



## **TENDER DOCUMENT**

**FOR**

**TENDER DOCUMENT FOR PROPOSED REPAIRS, REFURBISHMENT AND  
MAINTENANCE WORKS AT ACA GODOWN NO. 16 IN ATHI RIVER.**

**TENDER NO.**

**ACA/OT/ 002/2025-2026**

Anti-Counterfeit Authority, Ministry of Industry Trade and Investment  
P.O Box 47771-00100  
Nairobi, Kenya  
Tel: +254-020-2280000

***ADVERTISEMENT DATE: 26<sup>TH</sup> MAY 2026***

***CLOSING DATE: 8<sup>TH</sup> JUNE 2026***

***SITE VISIT DATE: 4<sup>TH</sup> JUNE 2026***

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## INVITATION TO TENDER

TENDER NO: ACA/OT/ 002/2025-2026

TENDER NAME: TENDER DOCUMENT FOR PROPOSED REPAIRS, REFURBISHMENT AND MAINTENANCE WORKS AT ACA GODOWN No. 16 IN ATHI RIVER.

### **ORGANISATION: ANTI COUNTERFEIT AUTHORITY**

1. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to Contractors Registered in the appropriate Category for Civil Works (**NCA category 5 and above only**).
2. The tender is open to those who meet the requirements of eligibility as contained in this invitation and the tender documents.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours between **0900hrs - 1600hrs** at the address given below.
4. A complete set of tender documents may be obtained, downloaded and viewed by interested tenderers for free from the website [www.housingandurban.go.ke](http://www.housingandurban.go.ke). Tenderers who download the tender document **must** forward their particulars immediately to the *Principal Secretary, State Department for Housing and Urban Development* to facilitate any further clarifications or addendum that may be issued. Further clarifications and Addendum shall be posted at [www.aca.go.ke](http://www.aca.go.ke).
5. Tenders shall be quoted in Kenya Shillings and shall include all applicable taxes. Tenders shall remain valid for **180** days from the date of opening of tenders.
6. Completed tenders shall be submitted accompanied by a **Tender Security as specified in the Tender Data Sheet Clause ITT 21.1**
7. The Tenderer shall chronologically serialize all pages of the tender documents submitted. Tender Document must be tape bound and not Spiral bound. Spiral bound documents shall be automatically disqualified. In addition, bidders **MUST** submit a soft copy in PDF format during bid opening which is a replica of the original bid document. **This instruction is issued pursuant to Section 74(i)(j) of the Public Procurement and Assets Disposal Act, 2015.**
8. Completed tenders must be delivered to the address below on or before **8<sup>th</sup> June 2026, at 11:00am**. Electronic Tenders will **not** be permitted.
9. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
10. Late tenders will be rejected.
11. The addresses referred to above are

A. *Address for obtaining further information*

**Anti-Counterfeit Authority-Supply Chain Management  
Office-National Water Plaza 3<sup>rd</sup> Floor Dunga Road  
P.O. Box 47771 -00100 Nairobi.**

B. *Address for Submission of Tenders.*

**Anti-Counterfeit Authority  
Tender Box, 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road  
P.O. Box 47771 -00100-Nairobi**

C. Address for Opening of Tenders.

**Anti-Counterfeit Authority**  
**Tender Box, 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road**  
**P.O. Box 47771 -00100-Nairobi.**

Executive Director

**Dated: 26<sup>th</sup> May 2026**



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# **PART 1 - TENDERING PROCEDURES**

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## SECTION I: INSTRUCTIONS TO TENDERERS

### A General Provisions

#### 1. Scope of Tender

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

#### 2. Fraud and Corruption

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

#### 3. Eligible Tenderers

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

to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process; or

- e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender; or
- f) any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer for the Contract implementation; or
- g) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contract specified in this Tender Document or
- h) Has a close business or family relationship with a professional staff of the Procuring Entity who:
  - i) are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or
  - ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.

3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved any of these practices shall be automatically disqualified.

3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.

3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8.A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.

3.7 Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA [www.ppra.go.ke](http://www.ppra.go.ke).

3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are accredited by PPRA to be (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.

3.9 Firm and individuals may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

3.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is provided in “*SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9*”.

3.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership Kenyan

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

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

#### **4. Eligible Goods, Equipment, and Services**

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

#### **5. Tenderer's Responsibilities**

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

#### **B. Contents of Tender Documents**

#### **6. Sections of Tender Document**

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

## **PART 1 Tendering Procedures**

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

## **PART 2 Works Requirements**

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

## **PART 3 Conditions of Contract and Contract Forms**

- i) Section VIII - General Conditions of Contract (GCC)
- ii) Section IX - Special Conditions of Contract (SC)
- iii) Section X - Contract Forms

6.2 The Invitation to Tender Document (ITT) issued by the Procuring Entity is not part of the Contract documents.

6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Tender document, responses to requests for clarification, the minutes of the pre-Tender meeting (if any), or Addenda to the Tender document in accordance with ITT 8. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

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

## **7. Site Visit**

8. The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the Required Services and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for the Services. The costs of visiting the Site shall be at the Tenderer's own expense. **The Site Visit Shall be undertaken on 4<sup>th</sup> June 2026 from 10am to 12 Noon at ACA Warehouses, Grayland Phase IV Athi River. Please confirm your site visit attendance by sending an email to [eprocurement@aca.go.ke](mailto:eprocurement@aca.go.ke)**

## **9. Pre-Tender Meeting**

9.1 The Procuring Entity shall specify in the **TDS** if a pre-tender meeting will be held, when and where. The Procuring Entity shall also specify in the **TDS** if a pre-arranged pretender site visit will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

9.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.

9.3 Minutes of the pre-Tender meeting and the pre-arranged pretender site visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

9.4 The Procuring Entity shall also promptly publish anonym zed (*no names*) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

## 10. Clarification and amendments of Tender Documents

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

## **11. Amendment of Tendering Document**

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

## **C. Preparation of Tenders**

### **12. Cost of Tendering**

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

### **13. Language of Tender**

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

### **14. Documents Comprising the Tender**

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

together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.

14.3 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

## **15. Form of Tender and Schedules**

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

## **16. Alternative Tenders**

16.1 Unless otherwise specified in the **TDS**, alternative Tenders shall not be considered.

16.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **TDS**, and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.

16.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the Procuring Entity. When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**, as will the method for their evaluating, and described in Section VII, Works' Requirements.

## **17. Tender Prices and Discounts**

17.1 The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Bill of Quantities shall conform to the requirements specified below.

17.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Tenderer shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Procuring Entity. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Tender, and provided that the Tender is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive Tenderers will be added to the Tender price and the equivalent total cost of the Tender so determined will be used for price comparison.

17.3 The price to be quoted in the Form of Tender, in accordance with ITT 14.1, shall be the total price of the Tender, including any discounts offered.

17.4 The Tenderer shall quote any discounts and the methodology for their application in the Form of Tender, in accordance with ITT 14.1.

17.5 It will be specified in the **TDS** if the rates and prices quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, except in cases where the contract is subject to fluctuations and adjustments, not fixed price. In such a case, the Tenderer shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Procuring Entity may require the Tenderer to justify its proposed indices and weightings.

17.6 Where tenders are being invited for individual lots (contracts) or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 16.4, provided the Tenders for all lots (contracts) are

opened at the same time.

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

## **18. Currencies of Tender and Payment**

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

## **19. Documents Comprising the Technical Proposal**

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

## **20. Documents Establishing the Eligibility and Qualifications of the Tenderer**

20.1 Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility in accordance with ITT 4.

20.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tender Forms.

20.3 A margin of preference will not be allowed. Preference and reservations will be allowed, individually or in joint ventures. Applying for eligibility for Preference and reservations shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 33.1.

20.4 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a contractor or group of contractors qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.

20.5 The purpose of the information described in ITT 19.4 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

20.6 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

20.7 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.

20.8 If a tenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.

20.9 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

- i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
- ii) if the contract has been awarded to that tenderer, the contract award will be set aside,
- iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

20.10 If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

## 21. Period of Validity of Tenders

21.1 Tenders shall remain valid for the Tender Validity period specified in the **TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 24). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

21.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21.1, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 20.3.

21.3 If the award is delayed by a period exceeding the number of days to be specified in the **TDS** days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows:

- a) in the case of **fixed price** contracts, the Contract price shall be the tender price adjusted by the factor specified in the **TDS**;
- b) in the case of **adjustable price** contracts, no adjustment shall be made; or in any case, tender evaluation shall be based on the tender price without taking into consideration the applicable correction from those indicated above.

## 22. Tender Security

22.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified in the **TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified in the **TDS**. A Tender-Securing Declaration shall use the form included in Section IV Tender Forms.

22.2 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:

- a) an unconditional Bank Guarantee issued by reputable commercial bank); or
- b) an irrevocable letter of credit;
- c) a Banker's cheque issued by a reputable commercial bank; or
- d) another security specified **in the TDS**,

22.3 If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 20.2.

22.4 If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 21.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.

22.5 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the

Performance Security and any other documents required in the **TDS**. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined nonresponsive or a bidder declines to extend tender validity period.

22.6 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the **TDS**.

22.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:

- e) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension thereto provided by the Tenderer; or
- f) if the successful Tenderer fails to:
  - i) sign the Contract in accordance with ITT 50; or
  - ii) furnish a Performance Security and if required in the **TDS**, and any other documents required in the **TDS**.

22.8 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.

22.9 The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 11.2.

22.10 A tenderer shall not issue a tender security to guarantee itself.

### **23. Format and Signing of Tender**

23.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 15, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

23.2 Tenderers shall mark as "CONFIDENTIAL" all information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.

23.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.

23.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.

23.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

### **D. Submission and Opening of Tenders**

#### **24. Sealing and Marking of Tenders**

24.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

- a) in an envelope or package or container marked “ORIGINAL”, all documents comprising the Tender, as described in ITT 11; and
- b) in an envelope or package or container marked “COPIES”, all required copies of the Tender; and
- c) if alternative Tenders are permitted in accordance with ITT 15, and if relevant:
  - i) in an envelope or package or container marked “ORIGINAL –ALTERNATIVE TENDER”, the alternative Tender; and
  - ii) in the envelope or package or container marked “COPIES- ALTERNATIVE TENDER”, all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) bear the name and address of the Procuring Entity.
- b) bear the name and address of the Tenderer; and
- c) bear the name and Reference number of the Tender.

24.2 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

## **25. Deadline for Submission of Tenders**

25.1 Tenders must be received by the Procuring Entity at the address specified in the **TDS** and no later than the date and time also specified in the **TDS**. When so specified in the **TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the **TDS**.

25.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

## **26. Late Tenders**

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

## **27. Withdrawal, Substitution, and Modification of Tenders**

27.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 22.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- a) prepared and submitted in accordance with ITT 22 and ITT 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” “MODIFICATION;” and
- b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 24.

27.2 Tenders requested to be withdrawn in accordance with ITT 26.1 shall be returned unopened to the Tenderers.

27.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

## **28. Tender Opening**

28.1 Except in the cases specified in ITT 23 and ITT 26.2, the Procuring Entity shall publicly open and read out all Tenders received by the deadline, at the date, time and place specified in the **TDS**, in the presence of Tenderers' designated representatives who chooses to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 24.1, shall be as specified in the **TDS**.

- 28.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelopes with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.
- 28.3 Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
- 28.4 Next, envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 28.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.
- 28.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the Procuring Entity to sign shall be specified in the **TDS**.
- 28.7 At the Tender Opening, the Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 25.1).
- 28.8 The Procuring **Entity shall prepare minutes of the Tender Opening that shall include, as a minimum:**
- a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
  - b) the Tender Price, per lot (contract) if applicable, including any discounts;
  - c) any alternative Tenders;
  - d) the presence or absence of a Tender Security, if one was required.
  - e) number of pages of each tender document submitted.
- 28.9 The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening register shall be distributed to all Tenderers upon request.

## **E. Evaluation and Comparison of Tenders**

### **29. Confidentiality**

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

### **30. Clarification of Tenders**

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

Procuring Entity in the evaluation of the tenders, in accordance with ITT 33.

30.2 If a tenderer does not provide clarifications of its tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

### **31. Deviations, Reservations, and Omissions**

31.1 During the evaluation of tenders, the following definitions apply:

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

### **32. Determination of Responsiveness**

32.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 13.

32.2 A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation, **reservation, or omission. Material deviation, reservation, or omission is one that, if accepted, would:**

- a) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
- b) limit in any substantial way, inconsistent with the tender document, the Procuring Entity's rights or the tenderer's obligations under the proposed contract; or
- c) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.

32.3 The Procuring Entity shall examine the technical aspects of the tender submitted in accordance with ITT 18, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.

32.4 If a tender is not substantially responsive to the requirements of the tender document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

### **33. Non-material non-conformities**

33.1 Provided that a tender is substantially responsive, the Procuring Entity may waive any non-conformities in the tender.

33.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the tenderer submit the necessary information or documentation, within a reasonable period, to rectify nonmaterial non-conformities in the tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the tender. Failure of the tenderer to comply with the request may result in the rejection of its tender.

33.3 Provided that a tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the **TDS**.

### **34. Arithmetical Errors**

34.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

34.2 Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:

- a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to

disqualification of the tender as non-responsive.

- b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, and subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
- c) if there is a discrepancy between words and figures, the amount in words shall prevail

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

### **35. Currency provisions**

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

### **36. Margin of Preference and Reservations**

36.1 No margin of preference shall be allowed on contracts for small works.

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

### **37. Nominated Subcontractors**

37.1 Unless otherwise stated in the **TDS**, the Procuring Entity does not intend to execute any specific elements of the Works by subcontractors selected in advance by the Procuring Entity.

37.2 Tenderers may propose subcontracting up to the percentage of total value of contracts or the volume of works as specified in the **TDS**. Subcontractors proposed by the Tenderer shall be fully qualified for their parts of the Works.

37.3 The subcontractor's qualifications shall not be used by the Tenderer to qualify for the Works unless their specialized parts of the Works were previously designated by the Procuring Entity in the **TDS** as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Subcontractors proposed by the Tenderer may be added to the qualifications of the Tenderer.

### **38. Evaluation of Tenders**

38.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine the Best Evaluated Tender in accordance with ITT 43.

38.2 To evaluate a Tender, the Procuring Entity shall consider the following:

- a) price adjustment due to discounts offered in accordance with ITT16;
- b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT39;
- c) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 32.3; and
- d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

38.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.

38.4 In the case of multiple contracts or lots, Tenderers shall be allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the **Form of Tender, is specified in Section III, Evaluation and Qualification Criteria.**

### **39. Comparison of Tenders**

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

#### **40. Abnormally Low Tenders**

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

#### **41. Abnormally High Tenders**

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

#### **42. Unbalanced and/or Front-Loaded Tenders**

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

#### **43. Qualifications of the Tenderer**

- 43.1 The Procuring Entity shall determine to its satisfaction whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

- 43.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 19. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.
- 43.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similar determination of that Tenderer's qualifications to perform satisfactorily.
- 43.4 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.
- 43.5 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.
- 43.6 After evaluation of the price analyses, if the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

#### **44. Best Evaluated Tender**

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

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

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

### **F. Award of Contract**

#### **46. Award Criteria**

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

#### **47. Notice of Intention to enter into a Contract**

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

#### **48. Standstill Period**

- 48.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any

dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.

48.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter **into a Contract with the successful Tenderer.**

#### **49. Debriefing by the Procuring Entity**

49.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 46, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.

49.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending **such a debriefing meeting.**

#### **50. Letter of Award**

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

#### **51. Signing of Contract**

51.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.

51.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Procuring Entity.

51.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period

#### **52. Appointment of Adjudicator**

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

#### **53. Performance Security**

53.1 Within twenty-one (21) days of the receipt of the Letter of Acceptance from the Procuring Entity, the successful Tenderer shall furnish the Performance Security and, any other documents required in the **TDS**, in accordance with the General Conditions of Contract, subject to ITT 40.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent bank is not required.

53.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the **TDS**, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.

53.3 Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million

shillings.

