. as listed in the Appendix to Conditions of Contract and also with 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

The Contractor shall employ the key personnel named in the Qualification Information, to carry out the functions stated in the said Information or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Qualification Information. If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the Work in the Contract.

10 Works

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

11 Safety and Temporary Works

- a. 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.
- b. 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.
- c. The Contractor shall be responsible for the safety of all activities on the Site.

12. Discoveries

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

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

14. Possession of Site

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

15. Access to Site

The Contractor shall allow the Project Manager and any other person authorized by the Project Manager, access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

16. Instructions

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

17. Extension or Acceleration of Completion Date

The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a variation is issued which makes it impossible for completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining Work, which would cause the Contractor to incur additional cost. The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the

Contractor asking the Project Manager in writing for a decision upon the effect of a Compensation Event or variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay caused by such failure shall not be considered in assessing the new (extended) Completion Date.

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

18. Management Meetings

A Contract management meeting shall be held monthly and attended by the Project Manager and the Contractor. Its business shall be to review the plans for the remaining Work and to deal with matters raised in accordance with the early warning procedure. The Project Manager shall record the minutes of management meetings and provide copies of the same to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

19. Early Warning

The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the Work increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

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

20. Defects

- 20.1 The Project Manager shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a defect and to uncover and test any Work that the Project Manager considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor, However, if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.
- 20.2 The Project Manager shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract. The Defects Liability Period shall be extended for as long as defects remain to be corrected.
- 20.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Project Manager's notice. If the Contractor has not corrected a defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

21. Bills Of Quantities

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

22. Variations

- 22.1 All variations shall be included in updated programs produced by the Contractor.
- 22.2 The Contractor shall provide the Project Manager with a quotation for carrying out the variations when requested to do so. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period as may be stated by the Project Manager and before the Variation is ordered.
- 22.3 If the work in the variation corresponds with an item description in the Bills of Quantities and if in the opinion of the Project Manager, the quantity of work is not above the limit stated in Clause 21.2 or the timing of its execution does not cause the cost per unit of quantity to change, the rate in the Bills of Quantities shall be used to calculate the value of the variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the variation does not correspond with items in the Bills of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 22.4 If the Contractor's quotation is unreasonable, the Project Manager may order the variation and make a change to the Contract price, which shall be based on the Project Manager's own forecast of the effects of the variation on the Contractor's costs.
- 22.5 If the Project Manager decides that the urgency of varying the Work would prevent a quotation being given and considered without delaying the Work, no quotation shall be given and the variation shall be treated as a Compensation Event.
- 22.6 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- 22.7 When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast.

23. Payment Certificates, Currency of Payments and Advance Payments

- 23.1 The Contractor shall submit to the Project Manager 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 application and certify the amount to be paid to the Contractor within 14 days. The value of Work executed and payable shall be determined by the Project Manager.
- 23.2 The value of Work executed shall comprise the value of the quantities of the items in the Bills of Quantities completed; materials delivered on Site, variations and compensation events. Such materials shall become the property of the Employer once the Employer has paid the Contractor for their value. Thereafter, they shall not be removed from Site without the Project Manager's instructions except for use upon the Works.
- 23.3 Payments shall be adjusted for deductions for retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes a late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis of number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment becomes overdue.
- 23.4 If an amount certified is increased in a later certificate or as a result of an award by an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 23.5 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.
- 23.6 The Contract Price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya Shillings and foreign currency in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate of exchange for the calculation of the amount of foreign currency payment shall be the rate of exchange indicated in the Appendix to Conditions of Contract. If the Contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services the Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services. The Employer and the Project Manager shall be notified promptly by the Contractor of an changes in the expected foreign currency requirements of the Contractor during the execution of the Works as indicated in the Schedule of Foreign Currency Requirements and the foreign and local currency portions of the balance of the Contract Price shall then be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.
- 23.7 In the event that an advance payment is granted, the following shall apply:-
- a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of 10% (ten

- percent) of the original amount of the Contract. The advance shall not be subject to retention money.
- b) No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.
 - c) Reimbursement of the lump sum advance shall be made by deductions from the Interim payments and where applicable from the balance owing to the Contractor. Reimbursement shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

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

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

Where:

R = the amount to be reimbursed

A = the amount of the advance which has been granted

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

X¹¹ = the amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

- d) with each reimbursement the counterpart of the directly liable guarantee may be reduced accordingly.

24. Compensation Events

24.1 The following issues shall constitute Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Appendix to Conditions of Contract.
- (b) The Employer modifies the List of Other Contractors, etc., in a way that affects the Work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue drawings, specifications or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon the Work, which is then found to have no defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to tenderers (including the Site investigation reports), from information available publicly and from a visual inspection of the Site.

- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer or additional work required for safety or other reasons.
 - (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
 - (i) The effects on the Contractor of any of the Employer's risks.
 - (j) The Project Manager unreasonably delays issuing a Certificate of Completion.
 - (k) Other compensation events described in the Contract or determined by the Project Manager shall apply.
- 24.2 If a compensation event would cause additional cost or would prevent the Work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 24.3 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.
- 24.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having co-operated with the Project Manager.
- 24.5 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Appendix to Conditions of Contract.
- 24.6 The Contractor shall give written notice to the Project Manager of his intention to make a claim within thirty days after the event giving rise to the claim has first arisen. The claim shall be submitted within thirty days thereafter. Provided always that should the event giving rise to the claim of continuing effect, the Contractor shall submit an interim claim within the said thirty days and a final claim within thirty days of the end of the event giving rise to the claim.