#### **54. Publication of Procurement Contract**

54.1 Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:

- a) name and address of the Procuring Entity;
- b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;
- c) the name of the successful Tenderer, the final total contract price, the contract duration.
- d) dates of signature, commencement and completion of contract;
- e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

#### **55. Procurement Related Complaints and Administrative Review**

55.1 The procedures for making Procurement-related Complaints are as specified in the **TDS**.

55.2 A request for administrative review shall be made in the form provided under contract forms.

## Section II - Tender Data Sheet (TDS)

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

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<b>A. General</b>
ITT 1.1	<p>The name of the contract is <b>TENDER DOCUMENT FOR PROPOSED REPAIRS, REFURBISHMENT AND MAINTENANCE WORKS AT ACA GODOWN NO. 16 IN ATHI RIVER.</b></p> <p>The reference number of the Contract is: <b>TENDER No: ACA/OT/002/2025-2026</b></p>
	<b>B. Contents of Tender Document</b>
ITT 8.0	<p><b>Mandatory Site Visit Shall be undertaken on 4<sup>th</sup> June 2026 from 10am to 12 Noon at ACA Warehouses, Grayland Phase IV Athi River Site Visit certificate will be issued to the bidders. Please confirm your site visit attendance by sending an email to <a href="mailto:eprocurement@aca.go.ke">eprocurement@aca.go.ke</a>.</b></p>
ITT 8.2	<p>The Tenderer will submit any questions in writing, to reach the Procuring Entity <b>7 days</b> before the date of tender opening.</p>
ITT 9.1	<p>For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the Procuring Entity's address is:</p> <p>(1) Name of Procuring Entity: <b>ANTI-COUNTERFEIT AUTHORITY</b></p> <p>(2) Physical address for hand Courier Delivery to an office: <b>NATIONAL WATER PLAZA 3<sup>RD</sup> FLOOR DUNGA ROAD</b></p> <p>(3) Postal Address; <b>P.O. Box 47771-00100 Nairobi</b></p> <p>(4) Officer to be contacted: <b>Head, Supply Chain Management Services Email:</b> <a href="mailto:eprocurement@aca.go.ke">eprocurement@aca.go.ke</a></p>
	<b>C. Preparation of Tenders</b>
ITT 15.1	Alternative Tenders <i>shall not be</i> considered.
ITT 15.2	Alternative times for completion <i>shall not be</i> permitted.
ITT 16.5	The prices quoted by the Tenderer shall be <b>fixed</b> .
ITT 20.1	The Tender validity period shall be <b>180 days</b> .
ITT 21.1	A Tender Security <i>shall be</i> required. The said Tender Security shall be for <b>Kenya Shillings One Three Hundred Thousand (Kshs.300,000.00)</b> issued by a <b>Reputable Bank or PPRA approved Insurance Company</b> valid for a period of <b>180 days from the tender opening date</b> .
ITT 22.1	<p>The 'ORIGINAL' tender document shall only be considered as such if signed in <b>wet ink</b>, i.e. the physical tender document has been endorsed by hand with a pen, stamp, seal and/or any other identifying mark.</p> <p>In addition to the original of the Tender, the number of copies is: <b>One which is a replica of the original bid document submitted.</b></p>

ITT Reference	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: <b>Power of Attorney</b>
<b>D. Submission and Opening of Tenders</b>	
ITT 24.1	(A) For <u>Tender submission purposes</u> only, the Procuring Entity's address is: Name of Procuring Entity: <b>Anti-Counterfeit Authority</b> (1) Postal Address <b>Executive Director P.O. Box 47771-00100 Nairobi</b> (2) Physical address for hand Courier Delivery to an office or Tender Box: <b>Tender Box located on reception Area 3<sup>rd</sup> Floor, National Water Plaza.</b> (3) Date and time for submission of Tenders: <b>8<sup>th</sup> June 2026 at 11:00 a.m.</b> (5) Tenderers <b>shall not submit</b> tenders electronically.
A	The Tender opening shall take place at the time and the address for Opening of Tenders provided below: (1) Name of Procuring Entity: <b>Anti-Counterfeit Authority</b> (4) Physical address for the location: <b>3<sup>rd</sup> Floor, National Water Plaza.</b> (5) Date and time of tender opening: <b>8<sup>TH</sup> June 2026 at 11:00 a.m.</b>
ITT 27.6	The number of representatives of the Procuring Entity to sign is: <b>as guided by the Public Procurement and Asset Disposal Act, 2015 and all amendments thereafter and attendant Regulations.</b>
<b>E. Evaluation, and Comparison of Tenders</b>	
ITT 32.3	The adjustment shall be based on the <i>highest</i> price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.
ITT 36.3	The parts of the Works for which the Procuring Entity permits Tenderers to propose Specialized Subcontractors are designated as follows: <b>1. Electrical Works</b> For the above-designated parts of the Works that may require Specialized Subcontractors, the relevant qualifications of the proposed Specialized Subcontractors will be added to the qualifications of the Tenderer for the purpose of evaluation.
ITT 37.2 (d)	Additional requirements apply. Additional requirements are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT 51.1	The person named to be appointed as Adjudicator is <b>Nairobi Centre for International Arbitration</b> at an hourly fee to be determined guided by fees guidelines.
ITT 52.2	Other documents required are: <b>None</b>

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>ITT 54.1</b>	<p>The procedures for making a Procurement-related Complaints are detailed in the “Regulations” available from the PPRA Website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a>. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p>For the attention: <b>Director General</b></p> <p>Title/position: <b>Director General</b></p> <p>Procuring Entity: <b>Public Procurement Regulatory Authority</b></p> <p>Email address: <a href="mailto:info@ppra.go.ke">info@ppra.go.ke</a></p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <ul style="list-style-type: none"> <li>(i) the terms of the Tender Documents; and</li> <li>(ii) the Procuring Entity’s decision to award the contract.</li> </ul>

## **SECTION III - EVALUATION AND QUALIFICATION CRITERIA**

### **10 GENERAL PROVISIONS**

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

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

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

### **13 EVALUATION AND CONTRACT AWARD CRITERIA**

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

#### **2.0 PRELIMINARY EXAMINATION FOR DETERMINATION OF RESPONSIVENESS**

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other mandatory requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements provided for in the preliminary evaluation criteria outlined below. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides very clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered non- responsive and will not be considered further.

*The following mandatory requirements shall be used for determination of Responsiveness at the preliminary evaluation*

<b>S/No</b>	<b>PRELIMINARY EVALUATION CRITERIA / MANDATORY REQUIREMENTS FOR MAIN CONTRACTOR</b>
<b>MR1</b>	Original Tender document must be <b>TAPE-BOUND</b> and submitted alongside with <b>One Copy</b> as per TDS 22.1. Tender documents submitted as spiral bound or in a box file <b>SHALL AUTOMATICALLY BE DISQUALIFIED</b> . In addition, the documents must be chronologically serialized including the attachments.
<b>MR2</b>	Dully filled, signed and stamped form of tender prepared in accordance with ITT 14
<b>MR3</b>	Provide proof of registration with the National Construction Authority for <b>Civil Works</b> category <b>NCA 5 and above only</b> with current annual contractors practicing license.
<b>MR4</b>	Provide proof of registration with the National Construction Authority for <b>Electrical Works</b> category <b>NCA 8 and above only</b> with current annual contractors practicing license, including EPRA registration as an Electrical Contractor (for Electrical Contractors), to be submitted under the Main Contractor, with duly filled sub-contract agreements/ undertakings to contract as proof of consent and authority to submit the proposed sub-contractor's certificates where applicable.
<b>MR5</b>	A Tender Security <i>shall be</i> required. The said Tender Security shall be for <b>Kenya Shillings Three Hundred Thousand (Kshs.300,000.00)</b> issued by a <b>Reputable Bank</b> valid for a period of <b>180 days from the tender opening date</b> .
<b>MR6</b>	Provide proof of power of attorney (if tender signatory is not director of the company/partner, signed and stamped by Commissioner of Oaths).
<b>MR7</b>	Certificate of Incorporation/ Registration.

<b>MR8</b>	Valid Tax Compliance Certificate which shall be verified online during evaluation. Tax Compliance Certificates with “Invalid” or “Withdrawn” status shall resort to <b>AUTOMATIC DISQUALIFICATION</b> .
<b>MR9</b>	Dully filled, signed and stamped Confidential Business Questionnaire.
<b>MR10</b>	Valid CR12 form showing the list of directors /shareholding (issued within the last 12 months of tender submission) or National Identity Card(s) for Sole Proprietorship/Partnership
	NB: <i>Bidders who do not meet any of the above requirements shall be considered non-responsive and their tenders will not be evaluated further.</i>

### 3.0 TENDER EVALUATION (ITT 37) PRICE EVALUATION

Price evaluation: in addition to the criteria listed in ITT 37.2 (a) – (d) the following criteria shall apply:

- (i) Alternative Completion Times, if permitted under ITT 13.2, will be evaluated as follows:  
**Not Applicable**
- (ii) Alternative Technical Solutions for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows: **Not Applicable**
- (iii) Other Criteria; if permitted under ITT 37.2(d):

Further Evaluation shall be conducted after Preliminary Examination for determination of responsiveness. The said further evaluation shall comprise of the detailed technical examination and financial evaluation.

- a) Detailed Technical Evaluation
- b) Financial Evaluation

#### Detailed Technical Examination

After the Preliminary Examination, the Procuring Entity shall conduct a Detailed Technical Evaluation on the responsive tenders to ensure they meet the technical requirements provided for in the Detailed Technical Evaluation criteria outlined below. Points shall be awarded as follows: -

No	Parameter	Maximum Points
1	Key Personnel	15
2	General Experience	10
3	Specific Construction Experience	15
4	Schedules of Contractor's equipment	10
5	Audited Financial Report for the last 3 years	9
6	Evidence of Financial Resources	15
7	Detailed Works Program and Methodology	20
8	History of Non-performing Contracts	3
9	Litigation History	3
<b>Total</b>		<b>100</b>

Tenders that do not meet the minimum required points in the Detailed Technical Evaluation will be considered non-responsive and will not be considered further.

(B) TECHNICAL EVALUATION CRITERIA.

Item	Description	Points Scored	Max. Points
1	<p><b>Key Personnel as detailed under clause 7 b (iv) of the Evaluation Criteria</b>  <b>NB: Attach Curriculum Vitae and certified copies of certificates.</b>  <b>Max. scores shall ONLY be issued where the required no. of personnel are provided.</b></p>		
	<p><b>Project Manager for the firm</b></p> <ul style="list-style-type: none"> <li>• With relevant qualifications; qualification (1 mk) and registration (1 mk) - <b>Total (3 mks)</b></li> <li>• With over 5 years' experience in similar works (<b>3 mks</b>)</li> <li>• With over 10 years' general experience (<b>1 mk</b>)</li> <li>• With experience below the requirements (<b>0 mks</b>)</li> </ul>		<b>7</b>
	<p><b>Site Agent with the relevant Qualifications</b></p> <ul style="list-style-type: none"> <li>• With relevant qualifications; qualification (<b>3mks</b>) and registration with NCA (1 mk) - <b>Total (3mks)</b></li> <li>• With over 5 years' experience in similar works (<b>5 mks</b>)</li> <li>• With over 10 years' general experience (<b>2 mks</b>)</li> <li>• With experience below the requirements (<b>0 mks</b>)</li> </ul>		<b>13</b>
2.	<p><b>General Experience</b></p> <ul style="list-style-type: none"> <li>• Has been practicing as a Contractor for the last 10 years. (<b>1 mark per year</b>)</li> </ul>		<b>10</b>
3.	<p><b>Specific Experience (a minimum of 5 No. Projects)</b>  <b>NB: Attach Letter of Award, Contracts and Certificates of Completion from the Client for Each project. A bidder who fails to provide this requirement shall NOT be scored.</b></p> <ul style="list-style-type: none"> <li>• Project of a similar nature, similar complexity and magnitude. (<b>3 marks each</b>) – <b>max. 15 mark</b></li> <li>• Project of similar nature and complexity but of lower magnitude. (<b>2 marks each</b>) - <b>max. 10 mks</b></li> <li>• Project of similar nature but differing complexity and magnitude than the one in consideration. (<b>1 mark each</b>) - <b>max. 5 mark</b></li> </ul> <p>[Nature = the type of works (civil/ water works); Complexity = the type of structure (Civil Engineering Works); Magnitude = project value of at least Ksh. 20,000,000]</p>		<b>15</b>
4.	<p><b>Schedules of Contractor's equipment</b>  For each specific equipment required in the construction work being tendered for. (All the categories listed to be considered and <b>points will be awarded for meeting each category</b>)</p>		<b>10</b>

Item	Description	Points Scored	Max. Points
5.	<b>Financial report:</b> <b>Audited financial report for the last Three [3] years (2023, 2024 &amp; 2025)</b> <ul style="list-style-type: none"> <li>Turn over greater or equal to Kshs. 15,000,000 per year (<b>3 marks each year</b>) – <b>max. 10 marks</b></li> <li>Has not achieved the required minimum amount and/ or attached audited financial reports (<b>0 marks</b>).</li> </ul>		<b>10</b>
6.	<b>Evidence of financial resources:</b> <b>Cash in hand, Lines of Credit, Over draft facility, e.t.c</b> <b>NB: Attach evidence as follows: -</b> <ul style="list-style-type: none"> <li><b>Cash in hand – attach <u>current</u>, <u>certified</u> bank statements for the Tenderer’s bank account.</b></li> <li><b>Line of credit, Overdraft, or any other credit facility – attach letter from the issuing bank that is <u>current</u> and <u>specific</u> to this tender.</b></li> </ul> <ul style="list-style-type: none"> <li>Has cash in hand equal or above Kshs. 15,000,000</li> <li><b>(8 marks)</b></li> <li>Has access to credit from a reputable bank equal or above Kshs. 15,000,000 (<b>7 marks</b>)</li> <li>Has not demonstrated/given the required minimum amount and/ or evidence for the financial resources. (<b>0 mark</b>).</li> </ul>		<b>15</b>
7.	<b>Detailed works program outlining the methodology of implementing the project to completion including the defects liability period.</b>		
	<b>Adequacy of the proposed Works program:</b> <ul style="list-style-type: none"> <li>Has attached a clear and legible Works Program (<b>2mks</b>)</li> <li>Program captures all elements specific to the proposed works (<b>4mks</b>)</li> <li>Program covers the required timeline and all elements are reasonably scheduled. (<b>4mks</b>)</li> </ul>		<b>10</b>
	<b>Adequacy of the proposed methodology:</b> <ul style="list-style-type: none"> <li>Captures the Contractor’s organization structure. (<b>2mks</b>)</li> <li>Captures all elements specific to the proposed works. (<b>6mks</b>)</li> <li>Captures the inclusion of all statutory requirements specific to the works (OSH, NCA, NEMA, Stakeholder engagement, e.t.c.) (<b>2mark</b>)</li> </ul>		<b>10</b>
	<b>TOTAL POINTS</b>		<b>100</b>
	<b>MINIMUM POINTS</b>		<b>80</b>

**NB: Tenders attaining the minimum score of 80 points in the detailed technical evaluation shall be subjected to financial evaluation and comparison to determine the lowest evaluated price of the tender.**

## **Financial Evaluation**

Financial Evaluation shall comprise of the following:

- a) *Examination of the bid document:* The Bills of Quantities section of the submitted bid must be **complete as issued**, with no alteration, addition or qualification of any kind whatsoever made by the Tenderer to the text of the document. Any alterations, additions or qualifications shall be considered as material deviations as per ITT 31.
- b) *Examination of unit rates:* Each bid shall be subjected to an evaluation of unit rates. Bids shall be assessed to confirm uniformity and consistency in rates of similar individual line items. Bids not meeting this criterion shall be disqualified and error checks shall not be undertaken.
- c) *Error checks:* Successful bids from the examination of unit rates shall be evaluated for arithmetic errors. All arbitrary arithmetic additions to the tender document shall be considered as arithmetic errors. An assessment of the bids taking into consideration the Tender Sum, corrections relating to arithmetic errors and any discounts offered shall be done to determine the bids' Evaluated Tender Sum.
- d) *Ranking of the bids:* Ranking of the bids using their Evaluated Tender Sums shall be undertaken. The ranking shall be used to determine the bid with the Lowest Evaluated Tender sum, which shall be considered for award.

## **4.0 MULTIPLE CONTRACTS**

- 41** Multiple contracts will be permitted in accordance with ITT 37.4. Tenderers are evaluated on basis of Lots and a lowest evaluated tenderer identified for each Lot. The Procuring Entity will award contracts as prescribed below:

### **OPTION 1**

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

### **OPTION 2**

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

## **5.0 ALTERNATIVE TENDERS (ITT 13.1)**

### **Alternative Tenders (ITT 13.1)**

*An alternative if permitted under ITT 3.1, will be evaluated as follows:*

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

## **6.0 MARGIN OF PREFERENCE**

- 61** If the TDS so specifies, the Procuring Entity will grant a margin of preference of fifteen percent (15%) to be loaded on evaluated prices of the foreign tenderers, where the percentage of shareholding of Kenyan citizens is less than fifty- one percent (51%).