25. Price Adjustment

- 25.1 The Project Manager shall adjust the Contract Price if taxes, duties and other levies are changed between the date 30 days before the submission of tenders for the Contract and the date of Completion. The adjustment shall be the change in the amount of tax payable by the Contractor.
- 25.2 The Contract Price shall be deemed to be based on exchange rates current at the date of tender submission in calculating the cost to the Contractor of materials to be specifically imported (by express provisions in the Contract Bills of Quantities or Specifications) for permanent incorporation in the Works. Unless otherwise stated in the Contract, if at any time during the period of the Contract exchange rates shall be varied and this shall affect the cost to the Contractor of such materials, then the

Project Manager shall assess the net difference in the cost of such materials. Any amount from time to time so assessed shall be added to or deducted from the Contract Price, as the case may be.

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

26. Retention

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

27. Liquidated Damages

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

27.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rate specified in Clause 23.30

28. Securities

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

29. Day works

29.1 If applicable, the Day works rates in the Contractor's tender shall be used for small additional amounts of Work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

29.2 All work to be paid for as Day works shall be recorded by the Contractor on Forms approved by the Project Manager. Each Completed form shall be verified and signed by the Project Manager within two days of the Work being done.

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

30. Liability and Insurance

- 30.1 From the Start Date until the Defects Correction Certificate has been issued, the following are the Employer's risks:
- (a) The risk of personal injury, death or loss of or damage to property (excluding the Works, Plant, Materials and Equipment), which are due to;
 - (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works, or
 - (ii) Negligence, breach of statutory duty or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
 - (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in Employer's design, or due to war or radioactive contamination directly affecting the place where the Works are being executed.
- 30.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is the Employer's risk except loss or damage due to;
- (a) A defect which existed on or before the Completion Date.
 - (b) An event occurring before the Completion Date, which was not itself the Employer's risk
 - (c) The activities of the Contractor on the Site after the Completion Date.
- 30.3 From the Start Date until the Defects Correction Certificate has been issued, the risks of personal injury, death and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risk are Contractor's risks.
- The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts stated in the Appendix to Conditions of Contract for the following events;
- (a) loss of or damage to the Works, Plant, and Materials;
 - (b) loss of or damage to Equipment;
 - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract, and
 - (d) Personal injury or death.
- 30.4 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation required to rectify the loss or damage incurred.
- 30.5 If the Contractor does not provide any of the policies and certificates required, the Employer may affect the insurance which the Contractor should have provided and recover the premiums from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

- 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 are issuing a Certificate of Completion.

32. Final Account

The Contractor shall issue the Project Manager with a detailed account of the total amount that the Contractor considers payable to him by the Employer under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 30 days a schedule that states the scope of the corrections or additions that are necessary. If the final account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a Payment Certificate. The Employer shall pay the Contractor the amount due in the Final Certificate within 60 days.

33. Termination

- 33.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following;
- (a) the Contractor stops work for 30 days when no stoppage of work is shown on the current program and the stoppage has not been authorized by the Project Manager;
 - (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 30 days;
 - (c) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 30 days (for Interim Certificate) or 60 days (for Final Certificate) of issue.
 - (e) the Project Manager gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) The Contractor does not maintain a security, which is required.
- 33.2 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Clause 33.1 above, the Project Manager shall decide whether the breach is fundamental or not.
- 33.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.

- 33.4 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible. The Project Manager shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

34. Payment Upon Termination

- 34.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the Work done and materials ordered and delivered to Site up to the date of the issue of the certificate. Additional liquidated damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable by the Contractor.
- 34.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the Work done, materials ordered, the reasonable cost of removal of equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works.
- 34.3 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on the Site, plant, equipment and temporary works.
- 34.4 The Contractor shall, during the execution or after the completion of the Works under this clause remove from the Site as and when required, within such reasonable time as the Project Manager may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to or hired by him, and in default the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.
- Until after completion of the Works under this clause the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts 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

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

36. Corrupt gifts and payments of commission

The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for the Employer or for showing or forbearing to show favor or disfavor to any person in relation to this or any other contract for the Employer.
- (b) Enter into this or any other contract with the Employer in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Employer. Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement Regulations issued under The Exchequer and Audit Act Cap 412 of the Laws of Kenya.

37. Settlement Of Disputes

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

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

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

37.2 The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising thereunder or in connection therewith, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.

37.3 Provided that no arbitration proceedings shall be commenced on any dispute or difference where notice of a dispute or difference has not been given by the applying

- party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 37.4 Notwithstanding the issue of a notice as stated above, the arbitration of such a dispute or difference shall not commence unless an attempt has in the first instance been made by the parties to settle such dispute or difference amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 37.5 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:
- 37.5.1 The appointment of a replacement Project Manager upon the said person ceasing to act.
- 37.5.2 Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
- 37.5.3 Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- 37.5.4 Any dispute or difference arising in respect of war risks or war damage.
- 37.6 All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Employer and the Contractor agree otherwise in writing.
- 37.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
- 37.8 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 37.9 The award of such Arbitrator shall be final and binding upon the parties.

38. EVALUATION CRITERIA

Tender Evaluation Template (Requirements and Scoring)

1. Stage 1 – Qualification Requirements

Note: Attach copies relevant documents e.g. certificates, licences, etc.