- 62 Contractors shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference.
- 63 After Tenders have been received and reviewed by the Procuring Entity, responsive Tenders shall be assessed to ascertain their percentage of shareholding of Kenyan citizens. Responsive tenders shall be classified into the following groups:
- i) *Group A*: tenders offered by Kenyan Contractors and other Tenderers where Kenyan citizens hold shares of over fifty one percent (51%).
  - ii) *Group B*: tenders offered by foreign Contractors and other Tenderers where Kenyan citizens hold shares of less than fifty one percent (51%).
- 64 All evaluated tenders in each group shall, as a first evaluation step, be compared to determine the lowest tender, and the lowest evaluated tender in each group shall be further compared with each other. If, as a result of this comparison, a tender from Group A is the lowest, it shall be selected for the award of contract. If a tender from Group B is the lowest, an amount equal to the percentage indicated in Item 6.1 of the respective tender price, including unconditional discounts and excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each tender from Group B. All tenders shall then be compared using new prices with added prices to Group B and the lowest evaluated tender from Group A. If the tender from Group A is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group B based on the first evaluation price shall be selected.

**7. Post qualification and Contract Award (ITT 42), more specifically,**

- a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification data, if so required.
- b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.
  - (i.) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of **Kenya Shillings Fifteen Million (Kshs.15,000,000)**.
  - (ii.) Minimum average annual construction turnover of **Kenya Shillings Twenty Million (Kshs.15,000,000)**, equivalent calculated as total certified payments received for contracts in progress and/or completed within the last **three (3) years**.
  - (iii.) At least **Five (5) no.** of contract(s) of a similar nature executed **within Kenya** that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value **Kenya Shillings Twenty Million (Kshs.20,000,000)** equivalent.
  - (iv.) Contractor's Representative and Key Personnel, which are specified as:

No.	Position	Total Work Experience (years)	Experience In Similar Works (years)
1	Project Manager (Bachelor of Civil Engineering OR Construction Management, all professionally registered (and in good standing) with the relevant professional bodies).	10	5
2	Site Agent – <i>provide at least one per site per this tender</i> (Bachelor or Higher Diploma in Civil Engineering).	10	5



- (v.) Contractors key equipment listed on the table “Contractor's Equipment” below and more specifically listed as:

No.	Equipment Type and Characteristics	No. required
1	Excavator 130 – 150 HP	3
2	Tipper Truck 15 ton.	3
3	Vibrating plate compactor 114-200 kg operating weight	3
4	Single drum vibratory roller	3
5	Van, pick-up or similar utility vehicle	3

- (vi.) Other conditions depending on their seriousness:

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

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

b) **Pending Litigation**

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

c) **Litigation History**

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

## 8 DUE DILIGENCE

Pursuant to Section 83 of the Public Procurement and Assets Disposal Act, 2015 and the attendant regulations, due diligence shall be conducted on the lowest recommended bidder before award. The due diligence shall be conducted on the following basis inter alia:

- (i) The bidder shall be assessed on the financial and the technical capacity to carry out the project. In carrying out the due diligence, the Contractor shall be requested to authorize or provide their current, certified bank statements to assess their financial capacity and capability.

In addition, the bidder shall be requested to provide their **original** audited financial reports for the last three (3) financial periods, accompanied by a declaration by the auditor confirming the authenticity of the original report, all to be used to verify the attached copy of the audited financial report.

- (ii) The bidder if currently or previously engaged on other projects in the State Department for Housing and Urban Development shall be assessed on their current performance and delivery on those projects. Contractors with a poor performance record shall not be recommended for award.

Additionally, tenderers who have three (3) or more ongoing projects with the State Department for Housing and Urban Development will NOT be recommended for award unless the Tenderer demonstrates that they have achieved a minimum completion rate of 40% for the three or more ongoing projects, evidenced by the most-current Interim Payment Certificate issued by the State Department for the said projects.

- (iii) The Bidder shall be required to further demonstrate that they can deliver on the project milestones within the stipulated timelines.
- (iv) The State Department shall make its recommendations on the basis of Multiple Contracts as stipulated under Clause 4 - Multiple Contracts, Section III - Evaluation and Qualification Criteria.

## 1. QUALIFICATION FORM SUMMARY

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
1	Nationality	Nationality in accordance with ITT 3.6	Forms ELI – 1.1 and 1.2, with attachments	
2	Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14.	Form of Tender	
4	PPRA Eligibility	Not having been declared ineligible by the PPRA as described in ITT 3.8	Form of Tender	
5	State- owned Enterprise	Meets conditions of ITT 3.8	Forms ELI – 1.1 and 1.2, with attachments	
6	Goods, equipment and services to be supplied under the contract	To have their origin in any country that is not determined ineligible under ITT 4.1	Forms ELI – 1.1 and 1.2, with attachments	
7	History of non-performing Contracts	Non-performance of a contract did not occur as a result of contractor default since <b>1<sup>st</sup> January 2023</b>	Form CON-2	
8	Suspension Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	Not under suspension based on-execution of a Tender/Proposal Securing Declaration pursuant to ITT 19.9	Form of Tender	
9	Pending Litigation	Tender's financial position and prospective long-term profitability still sounds according to criteria established in 3.1 and assuming that all pending litigation will NOT be resolved against the Tenderer.	Form CON – 2	
10	Litigation History	No consistent history of court/arbitral award decisions against the Tenderer since <b>1<sup>st</sup> January 2023</b>	Form CON – 2	

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
11	Financial Capabilities	<p>(i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as <b>Kenya Shillings Fifteen Million (Kshs. 15,000,000)</b> equivalent for the subject contract(s) net of the Tenderer's other commitments.</p> <p>(ii) The Tenderers shall also demonstrate, to the satisfaction of the Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.</p> <p>(iii) The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last <b>Three years</b> shall be submitted and must demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long-term profitability.</p>	Form FIN – 3.1, with attachments	
12	Average Annual Construction Turnover	Minimum <u>average</u> annual construction turnover of <b>Kenya Shillings Fifty Million (Kshs. 50,000,000)</b> , equivalent calculated as total certified payments received for contracts in progress and/or completed within the last <b>Three years</b> , divided by <b>Three years</b>	Form FIN – 3.2	
13	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last <b>Ten (10) years</b> , starting <b>1<sup>st</sup> January 2015</b> .	Form EXP – 4.1	
14	Specific Construction & Contract Management	A minimum number of <b>Three (3)</b> similar contracts specified below that have been satisfactorily and substantially	Form EXP 4.2(a)	

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	<i>Document To be Completed by Tenderer</i>	<i>For Procuring Entity's Use (Qualification met or Not Met)</i>
	Experience	<p>completed as a prime contractor, joint venture member, management contractor or sub-contractor between <b>1st January 2022</b> and tender submission deadline, (number) contracts, each of minimum value <b>Kenya Fifteen Million (Kshs. 15,000,000)</b>.</p> <p>The similarity of the contracts shall be based on the following:</p> <ul style="list-style-type: none"> <li>• <i>the minimum key requirements in terms of physical size,</i></li> <li>• <i>complexity,</i></li> <li>• <i>construction method, technology and/or other characteristics including part of the requirements that may be met by specialized subcontractors</i></li> </ul>		

## **SECTION IV - QUALIFICATION FORMS**

### **1. FORMEQU: EQUIPMENT**

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

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the Tenderer.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

## 2. FORM PER -1

### Contractor's Representative and Key Personnel Schedule

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

#### Contractor' Representative and Key Personnel

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

### 3. FORM PER-2:

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

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

<b>Name of Tenderer</b>
-------------------------

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

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

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

**Declaration**

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

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

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

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

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

Name of Contractor's Representative or Key Personnel: *[insert name]*

Signature: \_\_\_\_\_

Date: (day month year): \_\_\_\_\_ Countersignature

of authorized representative of the Tenderer:

Signature: \_\_\_\_\_ Date: (day month

year): \_\_\_\_\_

#### 4. TENDERER'S QUALIFICATION WITHOUT PRE-QUALIFICATION

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

##### 4.1 FORM ELI -1.1

###### Tenderer Information Form

Date: \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.6 <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5 <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 3.8, documents establishing: <ul style="list-style-type: none"><li>• Legal and financial autonomy</li><li>• Operation under commercial law</li><li>• Establishing that the Tenderer is not under the supervision of the Procuring Entity</li></ul>
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## 4.2 FORM ELI -1.2

### **Tenderer's JV Information Form (to be completed for each member of Tenderer's JV)**

Date: \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 3.6. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 3.8.
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

### 4.3 FORM CON – 2

#### Historical Contract Non-Performance, Pending Litigation and Litigation History

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1 <sup>st</sup> January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 <sup>st</sup> January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, requirement 2.1			
Year	Non- performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.			
<input type="checkbox"/> Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: ____ Status of dispute: _____	
		Contract Identification: Name of Procuring Entity: Address of Procuring Entity: Matter in dispute: Party who initiated the dispute: Status of dispute:	

Litigation History in accordance with Section III, Evaluation and Qualification Criteria

- No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.
- Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.

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

#### 4.4 FORM FIN – 3.1:

##### Financial Situation and Performance

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

##### 4.4.1. Financial Data

Type of Financial information in _____ (currency)	Historic information for previous _____ years, (amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

\*Refer to ITT 15 for the exchange rate

#### 4.4.2 Sources of Finance

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

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

#### 4.4.3 Financial documents

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

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

Attached are copies of financial statements<sup>1</sup> for the \_\_\_\_\_ years required above; and complying with the requirements

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

#### 4.5 FORM FIN – 3.2:

##### Average Annual Construction Turnover

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

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

\* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

#### 4.6 FORM FIN – 3.3:

##### Financial Resources

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

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

#### **4.7 FORM FIN – 3.4:**

##### **Current Contract Commitments / Works in Progress**

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

##### **Current Contract Commitments**

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

**4.8 FORM EXP - 4.1**

**General Construction Experience**

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

Page \_\_\_\_\_ of \_\_\_\_\_ pages

Starting Year	Ending Year	Contract Identification	Role of Tenderer
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	

#### **4.9 FORM EXP - 4.2(a)**

##### **Specific Construction and Contract Management Experience**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

<b>Similar Contract No.</b>	<b>Information</b>			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount				<b>Kenya Shilling</b>
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:				
Address:				
Telephone/fax number				
E-mail:				

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

##### **Specific Construction and Contract Management Experience (cont.)**

<b>Similar Contract No.</b>	<b>Information</b>
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

#### 4.11 FORM EXP - 4.2(b)

### Construction Experience in Key Activities

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

Tenderer's JV Member Name: \_\_\_\_\_

Sub-contractor's Name<sup>2</sup> (as per ITT 34): \_\_\_\_\_

ITT No. and title: \_\_\_\_\_

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One: \_

Information				
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	Kenya Shilling			
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
Procuring Entity's Name:				
Address:				
Telephone/fax number				
E-mail:				

<sup>2</sup> If applicable

	<b>Information</b>
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

2. Activity No. Two

3. ....

## OTHER FORMS

### **5. FORM OF TENDER**

#### *INSTRUCTIONS TO TENDERERS*

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

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

**Request for Tender No.:** *[insert identification]*

**Name and description of Tender** *[Insert as per ITT]*

**Alternative No.:** *[insert identification No if this is a Tender for an alternative]*

**To:** *[insert complete name of Procuring Entity]* Dear Sirs,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above-named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum of Kenya Shillings *[[Amount in figures]* \_\_\_\_\_ Kenya Shillings *[amount in words]* \_\_\_\_\_.

The above amount includes foreign currency amount (s) of *[state figure or a percentage and currency]* *[figures]* \_\_\_\_\_ *[words]* \_\_\_\_\_.

The percentage or amount quoted above does not include provisional sums, and only allows not more than two foreign currencies.

2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.
3. We agree to adhere by this tender until \_\_\_\_\_ *[Insert date]*, and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.
5. We, the undersigned, further declare that:
  - i) No reservations: We have examined and have no reservations to the tender document, including Addenda issued in accordance with ITT 28;
  - ii) Eligibility: We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;
  - iii) Tender-Securing Declaration: We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing or Proposal-Securing Declaration in the Procuring Entity's Country in accordance with ITT 19.8;
  - iv) Conformity: We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works: *[insert a brief description of the Works]*;

- v) Tender Price: The total price of our Tender, excluding any discounts offered in item 1 above is: *[Insert one of the options below as appropriate]*
- vi) Option 1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies];* Or
- Option 2, in case of multiple lots:
- a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies];* and
- b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];*
- vii) Discounts: The discounts offered and the methodology for their application are:
- viii) The discounts offered are: *[Specify in detail each discount offered.]*
- ix) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts];*
- x) Tender Validity Period: Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- xi) Performance Security: If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document;
- xii) One Tender Per Tender: We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;
- xiii) Suspension and Debarment: We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
- xiv) State-owned enterprise or institution: *[select the appropriate option and delete the other]* *[We are not a state-owned enterprise or institution]* / *[We are a state-owned enterprise or institution but meet the requirements of ITT 3.8];*
- xv) Commissions, gratuities, fees: We have paid, or will pay the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].*

Name of Recipient	Address	Reason	Amount

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

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

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

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

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

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

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

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

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

Date signed \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

**Notes**

\* In the case of the Tender submitted by joint venture specify the name of the Joint Venture as Tenderer

\*\* Person signing the Tender shall have the power of attorney given by the Tenderer to be attached with the Tender.

## A. TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE

### Instruction to Tenderer

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

#### (a) Tenderer's details

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

**General and Specific Details**

b) **Sole Proprietor**, provide the following details.

Name in full \_\_\_\_\_ Age \_\_\_\_\_ Nationality \_\_\_\_\_  
 \_\_\_\_\_ Country of Origin \_\_\_\_\_ Citizenship \_\_\_\_\_  
 \_\_\_\_\_

c) **Partnership**, provide the following details.

	<b>Names of Partners</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

d) **Registered Company**, provide the following details.

i) Private or public Company \_\_\_\_\_

ii) State the nominal and issued capital of the Company \_\_\_\_\_  
 Nominal Kenya Shillings (Equivalent)..... Issued  
 Kenya Shillings (Equivalent).....

iii) Give details of Directors as follows.

	<b>Names of Director</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

(e) **DISCLOSURE OF INTEREST- Interest of the Firm in the Procuring Entity.**

i) Are there any person/persons in ..... (*Name of Procuring Entity*) who has/have an interest or relationship in this firm? Yes/No.....

If yes, provide details as follows.

	<b>Names of Person</b>	<b>Designation in the Procuring Entity</b>	<b>Interest or Relationship with Tenderer</b>
1			
2			
3			

ii) **Conflict of interest disclosure**

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

**f) Certification**

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name \_\_\_\_\_ Title or

Designation \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

## B. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the \_\_\_\_\_ [Name of Procuring Entity] for: \_\_\_\_\_ [Name and number of tender] in response to the request for tenders made by: \_\_\_\_\_ [Name of Tenderer] do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of \_\_\_\_\_ [Name of Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - a) has been requested to submit a Tender in response to this request for tenders;
  - b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable:
  - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
  - b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs (5)(a) or (5)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) methods, factors or formulas used to calculate prices;
  - c) the intention or decision to submit, or not to submit, a tender; or
  - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5)(b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;
8. the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

Name \_\_\_\_\_ Title \_\_\_ Date \_\_\_\_\_

*[Name, title and signature of authorized agent of Tenderer and Date].*



**FORM SD2**

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

I, ..... of P. O. Box .....being a resident of ..... in the Republic of..... do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of .....(*insert name of the Company*) who is a Bidder in respect of Tender No. ....for ..... (*insert tender title/description*) for .....(*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of.....(*insert name of the Procuring entity*) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of ..... (name of the procuring entity)
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder's Official Stamp

**DECLARATION AND COMMITMENT TO THE CODE OF ETHICS**

I ..... (person) on behalf of (*Name of the Business/ Company/Firm*).....declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal and my responsibilities under the Code.

I do hereby commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory ..... Sign.....

Position.....

Office address..... Telephone.....

E-mail.....

Name of the Firm/Company.....

Date..... (Company Seal/ Rubber

Stamp where applicable)

Witness

Name ..... Sign.....

Date.....