Sub-Factor	Requirement	Bidder				Documentati on Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partne rs combi ned	Each partner	At least one partn er		
1.1. Statutory and General Requirements							
1.1.1. Registr ation as Company	Bidder Must be a legally constituted firm according to the laws of Kenya	<i>Must meet requirem ent</i>	<i>N / A</i>	<i>Must meet require ment</i>	<i>N / A</i>	<i>Certificate of Incorporation</i>	
1.1.2. Tax Compliance	Bidder MUST be Tax Registered and be Tax Compliant	<i>Must meet requirem ent</i>	<i>N / A</i>	<i>Must meet require ment</i>	<i>N / A</i>	<i>Current Tax Compliance Certificate</i>	
1.1.3. Physica l address	Must have a physical office and works yard	<i>Must meet requirem ent</i>	<i>N / A</i>	<i>Must meet require ment</i>	<i>N / A</i>	<i>Single Business Permit, utility bills, lease agreement etc</i>	
1.1.4. Registr ation by National Construction Authority	At least category NCA5 and above for building and civil works contractors	<i>Must meet requirem ent</i>	<i>N / A</i>	<i>Must meet require ment</i>	<i>N / A</i>	<i>NCA Certificate of Registration</i>	
1.1.5. Bid Security	The Bidder shall furnish as part of its bid, a bid security of 1% of bid sum from a reputable commercial bank	<i>Must meet requirem ent</i>	<i>Must meet require ment</i>	<i>N / A</i>	<i>N / A</i>	<i>In original, unconditional bank guarantee or banker's cheque and in the amount and currency specified</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
1.1.6. Sanctity of the bid document	Having the document intact, legible and well bound (not tempered with in any way and signed by the authorized person (well serialized))	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>N/A</i>	<i>Bid Document</i>	
1.2. Bidding Forms and Other Requirements							
1.2.1. Bid Submission Sheet	The Letter of Bid, shall be prepared in conformity with the form furnished in Section VIII (Bidding Forms), and signed by the authorized person only	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>N/A</i>	<i>Letter of Submission</i>	
1.2.2. Power of Attorney	Written confirmation authorizing the signatory of the Bid to commit the Bidder.	<i>Must meet requirement</i>	<i>Existing or intended JV must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Letter of Authority</i>	
1.2.3. Environmental and Social Commitment	Written commitment of the Bidder.	<i>Must meet requirement</i>	<i>Existing JV must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Letter of Commitment</i>	
1.2.4. Statement of Work Methods	The Bidder shall provide a statement of work methods, in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements.	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Well written and detailed chapter in the bid explaining work method.</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
1.2.5. Construction Schedule / Works Program	The Bidder shall provide a Construction Schedule / Works Program in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the completion time	<i>Must meet requirement</i>	<i>Existing JV must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>A logical programme of activities on Critical Path in Ms Project.</i>	
1.2.6. Bidder Information	The bidder is required to provide all details in the format specified.	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Section VIII Form 5</i>	
1.2.7. Joint Venture Documents	Bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all partners	<i>N/A</i>	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Joint Venture Agreement and Form 5 in Section VIII</i>	
1.3. Eligibility							
1.3.1. Conflict of Interest	No- conflicts of interests	<i>Must meet requirement</i>	<i>Existing or intended JV must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Letter of Bid</i>	
1.3.2. Government Owned Entity	Compliance with the laid down conditions	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Attachments and Letter of Bid</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
1.3.3. Ineligibility based on sanctions from France, the EU or the United Nations regarding fight against terrorism	Not listed as sanctioned person or entity by either Kenya, France, the EU or the United Nations	<i>Must meet requirement</i>	<i>Existing JV must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Letter of Bid</i>	
1.4. Historical Contract Non-Performance							
1.4.1. History of non-performing contracts	Non-performance of a contract did not occur within the last 5 years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the bidder have been exhausted.	<i>Must meet requirement by itself or as partner to past or existing JV</i>	<i>N/A</i>	<i>Must meet requirement by itself or as partner to past or existing JV</i>	<i>N/A</i>	<i>Section VIII Form 6</i>	

Sub-Factor	Requirement	Bidder				Documentati on Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partne rs combi ned	Each partner	At least one partn er		
1.4.2. Pending Litigation	All pending litigation shall in total not represent more than Thirty percent (30%) of the Bidder's net worth and shall be treated as resolved against the Bidder.	<i>Must meet requirement by itself or as partner to past or existing JV</i>	<i>N / A</i>	<i>Must meet requirement by itself or as partner to past or existing JV</i>	<i>N / A</i>	<i>Attachments of signed affidavit.</i>	
1.5. Financial Situation							
1.5.1. Historic al Financial Performance	Submission of audited reports, for at least the last [3] current financial years to demonstrate the current soundness of the bidders financial position and its prospective long term profitability.	<i>Must meet requirement</i>	<i>N / A</i>	<i>Must meet requirement</i>	<i>N / A</i>	<i>Attachments of audited financial reports for the three(3) year period certified CPA(K)</i>	
1.5.2. Averag e Annual Turnover	Minimum average annual turnover of Kenya Shilling Fifty Million (KES 50,000,000) calculated as total certified payments received for contracts in progress or completed, within the last three (3) years	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>Must meet Fifty percent (50%) of the requirement</i>	<i>Must meet Fifty percent (50%) of the requirement</i>	<i>Attachments of audited financial reports for at least the last [3] current financial years.</i>	
1.5.3. Financi al Resources	Demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>Must meet Fifty percent (50%) of the requirement</i>	<i>Must meet Fifty percent (50%) of the requirement</i>	<i>Attachments of proof of availability of the resources</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
	financial means, other than any contractual advance payments to meet the following cash-flow requirement: I. Kenya shillings Five Million KES 5,000,000 per month.				ement		
1.5.4. Bidder's Banker(s)	Information on their Bankers including authority to contact the banks. Provide certified letter from bank	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Letter of information and authority from bidder</i>	
1.5.5. Current Contract Commitments / Works in Progress	Provide information on current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued. The difference between the Bidder's net worth and such total project commitment shall in total not be less than Kenya Shillings Ten Million (KES. 10,000,000) of the	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Attachments of letters of commencement</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
	Bidder's net worth.						
1.6. Experience							
1.6.1. General Experience	Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last Three [3] years prior to the applications submission deadline.	<i>Must meet requirement</i>	<i>N/A</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Section VIII Form 4 & 7</i>	
1.6.2. Specific Experience	(a)Participation as contractor, management contractor, or subcontractor, in at least two (2) contracts each with a value of at least Kenya Shillings fifty million (KES.50, 000,000) within the last three (3) years, that have been successfully and substantially completed and that are of the same nature to the proposed Works. The similarity shall be based on the physical size, complexity, financial capital input, methods/technology or other characteristics as described in Section V, Employer's Requirements.	<i>Must meet requirement</i>	<i>Must meet requirements for all characteristics</i>	<i>N/A</i>	<i>Must meet requirement for one characteristic</i>	<i>Section VIII Form 4 & 7</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
	b) For the above or other contracts executed during the period stipulated in 1.6.2(a) above, a minimum experience in the following key activities: I. Construction of buildings and civil works	<i>Must meet requirements</i>	<i>Must meet requirements</i>	<i>N/A</i>	<i>Must meet requirements</i>		
1.7. Key Personnel							
1.7.1. Project Manager	At least a degree in Civil Engineering or related course, 10 years specific works experience and held the position of project manager/ Team Leader in at least one project of similar nature and scope	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Section VIII Form 8</i>	
1.7.2. Site Agent	At least a degree in Civil Engineering or related course, 8 years specific works experience and held the position of Site Agent in at least three projects of similar nature and scope	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Section VIII Form 8</i>	
1.7.3. Site foreman	At least a degree/higher Diploma in civil Engineering or related course, 5 years specific works experience as a Surveyor in at least three projects of similar nature and scope	<i>Must meet requirement</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Section VIII Form 8</i>	

Sub-Factor	Requirement	Bidder				Documentation Required	Provided (Yes/No)
		Single Entity	Joint Venture				
			All partners combined	Each partner	At least one partner		
1.8. Key Equipment							
1.8.1. Vibrating Rollers	At least 1 No. 15 tonne vibrating roller and 1 no. one tonne Pedestrian roller	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	
1.8.2. Dump Trucks	At least 5no. 12tonne or 3no. 20tonne dump trucks.	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	
1.8.3. Concrete Mixer	Minimum required number is 2	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	
1.8.4. Packer Vibrator	Minimum required number is 4	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	
1.8.5. Water Bowser	At least one 5,000 litres water bowsers	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	
1.8.6. Hand operated compressor	Minimum required number is 1	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	
1.8.7. Pickup truck	Minimum required number is 2	<i>Must meet requirements</i>	<i>Must meet requirement</i>	<i>N/A</i>	<i>Must meet requirement</i>	<i>Attachments of logbooks and/or lease agreements</i>	

NB: All bidders with all the minimum qualification requirements proceed to the second stage of evaluation

2. Stage 2 – Evaluation Scorecard

Sub-Factor	Requirement	Maximum score	Awarded score
2.1.Financial Situation			
2.1.1. Historical Financial Performance	Audited financial report for the last three (3) years <i>(choose either of the qualification below i-ii):</i>		
	i. Provided Audited Reports for the three years	0	
	ii. Provided Audited Reports for two years or less	Disqualify	
2.1.2. Average Annual Turnover	Audited financial report for the last three (3) years <i>(choose either of the qualification below i-iii):</i>		
	i. Average turnover per year greater or equal to five times the minimum as per sub-section 1.5.2	5	
	ii. Average turnover per year greater or equal to three times the minimum as per sub-section 1.5.2	3	
	iii. Average turnover per year greater or equal to the minimum as per sub-section 1.5.2	2	
	iv. Turnover per year below minimum as per sub-section 1.5.2	Disqualify	
2.1.3. Financial Resources	Evidence of Financial Resources (cash in hand, lines of credit, over draft facility etc. evidenced with certified letter/statements from bank) for cash flow of KES 5,000,000 per month <i>(choose either of the qualification below i-iv):</i>		
	i. Has monthly financial resources/cash flow equal to or higher than four times the minimum as per sub-section 1.5.3	5	
	ii. Has monthly financial resources/cash flows equal to or higher than three times the minimum as per sub-section 1.5.3	3	
	iii. Has monthly financial resources/cash flows equal to or higher than two times the minimum as per sub-section 1.5.3	2	
	iv. Has not indicated sources of financial resources or below minimum as per section 1.5.3	Disqualify	
2.1.4. Bidder's Bankers	Name, Postal Address and Telephone of Banks <i>(choose either of the qualification below i-ii):</i>		
	i. Provided	0	
	ii. Not provided	Disqualify	

Sub-Factor	Requirement	Maximum score	Awarded score
2.1.5. Current Contract Commitments/ Works in Progress	Information on current commitments on all contracts awarded, notified for award or ongoing <i>(choose either of the qualification below i-ii):</i>		
	i. Provided and difference between net worth and commitments not less than KES 10,000,000	0	
	ii. Not Provided	Disqualify	
	For on-going projects the Bidder's Net worth less Projects Commitment shall not be less than KES 10 million <i>(Choose either of the qualification below i-v):</i>		
	iii. Difference equal to or higher than 2.5 times the minimum as per sub-section 1.5.5	5	
	iv. Difference equal to or higher than 2.0 times the minimum as per sub-section 1.5.5	4	
	v. Difference equal to or higher than 1.5 times the minimum as per sub-section 1.5.5	3	
	vi. Difference equal to or higher than the minimum as per sub-section 1.5.5	2	
	vii. Difference less than minimum requirement as per section 1.5.5	Disqualify	
TOTAL FOR FINANCIAL SITUATION		15	
2.2. Experience			
2.2.1. General Experience	General experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last Three [3] years prior to the applications submission deadline <i>(choose either of the qualification below i-v):</i>		
	i. Over 10years	4	
	ii. Between 7-10 years	3	
	iii. Between 5-7 years	2	
	iv. Between 3-5 years	1	
	v. Below minimum as per section 1.6.1	Disqualify	