## D. APPENDIX 1- FRAUD AND CORRUPTION

*(Appendix 1 shall not be modified)*

### 1. Purpose

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

### 3. Requirements

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

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

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

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

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

- iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - v) “obstructive practice” is:
    - deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
    - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
- "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award<sup>1</sup> of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
  - d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
  - e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
  - f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

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

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

**Beneficiary:** \_\_\_\_\_

**Request for Tenders No:**

\_\_\_\_\_

**Date:** \_\_\_\_\_

**TENDER GUARANTEE No.:** \_\_\_\_\_

**Guarantor:** \_\_\_\_\_

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

\_\_\_\_\_  
[signature(s)]

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

**FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]**

**TENDER GUARANTEE No.:** \_\_\_\_\_

1. Whereas ..... [*Name of the tenderer*] (hereinafter called “the tenderer”) has submitted its tender dated ..... [*Date of submission of tender*] for the ..... [*Name and/or description of the tender*] (hereinafter called “the Tender”) for the execution of \_\_\_\_\_ under Request for Tenders No. \_\_\_\_\_ (“the ITT”).
2. KNOW ALL PEOPLE by these presents that WE ..... of ..... [**Name of Insurance Company**] having our registered office at ..... (hereinafter called “the Guarantor”), are bound unto ..... [*Name of Procuring Entity*] (hereinafter called “the P r o c u r i n g Entity”) in the sum of ..... (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this \_\_\_day of \_\_\_\_\_20\_\_.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:
  - a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or
  - b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers (“ITT”) of the Procuring Entity's Tendering document.

then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

\_\_\_\_\_  
*[Date]*

\_\_\_\_\_  
*[Signature of the Guarantor]*

\_\_\_\_\_  
*[Witness]*

\_\_\_\_\_  
*[Seal]*

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

**TENDER-SECURING DECLARATION FORM**

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

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

Tender No. .... *[insert number of tendering processes]*

To:..... *[insert complete name of Purchaser]* I/We, the undersigned, declare that:

- 1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
- 2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of *[insert number of months or years]* starting on *[insert date]*, if we are in breach of our obligation(s) under the bid conditions, because we – (a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.
- 3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:
  - a) our receipt of a copy of your notification of the name of the successful Tenderer; or
  - b) thirty days after the expiration of our Tender.
- 4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed.....Capacity / title (director  
 or partner or sole proprietor, etc.) ..... Name:  
 ..... Duly authorized to sign the bid  
 for and on behalf of: *[insert complete name of Tenderer]*

Dated on ..... day of..... *[Insert date of signing]* Seal or stamp

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## **PART II - WORK REQUIREMENTS**

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**SITE VISIST CERTIFICATE**



**CERTIFICATE OF TENDERER’S VISIT TO SITE**

This is to certify that..... (Name of Tenderer or his representative) of the firm of .....(Name of the firm tendering) in the company of..... (Firm’s representative conducting the visit)

Visited the site in connection with tender for **PROPOSED REPAIR OF ACA WAREHOUSES IN ATHI RIVER TENDER NO. ACA/OT/002/2025-2026.**

Having studied the tender document, I carefully examined the site.

1. I have made myself familiar with all local conditions likely to influence the services and cost thereof
2. I further certify that I am satisfied with the description of the work and the explanation given by the Client’s representative and that I understand perfectly the work to be done as specified and implied in the execution of the contract.

Signed.....

(Signature and name of Tenderer or his representative)

Date and stamp: .....

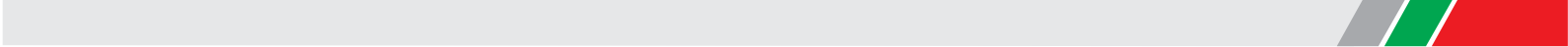
Signed..... (Signature and name of ACA representative)

Date and stamp: .....

**SECTION V - DRAWINGS**

To be provided during Contract Implementation.





# PARTICULAR PRELIMINARIES

ITEM	DESCRIPTION	K.SHS
	<p><b><u>PARTICULAR PRELIMINARIES</u></b></p> <p><b>A PRICING ITEMS OF PRELIMINARIES</b> Prices <b>SHALL BE INSERTED</b> against items of “preliminaries” in the tenderer’s priced Bills of Quantities. The contractor is advised to read and understand all preliminary items.</p> <p><b>B DESCRIPTION OF THE WORKS</b> The PROPOSED works to be carried out under this contract involves; PROPOSED REFURBISHMENT OF GO-DOWN NO.16 AT KINANIE FOR ANTI-COUNTERFEIT AUTHORITY</p> <p><b>C MEASUREMENTS</b> In the event of any discrepancies arising between the Bills of Quantities and the actual works, the site measurements shall generally take precedence. However, such discrepancies between any contract documents shall immediately be referred to the PROJECT MANAGER in accordance with Clause 22 of the Conditions of Contract. The discrepancies shall then be treated as a variation and be dealt with in accordance with Clause 22 of the said Conditions.</p> <p><b>D LOCATION OF SITE</b> The site of the proposed works is located at KINANIE- ATHIRIVER. The Contractor is advised to visit the site, to familiarize with the nature and position of the site. No claims arising from the Contractor’s failure to do so will be entertained.</p> <p><b>E SIGNING OF THE TENDER DOCUMENTS</b> The bidder shall append his / her signature and / or company ‘s rubberstamp on the tender document.</p>	
	<i>Carried to collection</i>	

ITEM	DESCRIPTION	K.SHS
<p><b>A</b></p>	<p><b>DEMOLITIONS AND ALTERATIONS</b></p> <p>The Contractor is to allow for all temporary protection required during the works including ordinary and special dust screens, hoardings, barriers, warning signs, etc as directed by the Project Manager and</p> <p>as necessary for the adequate propping and protection of existing property, finishes, workmen employed on the site, employer's agents and the public. Any damage or loss incurred due to the insufficiency of such protection must be made good by the Contractor. All protective devices are to be removed on completion of the works and any necessary making good consequent upon this is to be executed to the satisfaction of the Project Manager</p> <p>The works shall be propped, strutted and supported as necessary before any alteration or demolition work commences. Prices shall include for all cleaning and preparatory work to structure and finishes and for making good to all finishes on completion whether or not specifically described.</p> <p>Unless described as set aside for re-use all arising debris and surplus materials shall be carefully removed from building and carted away from site.</p> <p>The Contractor shall be entirely responsible for any breakage or damage which may occur to materials required for re-use during their removal unless it is certified by the Project Manager that such damage or breakage was inevitable as a result of the condition of the item concerned</p>	
<p><b>B</b></p>	<p><b>CLEARING AWAY</b></p> <p>The Contractor shall remove all temporary works, rubbish, debris and surplus materials from the site as they accumulate and upon completion of the works, remove and clear away all plant, equipment, rubbish, unused materials and stains and leave in a clean and tidy state to the reasonable satisfaction of the Project Manager.</p> <p>The whole of the works shall be delivered up clean, complete and in perfect condition in every respect to the satisfaction of the Project Manager.</p>	
<p><b>C</b></p>	<p><b>CLAIMS</b></p> <p>It shall be a condition of this contract that upon it becoming reasonably apparent to the Contractor that he has incurred losses and / or expenses due to any of the contract conditions, or by any other reason whatsoever, he shall present such a claim or intent to claim notice to the PROJECT MANAGER within the contract period. No claim shall be entertained upon the expiry of the said contract period.</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	K.SHS
<p><b>A</b></p> <p><b>PAYMENTS</b></p> <p>The tenderer’s attention is drawn to the fact that the GOVERNMENT DOES NOT MAKE ADVANCE PAYMENTS but pays for work done and materials delivered to sit: all in accordance with Clause 23 of the Conditions of Contract Agreement. In order to facilitate this, a list of the general component elements for the works is given at the summary page of these specifications and the tenderer is requested to break down his tender sum commensurate to the said elements</p> <p><b>B</b></p> <p><b>PREVENTION OF ACCIDENT, DAMAGE OR LOSS</b></p> <p>The Contractor is notified that these works are to be carried out on a restricted site where the client is going on with other normal activities. The Contractor is thus instructed to take reasonable care in the execution of the works as to prevent accidents, damage or loss and disruption of activities being carried out by the Client. The Contractor shall allow in his rates any expense he deemed necessary by taking such care within the site.</p> <p><b>C</b></p> <p><b>WORKING CONDITIONS</b></p> <p>The Contractor shall allow in his rates for any interference that he may encounter in the course of the works for the Client may in some cases ask the Contractor not to proceed with the works until some activities within the site are completed, as the facility will be operating as usual during the course of the contract.</p> <p><b>D</b></p> <p><b>SIGNBOARD</b></p> <p>Allow for providing, erecting, maintaining throughout the course of the Contract and afterwards clearing away a signboard as designed, specified and approved by the Project Manager.</p> <p><b>E</b></p> <p><b>LABOUR CAMPS</b></p> <p>The Contractor shall not be allowed to house labour on site. Allow for transporting workers to and from the site during the tenure of the contract.</p> <p><b>F</b></p> <p><b>MATERIALS FROM DEMOLITIONS</b></p> <p>Any materials arising from demolitions and not re-used shall become the property of the Employer. The Contractor shall allow in his rates the cost of transporting the demolished materials to the Employer,</p>		
	<i>Carried to collection</i>	

ITEM	DESCRIPTION	K.SHS
<p><b>A</b></p> <p><b>B</b></p> <p><b>C</b></p> <p><b>D</b></p> <p><b>E</b></p> <p><b>F</b></p>	<p><b>PRICING RATES</b> The tenderer shall include for all costs in executing the whole of the works, including transport, replacing damaged items, fixing, all to comply with the said Conditions of Contract.</p> <p><b>SECURITY</b> The Contractor shall allow for providing adequate security for the works and the workers in the course of execution of this contract. No claim will be entertained from the Contractor for not maintaining adequate security for both the works and workers.</p> <p><b>URGENCY OF THE WORKS</b> The Contractor is notified that these “ works are urgent” and should be completed within the period stated in these Particular Preliminaries.  The Contractor shall allow in his rates for any costs he/ she deems that he/she may incur by having to complete these works within the stipulated contract period.</p> <p><b>PAYMENT FOR MATERIALS ON SITE</b> All materials for incorporation in the works must be stored on site before payment is effected, unless specifically exempted by the Project Manager. This is to include materials of the Contractor, nominated sub-Contractors and nominated suppliers.</p> <p><b>EXISTING SERVICES</b> Prior to the commencement of any work, the Contractor is to ascertain from the relevant authority the exact position, depth and level of all existing services in the area and he/she shall make whatever provisions may be required by the authorities concerned for the support, maintenance and protection of such services.</p> <p><b>BID SECURITY</b> The Bidder shall furnish, as part of his bid, a security as specified in the tender advertisement.  The bid security shall, at the bidder’s option, be in the form of a certified cheque, bank draft, standby letter of credit or guarantee from a reputable bank located in Kenya or foreign bank which has been determined by the bidder to be acceptable to the Government. The format of the bank guarantee shall be in accordance with the sample forms of bid security included in the post qualification forms, other formats may be permitted, subject to the prior approval of the Government. Letters of credit, bank Guarantees issued as surety for <b>the bid shall be valid for a period of One Hundred and Fifty (150) days from the date of Tender Opening.</b></p>	
	<i>Carried to collection</i>	

ITEM	DESCRIPTION	K.SHS
<p><b>A</b></p> <p><b>B</b></p> <p><b>A</b></p> <p><b>C</b></p>	<p><b>PERFORMANCE BOND</b></p> <p>A bond of 5% of the contract sum will be required in accordance with clause 6.00 (as amended) on award of contract of the Instructions to Tenderer's. No payment on account for the works executed will be made to the contractor until he has submitted the Performance Bond to the Project Manager duly signed, sealed and stamped from an approved Bank.</p> <p><b>TENDER DOCUMENTS</b></p> <p>Tender documents are as listed in Clause 2.1 of the Instruction to Tenderer's Page STD/8</p> <p><b>DELIVERY OF TENDER</b></p> <p>Tenders and all documents in connection therewith, as specified above must be delivered in the addressed envelope which should be properly sealed and deposited at the offices as specified in the letter accompanying these documents or as indicated in the advertisement.</p> <p>Tenders will be opened at the time specified in the letter accompanying these Tender Documents or as indicated in the advertisement. Tenders delivered/received later than the above time will not be opened.</p> <p><b>VALUE ADDED TAX</b></p> <p>The Contractor's attention is drawn to the Legal Notice in the Finance Act part 3 Section 21(b) operative from 1<sup>st</sup> September, 1993 which requires payment of VAT on all contracts. The Contractor should therefore include allowance in his rates and prices for prices for VAT and any other Government taxes currently in force.</p> <p>The tenderer is advised that in accordance with Government public notice No. 35 &amp; 36 Dated 11<sup>th</sup> September 2003 operational from 1<sup>st</sup> October 2003, VAT will be deducted against the contract sum at the prevailing rate by the Employer and remitted directly to the Commissioner of VAT through all interim certificates. It should however be noted that this is not additional tax but a new mode of payment for VAT, any excess payment will be refundable once the Contractor has submitted monthly returns to the Commissioner of VAT who will do the refunds when satisfied that the VAT regulations have been complied with.</p> <p><b>NB: VAT SHALL</b> be added at the Grand summary page (GS/1)</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	K.SHS
	<b><u>SPECIAL PRELIMINARIES</u></b>	
	<b><u>PROJECT MANAGEMENT EXPENSES</u></b>	
<b>A</b>	Provide a provisional sum of Kenya Shillings One Million (Kshs 1,000,000.00) only for provision of lunch subsistence allowances during site trips / inspections and mobile phone airtime to be expended by the SDPW Officers throughout the duration of the contract; to be expended as directed by the PM	1,000,000.00
<b>B</b>	Allow for Contractor's profit and overheads (-----%)	100,000.00
<b>C</b>	Provide a provisional sum of Kenya Shillings One Hundred Thousand (Kshs 100,000.00) only for provision of necessary P.M's stationery, equipment, management software for construction related project and associated expenses as directed	100,000.00
<b>D</b>	Allow for Contractor's profit and overheads (-----%)	10,000.00
<b>E</b>	Provide a provisional sum of Kenya Shillings Two Hundred Thousand (Kshs 200,000.00) only for Clerk of works allowances	200,000.00
<b>F</b>	Allow for Contractor's profit and overheads (-----%)	20,000.00
<b>G</b>	<p data-bbox="245 1171 386 1213"><b><u>Transport</u></b></p> <p data-bbox="245 1276 1255 1507">The Contractor shall provide for transportation during site trips i.e. from the SDPW - Nairobi Regional Office to the Site and Back to the SDPW - Nairobi Regional Office. Reimbursement to the Contractor for providing the transport services will be based per trip to the site and back during the currency of the contract at the rate as here below to be inserted.</p>	60,000.00
	<b><i>Carried to collection</i></b>	<b>1,490,000.00</b>

ITEM	DESCRIPTION	K.SHS
A	<p><b><u>PARTICULARS OF INSERTIONS TO BE MADE IN APPENDIX TO CONTRACT AGREEMENT</u></b></p> <p>The following are the insertions to be made in the appendix to the Contract Agreement: -</p> <p><b>Period of Final Measurement</b>            3 Months From Practical completion</p> <p><b>Defects Liability Period</b>                6 Months from Practical completion</p> <p><b>Date for Possession</b>                      To be agreed with the Project Manager</p> <p><b>Date for Completion</b>                    ...12... Weeks from date of Possession</p> <p><b>Liquidated and Ascertained</b>            At the rate of Kshs.. <b>35,000</b>... per week or part thereof</p> <p><b>Prime cost</b> sums for which ..... The Contractor desires to tender .....</p> <p><b>Period of Interim Certificates</b>                      Monthly</p> <p><b>Period of Honouring Certificates</b>                      30 days</p> <p><b>Percentage of Certified Value Retained</b>                      10%</p> <p><b>Limit of Retention Fund</b>                                      5%</p>	
	<i>Carried to collection</i>	
	<p style="text-align: center;"><b><u>COLLECTION</u></b></p> <p style="text-align: center;">Brought forward from page PP/1</p> <p style="text-align: center;">Brought forward from page PP/2</p> <p style="text-align: center;">Brought forward from page PP/3</p>	

ITEM	DESCRIPTION	K.SHS
	<p>Brought forward from page PP/4</p> <p>Brought forward from page PP/5</p> <p>Brought forward from page PP/6</p> <p>Brought forward from page PP/7</p>	
	<b>TOTAL FOR PARTICULAR PRELIMINARIES CARRIED TO SUMMARY OF PRELIMINARIES</b>	