Sub-Factor	Requirement	Maximum score	Awarded score
2.2.2. Specific Experience	Specific Experience participating as contractor, management contractor or subcontractor in at least two contracts that have been successfully and substantially completed and that are of similar nature and scope to the proposed Works. <i>(Evaluators to consider only the top two largest of the bidder's listed projects and appropriately award scores based on the qualifications below i-v):</i>		
	i. Two Projects each of similar nature, complexity and magnitude over 50,000,000 in the last 3 years	6	
	ii. One Project of similar nature, complexity and magnitude over 50,000,000 in the last 3 years	4	
	iii. Two Projects each of similar nature but of value between 10,000,000-50,000,000 in the last 3 years	3	
	iv. No completed project of similar nature as per section 1.6.2	Disqualify	
TOTAL FOR EXPERIENCE		10	
2.3. Key Personnel			
	Schedule of Bidder's the proposed personnel and their experience records using Forms PER-1 and PER-2 included in Section IV, Bidding Forms. <i>(Attach proof or evidence of qualification or CVs-choose either of the listed qualification options below):</i>		
2.3.1. Project Manager	i. Bachelors degree in Civil Engineering or related course = 1 point, below = disqualify	1	
	ii. Similar Works Experience (Over 10 years = 2 points, 5 – 10 years = 1 point, below 5 years = disqualify)	2	
	iii. Experience in position of team leader/project manager in similar projects (3 projects = 2 points, 2 projects = 1 point, no project = disqualify)	2	
2.3.2. Site Agent	i. Bachelors degree in Civil Engineering or related course = 1 point, below = disqualify	1	
	ii. Similar Works Experience (Over 10 years = 2 points, 8 – 10 years = 1 point, below 8 years = disqualify)	2	
	iii. Experience in position of Site Agent in similar projects (5 projects = 2 points, 4 projects = 1 point, 3 project = 0, no project = disqualify)	2	

Sub-Factor	Requirement	Maximum score	Awarded score
2.3.3. Site foreman	i. Bachelors degree in civil Engineering or higher diploma or related course = 1 point, below = disqualify	1	
	ii. Similar Work Experiences (Over 8years = 2 points, 5 – 8 years = 1 point, below 5 years = disqualify)	2	
	iii. Experience in position of surveyor in similar projects (5 projects = 2 points, 4 projects = 1 point, 1 project=0, no project = disqualify)	2	
TOTAL FOR KEY PERSONNEL		15	
2.4. Key Equipment			
2.4.1. Vibrating Roller	Schedule of contractor's Rollers (<i>Attach proof or evidence of ownership/lease</i>)- (<i>choose either of the qualification below i-ii</i>):		
	<ul style="list-style-type: none"> At least one Roller of capacity of at least 15tonnes together Minimum required number is 2 with at least a capacity of 175HP with at least a 1tonne pedestrian roller 	3	
	<ul style="list-style-type: none"> Neither or no Roller 	Disqualify	
2.4.2. Dump Truck	Schedule of contractor's Dump Trucks (<i>Attach proof or evidence of ownership/lease</i>)- (<i>choose either of the qualification below i-ii</i>):		
	<ul style="list-style-type: none"> At least Five Dump Trucks of capacity at least 12tons or Three Dump Trucks of Capacity 20tons. 	2	
	<ul style="list-style-type: none"> Less than five 12tons or three 20tons 	Disqualify	
2.4.3. Concrete Mixer	Schedule of contractor's Concrete Mixers (<i>Attach proof or evidence of ownership/lease</i>)- (<i>choose either of the qualification below i-ii</i>):		
	<ul style="list-style-type: none"> At least two of capacity of at least 3m³/hr 	2	
	<ul style="list-style-type: none"> Less than two Concrete Mixers 	Disqualify	
2.4.4. Water Bowser	Schedule of contractor's Water Bowsers (<i>Attach proof or evidence of ownership/lease</i>)- (<i>choose either of the qualification below i-ii</i>):		
	<ul style="list-style-type: none"> At least one of at least 5,000litres capacity 	1	
	<ul style="list-style-type: none"> None 	Disqualify	
2.4.5. Pick-Up Truck	Schedule of contractor's Concrete Mixers (<i>Attach proof or evidence of ownership/lease</i>)- (<i>choose either of the qualification below i-ii</i>):		
	<ul style="list-style-type: none"> At least two of capacity of at least 2000cc 	2	
	<ul style="list-style-type: none"> Less than two pick-up trucks 	Disqualify	
TOTAL SCORE FOR EQUIPMENT		10	

2.5. Summary of Technical Score

Item	Category	Maximum Score	Awarded Score
1	Financial Situation	15	
2	Experience	10	
3	Key Personnel	15	
4	Equipment	10	
	TECHNICAL SCORE, Ts	50	

Note: Only bidder(s) whose total score (Ts) is 35 points and above shall be considered for further evaluation.

The Technical Score (Ts) shall be carried to the Combined Score in Stage 4 of the evaluation

3. Stage 3 – Financial Evaluation

The evaluation shall be in two sections:

1. Stage 3A – Preliminary examinations, and
2. Stage 3B – Bid sum Comparisons

3.1. Stage 3A – Preliminary Examinations

i. Comparison of rates

The evaluation committee will compare rates from different bidders and note consistency of rates and front loading. The evaluation committee will judge and make an appropriate decision giving evidence.

3.2. Stage 3B – Bid Sums Comparisons

In this section, bid sums will be compared to the average of all sums for bidders who have qualified from **STAGE 3A** and score awarded to a maximum of 30 as shown below.

i. Preliminary Average

- a) The bid sums of various bidders, who qualify at **STAGE 3A** and the engineer's estimates, shall be reduced by omitting PC sums, provisional sums and contingency from the respectful amounts. The **average** of the adjusted bid sums so obtained shall be calculated.
- b) Any bidder whose bid percentage deviation is 20% higher or lower than the average obtained above, will be deemed to be unreasonably high or low and shall not be included in determining the mean in Table 6, However their bids will still be evaluated further. The Engineer's estimate will also be subjected to the same treatment.

ii. Working mean

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

Description	Score	
	Awarded	Max
<p>Bid Sums: The bid sums of bidders, who qualify at STAGE 3A and the engineer's estimates, shall be reduced by omitting PC sums, provisional sums and contingency from the respectful amounts. The average of the adjusted bid sums so obtained shall be calculated. The deviation of the reduced amounts in respect of each bidder from the average shall then be worked out as a percentage of the average (Rounded off to one (1) decimal point) and scores allocated as follows :</p> <ul style="list-style-type: none"> ○ Deviation of between 0% and 1% ----- 30 ○ Deviation of between 1.1% and 2% ----- 28.5 ○ Deviation of between 2.1% and 3% ----- 27 ○ Deviation of between 3.1% and 4% ----- 25.5 ○ Deviation of between 4.1% and 5% ----- 24 ○ Deviation of between 5.1% and 6% ----- 22.5 ○ Deviation of between 6.1% and 7% ----- 21 ○ Deviation of between 7.1% and 8% ----- 19.5 ○ Deviation of between 8.1% and 9% ----- 18 ○ Deviation of between 9.1% and 10% ----- 16.5 ○ Deviation of between 10.1% and 11% ----- 15 ○ Deviation of between 11.1% and 12% ----- 13.5 ○ Deviation of between 12.1% and 13% ----- 12 ○ Deviation of between 13.1% and 14% ----- 10.5 ○ Deviation of between 14.1% and 15% ----- 9 ○ Deviation of between 15.1% and 16% ----- 7.5 ○ Deviation of between 16.1% and 17% ----- 6 ○ Deviation of between 17.1% and 18% ----- 4.5 ○ Deviation of between 18.1% and 19% ----- 3 ○ Deviation of between 19.1% and 20% ----- 1.5 ○ Deviation of 20.1% and above ----- 0 		30
TOTAL (Carried to Stage 4)		30

The Bid Sum Comparison (BSC) score will be carried forward to STAGE 4

3.3. Stage 3C – Summary of Financial Score

The financial score (F_S) will be determined by comparing bid sums from all responsive bidders using the formulae below. The financial score will be allocated a maximum of 20%.

$$F_s = 20 \times F_M / F$$

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

4. Stage 4 – Combination of Technical, Bid Sums Comparison and Financial Score

The total score will be combined sums of Technical, Bid Sums Comparison and Financial marks as below:

$$\begin{aligned}
 &= \text{Technical } (T_s) + \text{Bid Sums Comparison } (BSC) + \text{Financial } (F_s) \\
 &= T_s + BSC + F_s
 \end{aligned}$$

The bidder achieving the highest combined technical and financial score will be considered for award.

The Client shall conduct a **post-qualification** of the bidder who submitted the lowest evaluated responsive bid, to determine whether the bidder is qualified to perform the contract effectively. If the bidder is found to have given **false** information, his bid shall be automatically disqualified without further reference to the bidder.

SECTION IV

APPENDIX TO CONDITIONS OF CONTRACT

*Name of Employer: COUNTY GOVERNMENT OF KISUMU
P.O. BOX 2738-40100 KISUMU*

Name of Employer's Representative: COUNTY SECRETARY

Name of Project Manager: PUBLIC WORKS

*The name of Contract is: CONSTRUCTION OF KISUMU DAIRY DEVELOPMENT CENTRE
(KDDC)*

Tender No: CGK/EU/MUH/T/18-19/001

The Tender Opening Date and Time will be on **Tuesday 8th January, 2019 at 12.00 NOON** at **THE CONFERENCE HALL, PROSPERITY BUILDING, and FIRST FLOOR.**

The Start Date shall be as stated in the Project Manager's Notice to commence work.

The Intended Completion period for the whole of the Works shall be **one year** from the date of commencement.

The Site Possession Date shall be the date site is handed over to the Contractor by the Project Manager.

The Site is located at **CHEMELIL WARD, MUHORONI SUB-COUNTY**

The Defects Liability Period is **12 MONTHS**

Amount of Tender Security is Kshs..... (1% of the Tender Price) in the Form of Tender Security or a Banker's Cheque, from a reputable Commercial Bank, to the Employer.

The amount of Performance Security is 10% of CONTRACT PRICE in form of a Performance bank Guarantee, from a reputable Commercial Bank, acceptable to the Employer.

Retention Money will be 10% of the INTERIM CERTIFICATE with a limit of 5% of the Contract Price or such other sum as shall become payable.

SECTION V
SPECIFICATIONS

Notes for preparing Specifications

- 1.0 Specifications must be drafted to present a clear and precise statement of the required standards of materials, and workmanship for tenderers to respond realistically and competitively to the requirements of the Employer and ensure responsiveness of tenders. The Specifications should require that all materials, plant, and other supplies to be permanently incorporated in the Works be new, unused, of the most recent or current models, and incorporating all recent improvements in design and materials unless provided otherwise in the Contract. Where the Contractor is responsible for the design of any part of the permanent Works, the extent of his obligations must be stated.
- 2.0 Specifications from previous similar projects are useful and may not be necessary to re-write specifications for every Works Contract.
- 3.0 There are considerable advantages in standardizing **General Specifications** for repetitive Works in recognized public sectors, such as highways, urban housing, irrigation and water supply. The General Specifications should cover all classes of workmanship, materials and equipment commonly involved in constructions, although not necessarily to be used in a particular works contract. Deletions or addenda should then adapt the General Specifications to the particular Works.
- 4.0 Care must be taken in drafting Specifications to ensure they are not restrictive. In the Specifications of standards for materials, plant and workmanship, existing Kenya Standards should be used as much as possible, otherwise recognized international standards may also be used.
- 5.0 The Employer should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in tender documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential tenderers.

The Employer should provide a description of the selected parts of the Works with appropriate reference to Drawings, Specifications, Bills of Quantities, and Design or Performance criteria, stating that the alternative solutions shall be at least structurally and functionally equivalent to the basic design parameters and Specifications.

Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology, and other relevant details. Technical alternatives permitted in this manner shall be considered by the Employer each on its own merits and independently of whether the tenderer has priced the item as described in the Employer's design included with the tender documents.