# GENERAL PRELIMINARIES

ITEM	DESCRIPTION	
	<p><b>GENERAL PRELIMINARIES</b></p> <p><b>A. PRICING ITEMS OF PRELIMINARIES AND PREAMBLES</b></p> <p>Prices will be inserted against items of Preliminaries in the Contractor's priced Bills of Quantities and Specification.</p> <p>The Contractor shall be deemed to have included in his prices or rates for the various items in the Bills of Quantities or Specification for all costs involved in complying with all the requirements for the proper execution of the whole of the works in the Contract.</p> <p><b>B. ABBREVIATIONS</b></p> <p>Throughout these Bills, units of measurement and terms are abbreviated and shall be all the requirements for the proper execution of the whole of the works in the Contract.</p> <p><i>C.M.</i>                      Shall mean cubic metre</p> <p><i>S.M.</i>                      Shall mean square metre</p> <p><i>L.M.</i>                      Shall mean linear metre</p> <p><i>MM</i>                        Shall mean Millimetre</p> <p><i>Kg.</i>                        Shall mean Kilogramme</p> <p><i>No.</i>                        Shall mean Number</p> <p><i>Prs.</i>                        Shall mean Pairs</p> <p><i>B.S.</i> - Shall mean the British Standard Specification Published by the British Standards Institution, 2 Park Street, London W.I., England.</p> <p><i>Ditto</i> - Shall mean the whole of the preceding description except as qualified in the description in which it occurs.</p> <p><i>m.s.</i>                        Shall mean measured separately.</p> <p><i>a.b.d</i>                        Shall mean as before described.</p>	
	<i>Carried to collection</i>	

ITEM	DESCRIPTION	
<p><b>A.</b></p>	<p><b>EXCEPTION TO THE STANDARD METHOD OF MEASUREMENT</b></p> <p><i>Attendance</i> ; Clause B19(a) of the Standard Method of Measurement is deleted and the following clause is substituted:-</p> <p>Attendance on nominated Sub-Contractors shall be given as an item in each case shall be deemed to include: allowing use of standing scaffolding, mess rooms, sanitary accommodation and welfare facilities; provision of special scaffolding where necessary; providing space for office accommodation and for storage of plant and materials; providing light and water for their work: clearing away rubbish; unloading checking and hoisting: providing electric power and removing and replacing duct covers, pipe casings and the like necessary for the execution and testing of Sub- Contractors' work and being responsible for the accuracy of the same.</p> <p><i>Fix Only</i>:-</p> <p>"Fix Only" shall mean take delivery at nearest railway station (Unless otherwise stated),pay all demurrage charges, load and transport to site where necessary, unload, store,unpack, assemble as necessary, distribute to position, hoist and fix only.</p>	
<p><b>B.</b></p>	<p><b>EMPLOYER</b></p> <p>The "Employer" is: <b>The Director, Anti-Counterfeit Authority.</b></p> <p>The term "Employer" and "Government" wherever used in the contract document shall be synonymous</p>	
<p><b>C.</b></p>	<p><b>PROJECT MANAGER</b></p> <p>The term "P.M." wherever used in these Bills of Quantities shall be deemed to imply the Project Manager as defined in Condition 1 of the Conditions of Contract or such person or persons as may be duly authorised to represent him on behalf of the Government.</p>	
<p><b>D.</b></p>	<p><b>ARCHITECT</b></p> <p>The term "Architect" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Regional Works Officer, Nairobi Region - State Department of Public Works, P.O. Box 42267, NAIROBI.</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
A	<p><b>QUANTITY SURVEYOR</b></p> <p>The term "Quantity Surveyor" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Regional Works Officer, Nairobi Region - State Department of Public Works, P.O. Box 42267, NAIROBI.</p>	
B	<p><b>ELECTRICAL ENGINEER</b></p> <p>The term "Electrical Engineer" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Regional Works Officer, Nairobi Region - State Department of Public Works, P.O. Box 42267, NAIROBI.</p>	
C	<p><b>MECHANICAL ENGINEER</b></p> <p>The term "Mechanical Engineer" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Regional Works Officer, Nairobi Region - State Department of Public Works, P.O. Box 42267, NAIROBI.</p>	
D	<p><b>STRUCTURAL ENGINEER</b></p> <p>The term "Structural Engineer" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Regional Works Officer, Nairobi Region - State Department of Public Works, P.O. Box 42267, NAIROBI.</p>	
E	<p><b>FORM OF CONTRACT</b></p> <p>The Form of Contract shall be as stipulated in the Republic of Kenya's Standard Tender Document for Procurement of Building Works(2000 Edition) included herein</p> <p>The Conditions of Contract are also included herein</p> <p><i>Conditions of Contract</i></p> <p>These are numbered from 1 to 37 as set out in pages 18 to 38 of these tender documents.</p> <p>Particulars of insertions to be made in the Appendix to the Contract Agreement will be found in the Particular Preliminaries part of these Bills of Quantities</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
<p><b>A</b></p>	<p><b>BOND.</b></p> <p>The Contractor shall find and submit on the Form of Tender an approved bank who will be willing to be bound to the Government in an amount equal to five per cent (5) of the Contract amount for the due performances of the Contract up to the date of completion as certified by the PROJECT MANAGER and who will, when and if called upon, sign a Bond to that effect on the relevant standard form included herein. (without the addition of any limitations) on the same day as the Contract Agreement is signed, by the Government, the Contractor shall furnish within seven days another Surety to the approval of the Government.</p>	
<p><b>B</b></p>	<p><b>PLANT, TOOLS AND VEHICLES</b></p> <p>Allow for providing all scaffolding, plant, tools and vehicles required for the works except in so far as may be stated otherwise herein and except for such items specifically and only required for the use of nominated Sub-Contractors as described herein. No timber used for scaffolding, formwork or temporary works of any kind shall be used afterwards in the permanent work.</p>	
<p><b>C</b></p>	<p><b>TRANSPORT.</b></p> <p>Allow for transport of workmen, materials, etc., to and from the site at such hours and by such routes as may be permitted by the competent authorities.</p>	
<p><b>D</b></p>	<p><b>MATERIALS AND WORKMANSHIP.</b></p> <p>All materials and workmanship used in the execution of the work shall be of the best quality and description unless otherwise stated. The Contractor shall order all materials to be obtained from overseas immediately after the Contract is signed and shall also ensure they are onsite when required for use in the works. The Bills of Quantities shall not be used for the purpose of ordering materials.</p>	
<p><b>E</b></p>	<p><b>SIGN FOR MATERIALS SUPPLIED.</b></p> <p>The Contractor will be required to sign a receipt for all articles and materials supplied by the PROJECT MANAGER at the time of taking deliver thereof, as having received them in good order and condition, and will thereafter be responsible for any loss or damage and for replacements of any such loss or damage with articles and/or materials which will be supplied by the PROJECT MANAGER at the current market prices including Customs Duty and V.A.T., all at the Contractor's own cost and expense, to the satisfaction of the PROJECT MANAGER</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
<p><b>A</b></p> <p><b>B</b></p> <p><b>C</b></p>	<p><b>STORAGE OF MATERIALS</b></p> <p>The Contractor shall provide at his own risk and cost where directed on the site weather proof lock-up sheds and make good damaged or disturbed surfaces upon completion to the satisfaction of the PROJECT MANAGER Nominated Sub-Contractors are to be made liable for the cost of any storage accommodation provided especially for their use.</p> <p><b>SAMPLES</b></p> <p>The Contractor shall furnish at his own cost any samples of materials or workmanship including concrete test cubes required for the works that may be called for by the PROJECT MANAGER for his approval until such samples are approved by the PROJECT MANAGER and the PROJECT MANAGER, may reject any materials or workmanship not in his opinion to be up to approved samples. The PROJECT MANAGER shall arrange for the testing of such materials as he may at his discretion deem desirable, but the testing shall be made at the expense of the Contractor and not at the expense of the PROJECT MANAGER. The Contractor shall pay for the testing in accordance with the current scale of testing charges laid down by the Ministry of Roads, Housing and Public Works.</p> <p>The procedure for submitting samples of materials for testing and the method of marking for identification shall be as laid down by the PROJECT MANAGER The Contractor shall allow in his tender for such samples and tests except those in connection with nominated sub-contractors' work.</p> <p><b>GOVERNMENT ACTS REGARDING WORKPEOPLE ETC.</b></p> <p>Allow for complying with all Government Acts, Orders and Regulations in connection with the employment of Labour and other matters related to the execution of the works. In particular the Contractor's attention is drawn to the provisions of the Factory Act 1950 and his tender must include for all costs arising or resulting from compliance with any Act, Order or Regulation relating to Insurances, pensions and holidays for workpeople or so the safety, health and welfare of the workpeople.</p> <p>The Contractor must make himself fully acquainted with current Acts and Regulations, including Police Regulations regarding the movement, housing, security and control of labour, labour camps , passes for transport, etc. It is most important that the Contractor, before tendering, shall obtain from the relevant Authority the fullest information regarding all such regulations and/or restrictions which may affect the organisation of the works, supply and control of labour, etc., and allow accordingly in his tender. No claim in respect of want of knowledge in this connection will be entertained.</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
<p><b>A</b></p>	<p><b>SECURITY OF WORKS ETC.</b></p> <p>The Contractor shall be entirely responsible for the security of all the works stores, materials, plant, personnel, etc., both his own and sub-contractors' and must provide all necessary watching, lighting and other precautions as necessary to ensure security against theft, loss or damage and the protection of the public.</p>	
<p><b>B</b></p>	<p><b>PUBLIC AND PRIVATE ROADS.</b></p>	
<p><b>C</b></p>	<p>Maintain as required throughout the execution of the works and make good any damage to public or private roads arising from or consequent upon the execution of the works to the satisfaction of the local and other competent authority and the PROJECT MANAGER</p>	
<p><b>D</b></p>	<p><b>EXISTING PROPERTY.</b></p>	
<p><b>E</b></p>	<p>The Contractor shall take every precaution to avoid damage to all existing property including roads, cables, drains and other services and he will be held responsible for and shall make good all such damage arising from the execution of this contract at his own expense to the satisfaction of the PROJECT MANAGER</p>	
<p><b>D</b></p>	<p><b>VISIT SITE AND EXAMINE DRAWINGS.</b></p>	
<p><b>E</b></p>	<p>The Contractor is recommended to examine the drawings and visit the site the location of which is described in the Particular Preliminaries hereof. He shall be deemed to have acquainted himself therewith as to its nature, position, means of access or any other matter which, may affect his tender. No claim arising from his failure to comply with this recommendation will be considered.</p>	
<p><b>E</b></p>	<p><b>ACCESS TO SITE AND TEMPORARY ROADS.</b></p>	
<p><b>E</b></p>	<p>Means of access to the Site shall be agreed with the PROJECT MANAGER prior to commencement of the work and Contractor must allow for building any necessary temporary access roads for the transport of the materials, plant and workmen as may be required for the complete execution of the works including the provision of temporary culverts, crossings, bridges, or any other means of gaining access to the Site. Upon completion of the works, the Contractor shall remove such temporary access roads; temporary culverts, bridges, etc., and make good and reinstate all works and surfaces disturbed to the satisfaction of the PROJECT MANAGER The Contractor should also allow for relocating existing fence (approx. 30 metres long).</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
<p><b>A</b></p> <p><b>AREA TO BE OCCUPIED BY THE CONTRACTOR</b></p> <p>The area of the site which may be occupied by the Contractor for use of storage and for the purpose of erecting workshops, etc., shall be defined on site by the PROJECT MANAGER</p> <p><b>B</b></p> <p><b>OFFICE ETC. FOR THE PROJECT MANAGER</b></p> <p>The Contractor shall provide, erect and maintain where directed on site and afterwards dismantle the site office of the standard type, complete with furniture. He shall also provide a strong metal trunk complete with strong hasp and staple fastening and two keys. He shall provide, erect and maintain a lock-up type water or bucket closet for the sole use of the PROJECT MANAGER including making temporary connections to the drain where applicable to the satisfaction of Government and Medical Officer of Health and shall provide services of cleaner and pay all conservancy charges and keep both office and closet in a clean and sanitary condition from commencement to the completion of the works and dismantle and make good disturbed surfaces. The office and closet shall be completed before the Contractor is permitted to commence the works. The Contractor shall make available on the Site as and when required by the "PROJECT MANAGER" a modern and accurate level together with levelling staff, ranging rods and 50 metre metallic or linen tape.</p> <p><b>C</b></p> <p><b>WATER AND ELECTRICITY SUPPLY FOR THE WORKS</b></p> <p>The Contractor shall provide at his own risk and cost all necessary water, electric light and power required for use in the works. The Contractor must make his own arrangements for connection to the nearest suitable water main and for metering the water used. He must also provide temporary tanks and meters as required at his own cost and clear away when no longer required and make good on completion to the entire satisfaction of the PROJECT MANAGER . The Contractor shall pay all charges in connection herewith. No guarantee is given or implied that sufficient water will be available from mains and the Contractor must make his own arrangements for augmenting this supply at his own cost. Nominated Sub--contractors are to be made liable for the cost of any water or electric current used and for any installation provided especially for their own use.</p> <p><b>D</b></p> <p><b>SANITATION OF THE WORKS</b></p> <p>The Sanitation of the works shall be arranged and maintained by the Contractor to the satisfaction of the Government and/or Local Authorities, Labour Department and the PROJECT MANAGER</p>		
	<i>Carried to collection</i>	

ITEM	DESCRIPTION	
<p><b>A</b></p>	<p><b>SUPERVISION AND WORKING HOURS</b></p> <p>The works shall be executed under the direction and to the entire satisfaction in all respects of the PROJECT MANAGER who shall at all times during normal working hours have access to the works and to the yards and workshops of the Contractor and sub-Contractors or other places where work is being prepared for the contract.</p>	
<p><b>B</b></p>	<p><b>PROVISIONAL SUMS.</b></p> <p>The term "Provisional Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7(i) of the Standard Method of Measurement. Such sums are net and no addition shall be made to them for</p>	
<p><b>C</b></p>	<p><b>PRIME COST (OR P.C.) SUMS.</b></p> <p>The term "Prime Cost Sum" or "P.C. Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7 (ii) of the Standard Method of Measurement. Persons or firms nominated by the PROJECT MANAGER to execute work or to provide and fix materials or goods are described herein as Nominated Sub-Contractors. Persons or firms so nominated to supply goods or materials are described herein as Nominated Suppliers.</p>	
<p><b>D</b></p>	<p><b>PROGRESS CHART.</b></p> <p>The Contractor shall provide within two weeks of Possession of Site and in agreement with the PROJECT MANAGER a Progress Chart for the whole of the works including the works of Nominated Sub-Contractors ; one copy to be handed to the PROJECT MANAGER and a further copy to be retained on Site. Progress to be recorded and chart to be amended as necessary as the work proceeds.</p>	
<p><b>E</b></p>	<p><b>ADJUSTMENT OF P.C. SUMS.</b></p> <p>In the final account all P.C. Sums shall be deducted and the amount properly expended upon the PROJECT MANAGER'S order in respect of each of them added to the Contract sum. The Contractor shall produce to the PROJECT MANAGER such quotations, invoices or bills, properly receipted, as may be necessary to show the actual details of the sums paid by the Contractor. Items of profit upon P.C. Sums shall be adjusted in the final account pro-rata to the amount paid. Items of "attendance"</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
<p><b>A</b></p>	<p><b>ADJUSTMENT OF P.C. SUMS. Ctd.....</b></p> <p>Should the Contractor be permitted to tender and his tender be accepted of any work for which a P.C. Sum is included in these Bill of Quantities profit and attendance will be allowed at the same rate as it would be if the work were executed by a Nominated Sub-Contractor.</p>	
<p><b>B</b></p>	<p><b>ADJUSTMENT OF PROVISIONAL SUMS.</b></p> <p>In the final account all Provisional Sums shall be deducted and the value of the work properly executed in respect of them upon the PROJECT MANAGER's order added to the Contract Sum. Such work shall be valued as described for Variations, but should any part of the work be executed by a Nominated Sub-Contractor, the value of such work or articles for the work to be supplied by a Nominated Supplier, the value of such work or articles shall be treated as a P.C. Sum and profit and attendance comparable to that contained in the priced Bills of Quantities for similar items added.</p>	
<p><b>C</b></p>	<p><b>NOMINATED SUB-CONTRACTORS</b></p> <p>When any work is ordered by the PROJECT MANAGER to be executed by nominated sub-contractors, the Contractor shall enter into sub-contracts and shall thereafter be responsible for such sub-contractors in every respect. Unless otherwise described the Contractor is to provide for such Sub-Contractors any or all of the facilities described in these Preliminaries. The Contractor should price for these with the nominated Sub-contract Contractor's work concerned in the P.C. Sums under the description "add for Attendance".</p>	
<p><b>D</b></p>	<p><b>DIRECT CONTRACTS</b></p> <p>Notwithstanding the foregoing conditions, the Government reserves the right to place a "Direct Contract" for any goods or services required in the works which are covered by a P.C. Sum in the Bills of Quantities and to pay for the same direct. In any such instances, profit relative to the P.C. Sum the priced Bills of Quantities will be adjusted as described for P.C. Sums and allowed.</p>	
	<p><i>Carried to collection</i></p>	

<b>ITEM</b>	<b>DESCRIPTION</b>	
<b>A</b>	<p><b>ATTENDANCE UPON OTHER TRADESMEN, ETC.</b></p> <p>The Contractor shall allow for the attendance of trade upon trade and shall afford any tradesmen or other persons employed for the execution of any work not included in this Contract every facility for carrying out their work and also for use of his ordinary scaffolding. The Contractor, however, shall not be required to erect any special scaffolding for them. The Contractor shall perform such cutting away for and making good after the work of such tradesmen or persons as may be ordered by the PROJECT MANAGER and the work will be measured and paid for to the extent executed at rates provided in these Bills.</p>	
<b>B</b>	<p><b>INSURANCE</b></p> <p>The Contractor shall insure as required in Clause 30 of the Conditions of Contract. No payment on account of the work executed will be made to the Contractor until he has satisfied the PROJECT MANAGER either by production of an Insurance Policy or and Insurance Certificate that the provision of the foregoing Insurance Clauses have been complied with in all respects. Thereafter the PROJECT MANAGER shall from time to time ascertain that premiums are duly paid up by the Contractor who shall if called upon to do so, produce the receipted premium renewals for the PROJECT MANAGER's inspection.</p>	
<b>C</b>	<p><b>PROVISIONAL WORK</b></p> <p>All work described as "Provisional" in these Bills of Quantities is subject to remeasurement in order to ascertain the actual quantity executed for which payment will be made. All "Provisional" and other work liable to adjustment under this Contract shall left uncovered for a reasonable time to allow all measurements needed for such adjustment to be taken by the PROJECT MANAGER Immediately the work is ready for measuring, the Contractor shall give notice to the PROJECT MANAGER. If the Contractor makes default in these respects he shall if the PROJECT MANAGER so directs uncover the work to enable all measurements to be taken and afterwards reinstate at his own expense.</p>	
<b>D</b>	<p><b>ALTERATIONS TO BILLS, PRICING, ETC.</b></p> <p>Any unauthorised alteration or qualification made to the text of the Bills of Quantities may cause the Tender to be disqualified and will in any case be ignored. The Contractor shall be deemed to have made allowance in his prices generally to cover any items against which no price has been inserted in the priced Bills of Quantities. All items of measured work shall be priced in detail and the Tenders containing Lump Sums to cover trades or groups of work must be broken down to show the price of each item before they will be accepted.</p>	
	<i>Carried to collection</i>	

ITEM	DESCRIPTION	
<p><b>A</b></p>	<p><b>BLASTING OPERATIONS</b></p> <p>Blasting will only be allowed with the express permission of the PROJECT MANAGER in writing. All blasting operations shall be carried out at the Contractor's sole risk and cost in accordance with any Government regulations in force for the time being, and any special regulations laid down by the PROJECT MANAGER governing the use and storage of explosives.</p>	
<p><b>B</b></p>	<p><b>MATERIALS ARISING FROM EXCAVATIONS</b></p> <p>Materials of any kind obtained from the excavations shall be the property of the Government. Unless the PROJECT MANAGER directs otherwise such materials shall be dealt with as provided in the Contract. Such materials shall only be used in the works, in substitution of materials which the Contractor would otherwise have had to supply with the written permission of the PROJECT MANAGER Should such permission be given, the Contractor shall make due allowance for the value of the materials so used at a price to be agreed.</p>	
<p><b>C</b></p>	<p><b>PROTECTION OF THE WORKS.</b></p> <p>Provide protection of the whole of the works contained in the Bills of Quantities, including casing , casing up, covering or such other means as may be necessary to avoid damage to the satisfaction of the PROJECT MANAGER and remove such protection when no longer required and make good any damage which may nevertheless have been done at completion free of cost to the Government.</p>	
<p><b>D</b></p>	<p><b>REMOVAL OF RUBBISH ETC.</b></p> <p>Removal of rubbish and debris from the Buildings and site as it accumulates and at the completion of the works and remove all plant, scaffolding and unused materials at completion.</p>	
<p><b>E</b></p>	<p><b>WORKS TO BE DELIVERED UP CLEAN</b></p> <p>Clean and flush all gutters, rainwater and waste pipes, manholes and drains, wash (except where such treatment might cause damage) and clean all floors, sanitary fittings, glass inside and outside and any other parts of the works and remove all marks, blemishes, stains and defects from joinery, fittings and decorated surfaces generally, polish door furniture and bright parts of metalwork and leave the whole of the buildings watertight, clean, perfect and fit for occupation to the approval of the PROJECT MANAGER</p>	
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
<p><b>A.</b></p> <p><b>GENERAL SPECIFICATION.</b></p> <p>For the full description of materials and workmanship, method of execution of the work and notes for pricing, the Contractor is referred to the Ministry of Roads, Public Works and Housing General Specification dated 1976 or any subsequent revision thereof which is issued as a separate document, and which shall be allowed in all respects unless it conflicts with the General Preliminaries, Trade Preambles or other items in these Bills of Quantities.</p> <p><b>B.</b></p> <p><b>TRAINING LEVY</b></p> <p>The Contractor's attention is drawn to legal notice No. 237 of October, 1971, which requires payment by the Contractor of a Training Levy at the rate of 1/4 % of the Contract sum on all contracts of more than Kshs. 50,000.00 in value.</p> <p><b>C.</b></p> <p><b>MATERIALS ON SITE</b></p> <p>All materials for incorporation in the works must be stored on or adjacent to the site before payment is effected unless specifically exempted by the PROJECT MANAGER. This includes the materials of the Main Contractor, Nominated Sub-Contractors and Nominated Suppliers.</p> <p><b>D.</b></p> <p><b>HOARDING</b></p> <p>The Contractor shall enclose all the site under construction with a hoarding 2400 mm high consisting of iron sheets gauge 30 on 100 x 50 mm 2nd grade treated sawn cypress timber posts firmly secured at 1800 mm centres with two 75 x 50 mm 2nd grade treated sawn cypress timber rails. The Contractor is in addition required to take all precautions necessary for the safe custody of the works, materials, plant, public and Employer's property on the site.</p> <p><b>E.</b></p> <p><b>CONTRACTOR'S SUPERINTENDENCE/SITE AGENT</b></p> <p>The Contractor shall constantly keep on the works a literate English speaking Agent or Representative, competent and experienced in the kind of work involved who shall give his whole experience in the kind of work involved and shall give his whole time to the superintendence of the works. Such Agent or Representative shall receive on behalf of the Contractor all directions and instructions from the Project Manager and such directions shall be deemed to have been given to the Contractor in accordance with the Conditions of Contract.</p>		
	<p><i>Carried to collection</i></p>	

ITEM	DESCRIPTION	
	<p style="text-align: center;"><b><u>COLLECTION</u></b></p> <p>Brought Forward From Page GP/ 1</p> <p>Brought Forward From Page GP/ 2</p> <p>Brought Forward From Page GP/ 3</p> <p>Brought Forward From Page GP/ 4</p> <p>Brought Forward From Page GP/ 5</p> <p>Brought Forward From Page GP/ 6</p> <p>Brought Forward From Page GP/ 7</p> <p>Brought Forward From Page GP/ 8</p> <p>Brought Forward From Page GP/ 9</p> <p>Brought Forward From Page GP/ 10</p> <p>Brought Forward From Page GP/ 11</p> <p>Brought Forward From Page GP/ 12</p>	
	<b>TOTAL FOR GENERAL PRELIMINARIES CARRIED TO SUMMARY OF PRELIMINARIES</b>	

# MEASURED WORKS

ITEM	DESCRIPTION	QTY	UNIT	RATE	K.SHS
	<b><u>MEASURED WORKS (WORKS TO GO-DOWNS)</u></b>				
	<b><u>DEMOLITIONS AND ALTERATIONS</u></b>				
	<u>(All Provisional)</u>				
	<u>The items of demolitions and removal shall include shoring making good disturbed areas to match existing and loading and carting away debris unless otherwise specified</u>				
A	Carefully hack out existing floor finish; including screed backing & skirting; internal floor level; and cart away arisings from site as directed	623	sm		
B	Carefully demolish existing internal marsonry partitions and cart away arisings from site as directed		item		
	<b><u>Excavation</u></b>				
C	Excavate oversite to reduce levels commencing from stripped level not exceeding 1.50 meters deep.	89	cm		
D	Return, fill-in and rum selected excavated materials around foundations	18	cm		
E	Remove and cart away surplus excavated materials.	71	cm		
	<u>Diposal of water</u>				
F	Keeping all excavations free from all water including spring or running water		Item		
	<u>Planking and strutting</u>				
G	Uphold the sides of all excavations		Item		
	<u>Concrete</u>				
H	50mm thick mass concrete class Q (1:3:6) to bottoms of foundations	59	sm		
	<b><u>Ground floor frame</u></b>				
	<b><u>Vibrated reinforced insitu concrete (1:2:4) in:</u></b>				
J	Ground beam	11	cm		
K	Foundation columns	11	cm		
	<b><u>Sawn formwork to insitu concrete as described:-</u></b>				
L	To sides; vertical or battering of foundations, ground beams or the like	196	sm		
	<b><u>Walling</u></b>				
M	200mm thick approved natural stone; local; roughly squared to foundation walling; bedding and jointing in cement sand (1:3) mortar	118	sm		
N	200mm wide; B.S. 743 Type A bitumen hessian base 150 mm laps (no allowance made for laps); horizontal, 1 no. layer, bedded in cement sand (1:3) mortar	98	lm		
<b><i>Total Carried to Collection</i></b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	K.SHS
	<b>Reinforcement as described (ALL PROVISIONAL)</b>				
	<u>Reinforcement</u>				
	<u>Bars; high yield steel; cold worked to B.S. 4461 and mild steel hot rolled to B.S. 4449; including bends, hooks, tying wire and distance blocks</u>				
A	Assorted sizes; 8 - 25mm Diameter	4200	kg		
B	152X152MM U.C steel stanchions	4460	kg		
C	450x200mm ring I beam	2468	kg		
D	250x250x20mm base plate	16	no		
E	20mm holding down bolts	64	no		
F	130x200x10mm connection plate	128	no		
G	16mm connection bolts	184	no		
	<b><u>WALLING</u></b>				
H	225 mm thick natural stone walling; machine -dressed; bedded and jointed in cement sand (1:3) mortar; reinforced with hoop iron at alternate courses	909	sm		
J	Extra Over horizontal and vertical pointing in 10mm thick rod in cement and sand (1:3) mortar; one coat of bituminous paint.	237	sm		
<b><i>Total Carried to Collection</i></b>					
	<u>COLLECTION</u>				
	Page 1				
	Above				
<b><i>Total Carried to Collection</i></b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	K.SHS
	<b><u>NEW WORKS</u></b>				
	<b><u>FLOOR FINISH</u></b>				
	<b><u>Beds and Backings</u></b>				
A	30mm thick cement and sand backing (1:4); to receive Terrazo finish (m/s) to concrete floors level; internal	623	sm		
B	25mm Thick terrazzo paving coloured to approval with plastic dividing strips (m/s) forming an approved pattern with and including screed backing.	623	sm		
C	Skirtings; 100mm wide with rounded junction with wall finish and coved junction with floor finish	230	lm		
D	PROVISIONAL: 25 x 3mm plastic dividing strips cut to lengths and set vertically to screed to form margins	306	lm		
	<b><u>Internal wall</u></b>				
	<b><u>Plaster; 12mm thick 2 No. coatwork, 9mm first coat of cement sand (1:6); 3mm second coat of cement and lime putty (1:10); steel trowelled to concrete or blockwork</u></b>				
E	Walls; beams; internal	1581	sm		
	<b><u>Painting and decorations</u></b>				
	<b><u>Prepare and apply one undercoat and two finishing coats of first quality silk vinyl plastic emulsion paint; to plastered wall surfaces; beams; column; surfaces; internal</u></b>				
F	Plastered surfaces	1581	sm		
	<b><u>Internal Finishes</u></b>				
	<b><u>Painting &amp; Decoration Works to Existing Masonry Walls</u></b>				
G	Rub down existing painted/applied surfaces to remove dirt, stains, debris, loose paint flakes; clean surface and prepare surface to receive new paint; including all necessary repairs and make good disturbed areas	194	sm		
H	Prepare and apply one undercoat and two finishing coats of first quality silk vinyl plastic emulsion paint; to plastered wall surfaces; beams; column; surfaces; internal	194	sm		
<b><i>Total Carried to Collection</i></b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	K.SHS
	<u>COLLECTION</u>  From page MW / 2  From page MW / 3				
<b>TOTAL FOR MEASURED WORKS CARRIED TO GRAND SUMMARY</b>					

# ELECTRICAL WORKS

## **GENERAL SPECIFICATION FOR ELECTRICAL CONTRACTS**

### **1.1 General**

The electrical contractor shall comply with the provisions of the following documents:-

- a) General condition of contract.
- b) Government Electrical specification No 1 and No 2
- c) Electrical power act and the rules made there under.
- d) The current edition of the regulations for the electrical equipment of buildings issued by the institution of electrical engineers of Great Britain (IEE) with Kenya amendments.
- e) Kenya Power & lighting Company Limited Bye-Laws
- f) Supplementary Specifications for P. V. C. I. cable and Non-metallic conduit wiring system.

The documents (a) to (d) may be seen at the Office of the Chief Engineer, Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development, during office hours or any working day. Document(s) is included in the specification. The Contractor shall comply with all the requirements of the Kenya Power and Lighting. The Energy and Petroleum Regulatory Commission (EPRC) and the Communications Commission of Kenya (CCK).

### **1.2 Scope**

The Electrical Contractor shall supply all labour and install, fix, connect, test, label, commission and deliver the electrical work, clean, complete and working every detail as described elsewhere in the specification and any related specification and on the drawings listed in the schedule of the drawing and to the satisfaction of the department Representative (D. R.)

### **1.3 Drawing**

Contract shall be based on the drawing listed in the schedule of drawings given elsewhere in this specification. In the event of any discrepancy arising between this specification and the drawings, the drawings shall be followed. Any such discrepancy should be brought to the immediate attention of the D. R. It shall be noted that the drawings do not purport to show every detail and the Electrical Contractor shall allow for all the fitting, fixing, accessories etc, normally provided and required to form a complete and working installation even where specifically shown on the tender drawings or mentioned in this specification. No deviation or alteration shall be made to the installation shown on the contract drawing for any reason whatsoever without a written approval of the D. R. Any unauthorized deviations or alterations made to the installation, for example, shortening of the cable routes, may be required to be rectified at the expense of the contractor.

#### **a) Working Drawings**

The Contractor shall prepare such working drawings as may be necessary for the proper execution of the Contract including conduit layouts and switchgear arrangements. All working drawings shall be submitted for the approval of the D. R. before any work is carried out.

#### **a) As "installed" Drawings**

On completion of the work to be carried out under this contract, the electrical Contractor shall submit to the D. R. record of "as installed" drawings. These shall be reproduced in the form of a negative (preferably) plastic film from the original contract drawings which the contractor shall bring up to date with any alteration made during the progress of the work.

The size and scale of any drawings shall generally be the same as the original contract drawing unless otherwise specified by the D. R. On the completion of the drawings they shall be endorsed with the statement. "This drawing is a true and accurate record of the work carried out of ....." etc and signed by the contractor all as detailed in part 6 of GES No. 1 and No 2 (whichever applies).

The contract will not be considered come to until "as installed" drawings have been produced and accepted by the D. R. (see else Test, Clause 1.10).

#### **1.4 Materials**

The Electrical Contractor shall supply all materials required for completion of the electrical installation works detailed in this specification and contract drawings unless otherwise instructed.

The quantity of the equipment appearing on the drawing shall not form the basis of tender (see clause 1.3 (a)). The manufacturer's catalogue number and trade names are quoted only as a guide to the type and standard of equipment required. Equipment of similar type and standard may be used subject to the prior approval of the D. R. in writing.

#### **1.5 Type of installation**

Unless otherwise stated elsewhere in this specification internal electrical installations shall be carried out in PVC single insulated cable enclosed in concealed non-metallic conduit. The plastic conduit shall be high impact grade as manufactured by Egatube limited or equivalent and shall be available for plain (non-threaded) connections.

It shall be installed to system 'E' of GES No.1 and the "SUPPLEMENTARY SPESIFICATION FOR P.V.C. 1 CABLE AND NON-METALLIC CONDUIT WIRING SYSTEM" ( see Appendix B) . steel boxes having an earth terminal shall be installed at all lighting points, switch positions, socket outlets etc. to facilitate connection of the conductor except where it is intended to have all insulated switches in which case plastic boxes must be used.