SECTION VI

DRAWINGS

1. The actual drawings including Site plans should be annexed in a Separate booklet.
2. The actual Design Drawings are available at the County Government of Kisumu, Engineering Department Offices.

SECTION VII
BILL OF QUANTITIES

Notes for preparing Bills of Quantities

1.0 The objectives of the Bills of Quantities are;

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

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

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

(a) Preliminaries.

The preliminaries should indicate the inclusiveness of the unit prices, and should state the methods of measurement which have been adopted in the preparation of the Bill of Quantities and which are to be used for the measurement of any part of the Works.

The number of preliminary items to be priced by the tenderer should be 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 should be included in the Contractor's rates.

(b) Work Items

- (i) The items in the Bills of Quantities should be 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 may be grouped as a separate section in the Bill of Quantities.
- (ii) Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage or waste. Quantities should be rounded up or down where appropriate.

- (iii) The following units of measurement and abbreviations are recommended for use.

<i>Unit</i>	<i>Abbreviation</i>	<i>Unit</i>	<i>Abbreviation</i>
cubic meter	m ³ or cu m	millimeter	mm
hectare	ha	month	mon
hour	h	number	nr
kilogram	kg	square meter	m ² or sq m
lump sum	sum	square millimeter	mm ² or sq mm
meter	m	week	wk
metric ton (1,000 kg)	t		

- (iv) 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 should be measured from the commencing surface to the excavated surface, as defined.

(c) Day work Schedule

A Day work Schedule should be included if the probability of unforeseen work, outside the items included in the Bill of Quantities, is relatively high. To facilitate checking by the Employer of the realism of rates quoted by the tenderers, the Day work Schedule should normally comprise:

- (i) a list of the various classes of labor, and materials for which basic Day work rates or prices are to be inserted by the tenderer, together with a statement of the conditions under which the Contractor will be paid for Work executed on a Day work basis; and
- (ii) a percentage to be entered by the tenderer against each basic Day work Subtotal amount for labor, materials and plant representing the Contractor's profit, overheads, supervision and other charges.

(d) Provisional Quantities and Sums

Provision for quantity contingencies in any particular item or class of Work with a high expectation of quantity overrun should be made by entering specific "Provisional Quantities" or "Provisional Items" in the Bill of Quantities, and *not* by increasing the quantities for that item or class of Work beyond those of the Work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a "Provisional Sum" in the Summary of the Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a "Provisional Sum" in the Summary of the Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises.

- (ii) Provisional sums to cover specialized works normally carried out by Nominated Sub Contractors should be avoided and instead Bills of Quantities of the specialized Works should be included as a section of the main Bills of Quantities to be priced by the Main Contractor. The Main Contractor should be required to indicate the name (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 Bills of Quantities.

(e) Summary

The Summary should contain a tabulation of the separate parts of the Bills of Quantities carried forward, with provisional sums for Day work, for physical (quantity) contingencies, and for price contingencies (upward price adjustment) where applicable.

NOTE: DOWNLOAD THE BILL OF QUANTITY DOCUMENT FOR THE FOLLOWING BUILDING CONSTRUCTION AND ATTACH AS REQUIRED:

- 1. ADMINISTRATION BLOCK**
- 2. ZERO GRAZING UNIT**
- 3. MILK COOLING PLANT**
- 4. POWER GENERATOR HOUSE**
- 5. ABLUTION BLOCK**

SECTION VIII

STANDARD FORMS

1. FORM OF INVITATION FOR TENDER

_____ *[date]*

To: _____ *[name of Contractor]*
_____ *[address]*

Dear Sirs:

Reference: _____ *[Contract Name]*

You have been prequalified to tender for the above project.

We hereby invite you and other prequalified tenderers to submit a tender for the execution and completion of the above Contract.

A complete set of tender documents may be purchased by you from _____

_____ *[mailing address, cable/telex/facsimile numbers].*

Upon payment of a non-refundable fee of Kshs _____

All tenders must be accompanied by _____ number of copies of the same and a security in the form and amount specified in the tendering documents, and must be delivered to

_____ *[address and location]*

at or before _____ *(time and date)*. Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Please confirm receipt of this letter immediately in writing by cable/facsimile or telex.

Yours faithfully,

_____ Authorized Signature

_____ *Name and Title*

2. FORM OF TENDER

TO: _____ [Name of Employer) _____ [Date]
_____ [Name of Contract]

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs. _____ [Amount in figures] Kenya Shillings _____ [Amount in words]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager’s notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
3. We agree to abide by this tender until _____ [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.
5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 2018

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of

_____ [Name of Tenderer]

of _____ [Address of Tenderer]

Witness; Name _____

Address _____

Signature _____

Date _____

3. QUALIFICATION INFORMATION

1. Individual Tenderers or Individual Members of Joint Ventures

1.1 Constitution or legal status of tenderer (attach copy or Incorporation Certificate);
Place of registration: _____

Principal place of business _____

Power of attorney of signatory of tender _____

1.2 Total annual volume of construction work performed in the last five years

YEAR	VOLUME	
	CURRENCY	VALUE

1.3 Work performed as Main Contractor on works of a similar nature and volume over the last five years. Also list details of work under way or committed, including expected completion date.

[Fill in the Details as described in the Table attached on Page 52 & 53]

1.4 Major items of Contractor's Equipment proposed for carrying out the Works. List all information requested in the table provided.

[Fill in the Details as described in the Table attached on Page 56]

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract.

[Fill in the Details as described in the Table attached on Page 54]

1.6 Financial reports for the last five years: balance sheets, profit and loss statements, auditor's reports, etc. List below and attach copies.

1.7 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of supportive documents.

1.8 Name, address and telephone, telex and facsimile numbers of banks that may provide reference if contacted by the Employer.

1.9 Statement of compliance with the requirements of Clause 1.2 of the Instructions to Tenderers.

1.10 Proposed program (work method and schedule) for the whole of the Works. Attached a detailed proposed work plan for the execution of the Works described.