Alternatively and where specified steel conduit may be used in which case system 'c' or 'd' ( whichever is appropriate) of Ges No 1 shall apply. The minimum radius of conduit and the maximum capacity of conduits as laid down in the current edition of the IEE Regulations shall not be exceeded.

#### **1.6 Underground cables**

Unless otherwise stated, underground cables shall be copper of the PVC SWA PVC type having a rating appropriate to the system voltage. It shall be installed in accordance with Ges No.2 particular attention shall be paid to trenching with regard to depth (21 inches in open ground, 2.33 inches under roadways) sifting of soil (3 inches below, 2 inches above) and laying of cable tiles which should be continues and without gaps between.

There passing. Under roadways dusting shall be provided as specified. After laying of cables and tiling, but before back-filling, the Contract shall send the D. R. to the site to inspect the work. No trench shall be back-filled without the approval of the D.R. and failure to as so sub-contractor. Cable tiles shall be to the standard designed. Cables shall be "shaked" along their route to allow for ground subsidence or settlement and a 2% allowance shall be added to the measured route length. All cables measurements shall be deemed to include this allowance. Aluminum cables shall only be allowed where specifically called for or on the written authority of the D. R. Special care shall be taken when terminating aluminum conductors. Conductors to be terminated in a pillar type shall be mechanically swaged and fitted with a phosphor bronze sleeve whilst those to be terminated with lugs shall have this fitted with a purpose made compression tool. No deviations from the cable routes shown on the contract drawings shall be made for economy or for any other reason without a written approval of the D. R. Cable markers of the standard design shall be installed where shown on the drawings. After installation, cables shall be tested in accordance with E. E. S. No. 2 and the results recorded (see clause 1.1)

### **1.7 Earthing and Bonding**

Earthing and bonding shall be carried out to the requirements of the I. E. E. regulations and Ges 1 and 2. An earth electrode system shall be installed at the point adjacent to the main supply intake and at every building served by the external distribution system. Each earth electrode shall be a 12mm diameter copper rod driven to a depth of 1300mm. In rocky soil conditions where this depth is difficult to obtain the Contractor shall obtain the written approval from the D. R. for an alternative earth electrode system. The electrode shall be connected via a green PVC insulated copper cable to an earth terminal adjacent to the incoming supply to which all cable armouring, conduit, trunking, switch gear etc. Shall be bonded, together with all other metallic incoming services e.g water, gas, etc.

Provision shall be made for connection with the neutral of the incoming supply. Where P. M. E. is approved and after the supply authority has made its connection the electrical Contractor shall similarly connect the neutral of each distributor main to earth at its remote and under the supervision of the D. R. The bonding of other services or connections of neutral to earth shall be made after satisfactory completion of earth continuity and line earth loop impedance tests.

Test of the resistance to earth of each electrode system shall also be carried out and the results recorded (see clause 1.3). The maximum reading shall not exceed that laid down by Kenya Power and Lighting Co. Ltd. and in any case shall not exceed 10 ohms. Means shall be provided, e.g by means of a test clamp, to isolate the electrode from the system for periodic testing. Internal earthing and bonding shall comply with the current edition of the I. E. E. regulations except that insulated switches and lighting fittings need not be earthed from a safety aspect. Certain fittings however, may require to be earthed to effect proper operation.

All cable glands for steel wire armoured underground type cable, wherever installed shall be fitted with approved earthing washer having a tag for the connection of an earth lead. Every such washer installed shall be connected by an insulated earthing or washers on the adjacent switch gear or other equipment.

### **Earth Leakage Circuit Breakers**

Earth leakage circuit breakers shall be installed wherever indicated on the drawings and wherever required by technical instructor No. 69, i.e, wherever a socket outlet is placed within two meters of a sink irrespective of the type of building involved. They shall preferably be installed as to control only the ring main or radial circuit of the socket(s) or other outlets requiring such protection.

They shall be of the high sensitivity type, i.e they will trip in 30ms for a leakage current of 30mA and shall be of a type not requiring a main supply to operate the trip mechanism under gault conditions such as the electro-stop sp 2 model or the siemens 30mA model.

The current rating shall be appropriate to the circuit in which they are to be installed. Where they are to be used to provide over-current and short circuit protection they shall be suitable for this purpose e.g as the electro stop model.

### **1.9 Switchboard / Low voltage board**

Main switchboards shall be either be the cubicle type e.g (as English Electric Maniform) or of the composite type having a sub-bar chamber and switch fuses of the MEM type as shown on the contract drawings. In either case they shall have separate chamber(s) to accommodate the Kenya Power & Lighting Co. Incoming service cable, current transformers, meters and all other such equipment, ammeters, voltmeters and other instruments shall be installed where specified.

Sub-main switchboards and distribution centres shall be as above without provision for metering etc.

All switchboards shall be equipped with a copper earth-bar mounted on insulators to which all armoured cables and metal works associated with the switchboard shall be bonded. Any switchboard installed without the approval of the D.R. may have to be removed. All switchboards supplied to the site shall be complete with all necessary fuses, lugs, connections support brackets etc.

Unless otherwise specified all fuses shall be of the H. R. C. type of the appropriate BS and of the correct class and all switch gear shall be installed complete with H. R. C. fuses of the current rating on contract drawings. Furthermore the Contractor shall supply one complete set of spare fuses for all the switch gear supplied under the Contract. This shall be handed over to the D. R. on completion of the job and a signature obtained.

### **1.9 Meter Boxes and Loop-In-Boxes**

The Contractor shall supply and install a standard single or dual tariff meter box where called for on the contract drawings. He shall also provide the necessary conduits for Kenya Power and Lighting service cable entry. Where a central supply point only is provided, e.g, in the case of institutional housing, the Contractor shall provide a suitable meter box of dimensions acceptable to Kenya Power and Lighting at the main intake position together with conduits for service cable entry. He will then supply and install any main switch gear and distribution system called for on the contract drawings. Any loop in boxes installed shall be to the standard small or large type design as required. Loop-In-Boxes shall be fitted with lucy type connecting blocks and H.R.C. fuses and carries where specified. The drawings numbers of the standard meter and Loop-In-Boxes shall be given in the schedule of contract drawing.

### **1.9 Labelling**

All switch gear distribution boards etc. shall be clearly and properly labelled in accordance with clause 32 of Ges No. 1. Fuse way and circuit breakers feeding final sub-circuit shall be labelled to show whether lights or power gets the areas served and the circuit number as given by the contract drawing. This shall be done by writing neatly on the label normally provided with a ball pen (not a pencil or a felt tip). If no label of the Contractor shall fix a special made label of the "Trafollyten" tape (Dymo tape will not be accepted).

The outside cover of all switch gear, distribution boards, consumer units etc shall be clearly labelled with a "Trafollyten" type label (not Dymo tape) showing the service provided and circuit reference No. which may be given on the drawings. All labeling shall be completed before testing commences and no test certificates shall be accepted by the D. R. unless this has been done. To avoid the dangers of incorrect labelling, the Contractor shall physically check the designation of every circuit before any labels are fixed.

### **1.13 Lamps and tubes**

Unless otherwise stated elsewhere the tenderer shall allow in his tender for the supply and installation of lamps and fluorescent tubes in all lighting fittings. The prices which the tenderer inserts in the schedule of rates for lighting fittings shall be deemed to include lamps and tubes even if this are not specifically mentioned. Where the number of lighting fitting is less than the number of lighting points, the remaining number of lighting points shall be deemed to include for a ceiling ross  $\frac{1}{4}$  of flex a lamp holder and a lamp. Unless otherwise specified, all fluorescent tubes shall be of the "white" variety and all lamps shall be of the frosted type. When the Contractor is ready to fit the lamps and tubes he shall request the D. R. for schedule of lamp voltage.

### **1.14 Plugs**

Unless otherwise stated elsewhere, all 13 Amp sockets outlets and also any other type of outlets, single or 3 phase with provision for a plug shall be supplied with a plug on the basis of one plug per socket outlet. 13Amp plugs shall be in white moulded plastic to BS 1363 as Mk 655 or 646 or equivalent and shall be complete with a fuse of 13 Amps or other such rating as the DR may specify. 13Amps plug made of rubber will not be accepted except where specifically called for. Other types of plugs shall be to the appropriate Britain standard.

All plugs shall be handed over on completion of the job to the D.R. and a signature obtained. The prices which the tenderer inserts in the schedule of the rates for sockets outlet points shall be deemed to include for plugs even if this are not specifically mentioned

#### **1.15 Accessories**

Local lighting switches, sockets control units and all accessories shall unless otherwise specified, be of the flush type with white moulded plastic to the appropriate BS as the MK range or equivalent. The earth terminal of every socket outlet, ceiling point and any other outlet requiring and earth connection shall be connected to earth by a green PVC conductor of minimum size 2.5 square mm. Ceiling roses and lamp holders shall unless otherwise specified be of the all insulated type in white moulded plastic and of an approved make.

#### **1.16 Telephone outlets**

The Contractor shall provide all telephone outlets as shown on the contract drawings together with any conduits required for Telecom Kenya Ltd. service line(s). Telephone outlets shall either be mounted on trunking or in steel boxes linked with conduits of size as indicated on the contract drawing but in any case conduits shall be less than 19mm suitable drawing boxes shall be provided where indicated. Draw wires shall be left in all conduits.

#### **1.17 Television outlets**

Television outlets where required, shall be flush mounted in a steel or plastic box at a height of 300mm above finished floor level. The mounting box shall be linked to the roof space or elsewhere if specified by means of 19mm conduits. Draw wire shall left in all conduits. Outlet plates shall be of the 86mm square flush type in white moulded plastic as MK 3520 or equivalent.

#### **1.18 Testing**

On completion of the work or before if required by the D. R. the installation shall be tested in the presence of the D. R. or his representative to the requirement of the latest edition of the I. E. E. regulations and also to rule 3 of the electric power Act for additional test not covered by the I. E. E. regulation.

The results of the two tests shall be recorded on a test certificate (supplied by the D. R.) which shall be signed by the electrical Contractor and countersigned by the D. R. or his representative. Two copies of each such certificates shall be provided. (Appendix A).

The installation shall not be considered complete until test certificates and "as installed" drawings have been submitted by the electrical Contractor and approved by the D.R. Retention money will not be released until drawings and test certificates have been received.

Additionally in the case of underground cables tests shall be carried out to establish the continuity and phase, also high voltage test if required by the D. R. All the clause 25 of Ges No.2

The Contractor shall have at his disposal a set of test instruments in good working order and suitable for carrying out the required test including installation continuity, earth loop impedance and earth electrode resistance to earth. This instrument shall be made available for inspection and test as and when required by the D. R.

#### **1.19 Street Lighting Fittings**

Any street lighting columns required shall unless otherwise specified be to one of the standards designs, the drawing number of which shall be found elsewhere in this specification. The pole shall be firmly concreted in the ground to the required depth in an upright position. They shall be complete with gland plate flush type connectors and a fuse for protection of the fitting, all suitably mounted behind a water tight access cover.

#### **1.20 Electric Cooker and Refrigerators**

Any cookers and refrigerators required will be supplied to the Contractor through the D. R. from the State Department for Public Works and Housing bulk supply contracts.

A provision sum shall be included in the schedule of provisional sums for this purpose where applicable. The electrical Contractor shall collect the above equipment from the supply contractor's stores in Nairobi. Transport to site, unpack, place in position, install, supply and contact lead and test them and return containers if necessary. The cost of the final connection shall be deemed to be included in the cost of the outlets even if not specifically mentioned.

**1.21 Water Heaters**

Water heaters will be supplied and installed at the site under separate arrangement. The Contractor shall however be responsible for the final connections to this items in heat resistance flex and his price for water heater outlets shall be deemed to include for this even if not specifically mentioned.

**1.22 Supply of Electricity**

It will be the responsibility of the D. R. to provide funds for electricity service line charges required to negotiate terms for these with the Kenya Power and Lighting Co. Ltd. A provisional sum shall be included in the schedule of provisional sum for this purpose where applicable.

On completion of the work the Contractor shall provide Kenya Power and Lighting Co. Ltd with the necessary completion certificates and shall rectify at his own expense any defect which may be notified by them.

**1.23 Supply of Telephone Equipment**

It will be the responsibility of the D. R. to provide funds for any telephone service line charges required and to negotiate for this with the Telecom Kenya Ltd. A provisional sum shall be included in the schedule of provincial sums for this purpose where applicable.

A separate contract will be let for the supply and installation of any P.A.X. or P.A.B.X. equipment which may be required. However, the Contractor will be responsible for the provision of telephone outlets as specified in clause 1.16.

**1.24 Schedule of unit rates**

The tenderer shall complete any schedule of unit rates which may be found elsewhere in this specification. The tenderer shall note that the schedule of unit rates forms part of the tender and must be completed in every detail and with reasonable rates otherwise the tender may not be considered. The tenderer may add any item(s) he considers necessary.

Unit rates will be used to assess the value of additions or omissions arising authorize variations to the Contract works. They are to include the supply transport, insurance, profit and delivery to site and storage as necessary installation and setting to work any other obligation under this sub-contract. The rate shall not be totalled or take to the firm of tender or price schedule summary. The tenderer shall sign and date the schedule of unit rates and all other tender documents where indicated.

**Schedule(s) of rates**

The tenderer shall complete the schedule(s) of rates where called for, he shall add any item which he considers is not included elsewhere in the schedule but is required to give a complete and working installation. Failure to do so shall not form the basis of any claims for extras should the tender be accepted. Any errors or omissions in the schedules noted by the tenderer should be brought to the attention of the D. R. on submission of the tender.

**1.26 Price Schedule Summary**

The tenderer shall complete the price schedule summary. The total price shall be deemed to include for the whole of the Contract works in accordance with this specification. Any prices omitted from any item, section or part of price schedule shall be deemed to have been included in another item, section or part. All prices quoted shall be inclusive of duty and sales tax. The total of prices quoted shall be entered on form of tender.

### **1.0 Switchgears and electrical distribution system**

The scope of works involve the following: -

- Removal of old switchboard and switchgears from the switch room
- Replacement of old switchboard/switchgears with the block SET TYPE of switchboard and MERLIN GERIN switchgears (original type)
- Replacement of all sub-main cables for power distribution to all floors
- Installation of three phase distribution boards on all floors
- Installation of sub-switchboards as specified herein

### **2.0 CLEARING WAY**

The contractor shall remove all temporary, rubbish, debris and surplus material from the site as they accumulate and upon completion of the works, remove and clear away all plant, equipment rubbish, unused materials and stains, and leave in a clean tidy state to the reasonable Satisfaction of the Project Manager.

### **3.0 SCAFFOLDING**

Contractor to allow in his rates for scaffolding to be used where necessary. No claim for such shall be allowed

### **4.0 DISRUPTION DURING CONSTRUCTION**

Contractor's attention is drawn to the fact that the proposed works are to be executed in buildings under use and occupation where the client is going on with other activities. The contractor is expected to take reasonable care in the execution of the works in order not to interrupt the client's normal activities. The contractor should allow in his rates for any costs he deems necessary for the purpose of satisfactorily carrying out the works.

## PARTICULAR SPECIFICATION

### 5.0 LOCATION OF SITE

The site of the proposed works is at: **ATHI RIVER**

### 6.0 SCOPE OF WORKS

The works to be carried out under this contract consists of **Electrical Installations Works**

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

### 7.0 SITE VISITATION

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

### 8.0 EXISTING SERVICES AND INSTALLATIONS

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

### 9.0 PREVENTION OF ACCIDENT, DAMAGE OR LOSS

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

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

### 10.0 ADJOINING PROPERTY

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

### 11.0 CURRENCY

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

**TECHNICAL SCHEDULE OF ITEMS TO BE SUPPLIED**  
**(To be completed by the tenderer as a Mandatory Requirement)**

Item	Description	Make / Type	Country Of Origin	Catalogue No
1	PVC/SWA/PVC armoured cable			
2	Cable Tray			
3	Cable Lags			
4	Cable Glands			
5	MCBs and MCCBs			
6	SC copper cable			
7	Distribution Boards			
8	Isolators			
9	Socket Outlets			
10	Light Switches			
11	Lighting Fittings (a) LED panels (b) LED Battens (c) LED Bulkheads (d) Down lighters (e) EXIT emergency lighting			

## **BILLS OF QUANTITIES**

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

**TESTING AND COMMISSIONING GUIDE FOR ELECTRICAL INSTALLATION WORKS ON SITE**

**STATE DEPARTMENT FOR PUBLIC WORKS**

**ELECTRICAL DEPARTMENT**

**TESTING AND COMMISSIONING OF ELECTRICAL INSTALLATION WORKS ON SITE**

PROJECT NAME : .....