2 Joint Ventures

2.4 The information listed in 1.1 – 1.10 above shall be provided for each partner of the joint venture.

2.5 The information required in 1.11 above shall be provided for the joint venture.

2.6 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture

2.7 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
- c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

4. DETAILS OF CONTRACTOR’S EXPERIENCE

*In the table below, give a brief summary of the Company’s major Civil Works carried out and completed in the **last three years**. The works listed should be similar to the Works described in this tender.*

DESCRIPTION OF WORKS AND CLIENT	TOTAL VALUE OF WORKS (KSH.)	CONTRACT PERIOD (YEARS)	YEAR COMPLETED

Note: *Attach relevant documentary evidence.*

I certify that the above Civil Works are successfully carried out and completed by ourselves.

.....
(Title)

.....
(Signature)

.....
(Date)

5. DETAILS OF ONGOING PROJECTS

In the table below, give a brief summary of the Company's major Civil Works that are currently ongoing. The works listed should be similar to the Works described in this tender.

DESCRIPTION OF WORKS AND CLIENT	CONTRACT PERIOD	DATE OF COMMENCEMENT	INTENDED DATE OF COMPLETION	TOTAL VALUE OF WORKS	% COMPLETED TO DATE

Note: *Attach relevant documentary evidence.*

I certify that the above Civil Works are being carried out by ourselves and that the above information concerning them is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

6. SCHEDULE OF KEY PERSONNEL

In the table below, give the details of the Tenderer's Key Personnel who will be responsible for the major activities of the works described in this tender, both at the Headquarters and at the Site.

DESIGNATION	NAME	NATIONALITY	SUMMARY OF QUALIFICATIONS AND EXPERIENCE

Note: *Attach the CVs of the Key Personnel.*

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

7. DETAILS OF SUB-CONTRACTORS

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

Failure to comply with this requirement may invalidate the tender.

FULL NAME AND ADDRESS OF THE SUB-CONTRACTOR	PORTION OF WORKS TO BE SUB-CONTRACTED AND CONTRACT VALUE	SUB-CONTRACTOR'S EXPERIENCE IN SIMILAR WORKS

Note: *Attach relevant evidence.*

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

8. SCHEDULE OF PLANT AND EQUIPMENT

PARTICULARS OF EACH UNIT	TYPE/RATING	SERIAL NO. & REG. NO.	YEAR OF MANUFACTURE	WHERE MADE	VALUE	OWNERSHIP				PRESENT LOCATION	WEEK WHEN AVAILABLE ON SITE
						OWNED <i>(Give SR. No. and Reg. No)</i>	TO HIRE <i>(Give name and address of Owner)</i>	HIRE PURCHASE <i>(Give details as stated in the Footnote)</i>	PURCHASE <i>(Give details as stated in the Footnote)</i>		

Note *Details of each machine/equipment in more than one of the same make or type must be given separately. Items to be imported pursuant to clause 48 of the conditions of contract to be indicated together with seller’s name, address and CIF value. Details of proposed hire or hire purchase to be submitted giving names and addresses of hiring/selling party and serial number/engines number.

**Before the award of Contract, the Project Manager may carry out physical verification of the availability of the plant and equipment listed on the schedule.

9. TENDER QUESTIONNAIRE

Please fill in **block letters**.

1. Full names of tenderer

.....

2. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below)

.....

.....

.....

3. Telephone number (s) of tenderer

.....

.....

4. Telex address of tenderer

.....

.....

5. Name of tenderer's representative to be contacted on matters of the tender during the tender period

.....

6. 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: _____ (*Name of Employer*)

10. CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

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: K. pound.....

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.
2.
3.

Part 2(c) – Registered Company:

Private or public.....

State the nominal and issued capital of the Company-

Nominal Kshs.....

Issued Kshs.....

Give details of all directors as follows:

Name in full . Nationality. Citizenship Details*. Shares.

1.
2.
3.
4.

Part 2(d) – Interest in the Firm:

Is there any person / persons in(Name of Employer) who has interest in this firm? Yes/No.....(Delete as necessary)

I certify that the information given above is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

- Attach proof of citizenship

11. SCHEDULE OF PARTICULARS

1. PARTICULARS OF FIRM

<i>Name of Company:</i>	
<i>Postal Address:</i>	
<i>Physical Address:</i>	
<i>Tel. Nos.</i> <i>Fax No.</i> <i>E-mail:</i>
<i>Full names of Directors and their citizenship:</i>	
<i>Registered office address and tel. No.</i>	
<i>Workshop, yard, stores address:</i>	
<i>Type of services the company provides:</i>	
<i>Registration with Government Departments:</i>	
<i>Name and address of company's bankers:</i>	
<i>Statements by Company's bankers on financial status (attach copy):</i>	

Date:

Signed:

2. PARTICULARS OF INSURANCE

<i>Sn</i>	<i>Type of Insurance</i>	<i>Name of Company</i>	<i>Registered Address</i>
1	<i>Insurance of Works</i>		
2	<i>Plant and Machinery</i>		
3	<i>Public Liability</i>		
4	<i>Workmen's Compensation</i>		
5	<i>Employer's Liability</i>		
6	<i>Personal Accident</i>		

NOTE: *Certified photocopies of the relevant insurance policies should accompany these particulars.*

Date:

Signed:

12. CERTIFICATE OF BIDDER'S PRE-BID SITE VISIT

1. This is to certify that I
(Name of Bidder or his representative of the Firm)

of
(Name of Firm bidding) visited the site in connection with bid
for the.....
Contract No....., as described in these Tender Documents.
2. Having previously studied the Tender Documents, I carefully examined the Sites for the
above works.
3. I have made myself familiar with the local conditions likely to influence the works and cost
thereof.
4. I further certify that I am satisfied with the description of the work and that I understand
perfectly the work to be done as specified and implied in the execution of the contract.

Signed at..... on this day of, 2018

Signature.....

Name of Company.....