W.P No. .... JOB No. ....

The sub-contractor shall test in accordance with the relevant section of IEE regulations, Rule 3 of the Electrical Power Act for additional tests not covered by the regulations. Government Electrical specification I and II and the Kenya Power & lighting Co Ltd by laws.

**A . PRELIMINARY CHECKS**

The Engineer shall check to establish the following data: -

ITEM	DESCRIPTION		REMARKS				
(i)	Type of installation (New / Renovations / addition to existing installation)						
(ii)	a) Power supply – 240 v / 415 v / 11 Kv b) Frequency of the mains supply c) Installation power factor						
(iii)	Method of Metering (New / Monitoring / Existing meter)						
(iv)	Are Testing / Measuring instruments available						
(v)	Are there maintenance / operational manuals for specialized systems (if any) ?						
(vi)	List of ' As installed drawings'	<table border="1"> <thead> <tr> <th align="center">Drg No</th> <th align="center">Description</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Drg No	Description			
Drg No	Description						

ITEM	TEST DESCRIPTION	OBSERVATIONS / RESULTS	REMARKS
1	<p><b>TESTS SHALL BE CARRIED OUT TO ENSURE</b></p> <ul style="list-style-type: none"> <li>a) All fuses / MCBs and single pole switches are installed vide live conductor.</li> <li>b) All outlets and switched socket outlets are connected to 'LIVE' conductor in the terminal marked so and each earth pin effectively bonded to earth continuity system.</li> <li>c) Verify continuity of all final conductors of each 'ring' circuit. (0.05 to 0.8 ohms).</li> <li>d) All radial circuits emanate from responsive distribution boards / consumer units and that they do not supply any other equipment.</li> <li>e) The correct phase sequence is maintained throughout the installation.</li> <li>f) Effective 'Discrimination' in the arrangement of protective devices. i.e a fault in the furthest power point / lighting point should not blow or trip fuses / MCBs respective in the meter board.</li> </ul>		
2	<p><b>INSPECT TO ENSURE</b></p> <ul style="list-style-type: none"> <li>a) No terminal in the ceiling rose is 'LIVE' when the corresponding switch is in the OFF position.</li> <li>b) All conduit termination conduit boxes , Consumer Unit , DBs and adaptable boxes have smooth edges and are properly bushed.</li> <li>c) All fixed metal works close to electrical installation are bonded to earth continuity conductor.</li> <li>d) All fuse ways and circuit breakers for final sub circuits are properly labeled .</li> </ul>		

ITEM	TEST DESCRIPTION	OBSERVATIONS / RESULTS	REMARKS
3	<p><b>CARRY OUT THE FOLLOWING TESTS</b></p> <p>a) Insulation resistance tests</p> <p><b>(i) Between phases</b>  R – Y  R – B  B – Y</p> <p><b>(ii) Phase to Neutral</b>  R – N  Y – N  B – N</p> <p><b>(iii) Phase to Earth</b>  R – E  Y – E  B – E</p> <p>Minimum thresholds for above and for:</p> <p><b>i) ELV circuits (SELV &amp; PELV) = 0.25 MΩ</b>  <b>ii) LV circuits up to 500 V = 0.5 MΩ</b>  <b>iii) LV circuits above 500 V = 1 MΩ</b></p>		
	<p>b) Earth continuity conductor impedance <b>(0.005 to 2 Ω)</b></p> <p>c) Earth fault loop impedance <b>(0 – 2000 Ω)</b></p> <p>d) Earth electrode resistance <b>(Less than 4 Ω)</b></p> <p>e) Earth lead resistance <b>(Less than 4 Ω)</b></p> <p>f) The operation of the MCCBs &amp; MCBs (Tripping under faulty conditions)</p> <p>g) Check the mechanical toggling (Make and break) of all the switches to installed accessories.</p>		
4	<p><b>UNDERGROUND CABLING, check for :-</b></p> <p>i) Continuity of the phases</p> <p>ii) Factory tests done (avail certification)</p> <p>iii) Proper termination</p> <p>iv) Route markers</p>		
5	Type of Earthing TN-C / TN-S / TN-C-S / TT / IT		

ITEM	TEST DESCRIPTION	OBSERVATIONS / RESULTS	REMARKS						
6	<p><b>INSTALLED LOAD</b></p> <ul style="list-style-type: none"> <li>i) Lighting points (No.)</li> <li>ii) Socket outlets (No.)</li> <li>iii) Motors (Give rating)</li> <li>iv) Other Machines / Equipment (attach list)</li> </ul> <table border="1" data-bbox="188 609 935 831"> <thead> <tr> <th data-bbox="188 609 306 663">ITEM</th> <th data-bbox="312 609 703 663">DESCRIPTION</th> <th data-bbox="710 609 935 663">RATING</th> </tr> </thead> <tbody> <tr> <td data-bbox="188 667 306 831"></td> <td data-bbox="312 667 703 831"></td> <td data-bbox="710 667 935 831"></td> </tr> </tbody> </table>	ITEM	DESCRIPTION	RATING					
ITEM	DESCRIPTION	RATING							
7	<p><b>LV switchboard</b> : The board shall be checked to ascertain the following</p> <ul style="list-style-type: none"> <li>i) Rating of the switchboard / incomer MCCB</li> <li>ii) Form of construction (1/2B/3B/4)</li> <li>iii) Degree of protection (IP rating)</li> <li>iv) Nameplates for identification of all circuits entering / leaving switchgear.</li> <li>v) Proper Electrical &amp; Mechanical operation of functional parts i.e MCCBs, Indicating meters, CTs &amp; VTs.</li> <li>vi) Check cable terminations , type &amp; terminals.</li> <li>vii) General comments on the appearance of the finished mechanical assembly including welding, full nuts &amp; tightness of bolted parts.</li> </ul>								
8	<p><b>FIREMAN'S SWITCH</b></p> <ul style="list-style-type: none"> <li>i) Make and manufacturer /Rating of the switch</li> <li>ii) Test for the Electrical and Mechanical operation of the switch.</li> <li>iii) State the type of loads supported by the maintained board on the switch.</li> </ul>								

**CONTRACTOR** \_\_\_\_\_

**PROJECT ELECTRICAL ENGINEER** \_\_\_\_\_

## Technical Specifications of LED High Bay Light

ITEM DESCRIPTION	MINIMUM SPECIFICATIONS AND REQUIREMENTS	BIDDER'S PROPOSED SOLUTION
<b>TECHNICAL SPECIFICATIONS</b>		
Rating of LED High bay Light Fixture	Up to 300 Watts	
Make of LED High Bay Light		
Model of LED High Bay Light		
Input Voltage	240 V AC±5% / 50 Hz, Single Phase	
Power Factor	0.9 or more	
Total System Lumens	7200 Lumens or more	
Correlated Colour Temperature (CCT)	5000K - 6500K	
Colour Rendering Index (CRI)	70 or More	
Total Harmonic Distortion (THD)	20% or Less	
Optics	Integrate optics having High spread beam angle of 90° or more	
LED Make Acceptable	CREE / NICHIA / BRIDGELUX / PHILIPS LUMILEDS / OSRAM / TOSHIBA	
Electrical Protection	Short Circuit , Over voltage , Under voltage	
Lamp Housing	Pressure Die cast Aluminum housing with heat resistant toughened glass cover and efficient heat sinking material.	
Ingress Protection	IP-65 or greater	
Mounting	Roof Mounting with Single Point Mounting arrangement with Eye Bolt or J-Hook. All items required for mounting to be supplied by the party.	
Driver	Constant Current output integrated driver built into fitting / fixture and should be field replaceable.	
<b>TEST COMPLIANCE : FOLLOWING CERTIFICATES SHALL BE PROVIDED ALONG WITH THE OFFER.</b>		
For Luminaire	LM 79 Test report for luminaire ( Clearly mentioning the values for point No. 1.1 to 1.9) from NABL /government approved laboratory.	
For LED Module	LM 80 Test report from LED chip manufacturer	
Documents	<b>Bidder shall submit the product Catalog and complete specifications of the offered LED High Bay Light along with the offer</b>	
Warranty	<b>36 Months Warranty from the date of dispatch or 30 months from the date of receipt of material a Warranty should be on complete supplied unit.</b>	

**PARTICULAR AND TECHNICAL SPECIFICATIONS FOR ACCESS CONTROL.**

**PARTICULAR SPECIFICATIONS OF MATERIALS AND WORKS**

1.0 Location of site

- The site is located at **ATHI RIVER**

1.1 Climate Conditions

The following climate conditions can apply at the site of the sub-contract works and all the plant, equipment, apparatus, materials and installations shall be suited for these conditions:

Maximum Temperature	27 °C
Minimum Temperature	12 °C
Relative humidity range	40% - 90%
Atmospheric salt content	Less than 0.002%
Dust in Atmosphere	Relatively dusty conditions prevail
Longitude (approximately)	36° 38' E
Latitude (approximately)	00° 27' S
Altitude	1795m above sea level

Solar Radiation, February Mean Max 543 Langleys

Extremely heavy rains fall at certain periods of the year and the sub-contractor shall be deemed to have taken account of this factor both in his process and in his planning of the execution of the contract works.

Equipment de-rating factors for the temperature and altitude shall be stated.

It is intended that ventilation and air filtration, if any shall be provided by others. It is not intended that the accommodation shall be air conditioned. Any requirements of this nature upon which the tender is conditional shall be clearly stated in the tender.

**1.2 Extent of The Works**

The works to be carried out include the supply, delivery, installation, testing, commissioning and leaving in servicing condition the Electrical Works Automatic Access Control systems in the proposed Site as herein described in this specification. The works shall include, but not limited to the supply and installation of the following:

- Electrical Works

### **1.3 Regulation and Standard**

The works shall comply with the provisions of the following as necessary and relevant: Electric Power Act, Kenya Bureau of Standards (KEBS), Institution of Electrical Engineers (I.E.E) Wiring Regulations and Current recommendation of CCITT and CC1R

### **1.4 ELECTRICAL REQUIREMENTS**

The equipment to be supplied shall be capable of being operated from 240V AC 50Hz power supply.

#### **1.5: MANDATORY REQUIREMENTS**

- A. All equipment and materials used shall be standard components that are regularly manufactured and used in the manufacturer's system.
- B. All systems and components shall have been thoroughly tested and proven in actual use.
- C. All systems and components shall be provided with the availability of a, 24-hour technical assistance program (TAP) from the manufacturer. The TAP shall allow for immediate technical assistance for either the dealer/installer or the end user at no charge.
- D. All systems and components shall be provided with a one-day turn around repair express and 24-hour parts replacement. The repair and parts express shall be guaranteed by the manufacturer on warranty and non-warranty items.
- E. The supplier shall be the manufacturer, or the manufacturer appointed agent (proof to be submitted).
- F. The Offered system has been installed and commissioned by the supplier in other locations (proof to be submitted).

## 7.0 NETWORK CABINETS

DATA CABINET AND ACCESSORIES RACKS TECHNICAL SPECIFICATIONS		
Item	Minimum Specifications	Proposed Solution
Brand	State the brand, model and attach Technical Brochure (Mandatory)	
Product description	Rack (ventilated)-42U, 22U, 18U	
Product type	Ventilated rack	
Rack sized	19"	
Height(Rack units)	42U, 22U, 18U	
Dimensions	600mmx600mm	

DATA CABINET AND ACCESSORIES RACKS TECHNICAL SPECIFICATIONS		
Item	Minimum Specifications	Proposed Solution
Construction	<ul style="list-style-type: none"> <li>• The front door and back door are mesh door. The front door have</li> <li>• front/rear locking double section door, enable ventilation and reliable operation.</li> <li>• Wire path on the top and bottom can be closed.</li> <li>• High grade knob and lock.</li> <li>• Wire groove with Wide cable manager on the two sides.</li> <li>• Detachable composite structure, more convenient for being shipped</li> <li>• Material: SPCC quality cold rolled steel</li> <li>• Thickness: Square hole strips 2.0mm, others 1.2mm</li> <li>• Color: RAL9004 (Signal Black), RAL7044 (Silk Grey)</li> <li>• Surface finish: degrease, acid pickling, rust prevention and parkerizing, pure water cleaning, static electricity plastic painting</li> </ul>	

DATA CABINET AND ACCESSORIES RACKS TECHNICAL SPECIFICATIONS		
Power	<ul style="list-style-type: none"> <li>• Pre-wired 240V AC conditioned grounded power circuit</li> <li>• 6 Outlet Power Distribution Unit Included</li> <li>• Supplied with Earth Bond Kit and Cage nuts</li> </ul>	
Standards	Comply with ANSI/EIA RS-310-D, IEC297-2, DIN41494; PART1, DIN41494; PART7, GB/T3047; 2-92STANDARD	
Warranty	Comprehensive Manufacturer's Warranty (Attach Manufacturer's Warranty Statement) Minimum 3 Years	

## 8.0 CABLES

### i) HORIZONTAL CABLING

	Category 6A UTP 4-Pair Cable	
Item	Minimum specifications	
Length	Reel in a box 305m	
Brand	State the brand, model and attach Technical Brochure (Mandatory)	
Construction	<ul style="list-style-type: none"> <li>• UTP</li> <li>• Nominal jacket OD: 8.5mm (0.33 in.)</li> <li>• 0.58mm (0.02 in.) solid (non-tinned) copper</li> <li>• Centre Isolation Member</li> </ul>	
Jacket	8.5mm with Sequential meter markings	
Wire characteristics	DC Resistance: <8.5 Ω/100m DC Resistance Unbalance: 2% Mutual Capacitance: 5.6 nF/100m Capacitance Unbalance:<160 pF/100m Characteristic Impedance(ohms):1 - 250 MHz: 100 ± 15% 100 - 750 MHz: 100 ± 22% NVP: 67% TCL: 30-10 log (f/100)dB PSANEXT: 62.5-15log(f /100)dB PSAACR-F:38.2-20log(f /100)dB Delay Skew: = 45ns	

### ii) HORIZONTAL CABLING

Industry Compliance	<ul style="list-style-type: none"> <li>• ISO/IEC 11801 Ed. 2.2 (Class EA)</li> <li>• ISO/IEC 61156-5 (Category 6A)</li> <li>• TIA-568-C.2 (Category 6A)</li> <li>• LSOH: ISO/IEC 60332, IEC 60754, IEC 61034</li> <li>• EN50399 Class Eca</li> </ul>	
Physical Properties	Pulling Tension (max):110N (25 lbf) Bend Radius (min): 45.7mm (1.8 in.) Installation Temperature: 0 to 60°C (+32 to 140°F) Storage Temperature:-20 to 75°C (-4 to 167°F) Operating Temperature: -20 to 60°C (-4 to 140°F)	
Warranty	End-to-End Manufacturer's Warranty on Cabling System(Attach Manufacturer's Warranty Statement) Minimum 15 Years Warranty	

**iii) FACE PLATES - COMPLETE WITH TWIN SCREENED MAX MODULES**

ITEM	MINIMUM SPECIFICATIONS	PROPOSED SOLUTION
Brand	State the brand, model and attach Technical Brochure (Mandatory)	
Construction	Complete with screen Twin MAX RJ45 Modules <input type="checkbox"/> Double gang faceplates for each designated work area point. <input type="checkbox"/> UV resistant, high impact plastic preventing color fading and provides added durability	
Wiring	T568A and T568B	
Face Plate Characteristics	<input type="checkbox"/> Twin <input type="checkbox"/> Label Covers- Faceplates include pressure-release designation label covers for quick, tool-less removal <input type="checkbox"/> With icon/label provision	
	<input type="checkbox"/> With doors/shutters <input type="checkbox"/> British Standard (85mm x 85mm) <input type="checkbox"/> White	
Module Characteristics	100/100/10Gbs Backward compatible	
	Max DC Resistance: 9.4ohms/100m 100-250Mhz: 100ohms±22% 1-100Mhz : 100ohms±15% NVP: 0.65	
Industry Compliance	<input type="checkbox"/> ISO/IEC 11801: 2002 2 <sup>nd</sup> Edition(Category 6) <input type="checkbox"/> ANSI/TIA/IEC 754 and IEC 1034 <input type="checkbox"/> IEC 61156-5 1 <sup>st</sup> Edition	
	<input type="checkbox"/> LSOH :IEC 754 and IEC 1034 <input type="checkbox"/> UL CMX <input type="checkbox"/> UL CMP and CSA FT6	
Warranty	End-to-End Manufacturer's Warranty on Cabling System(Attach Manufacturer's Warranty Statement) Minimum 15 Years	

## 9.0 WIRELESS ACCESS POINT

ITEM	MINIMUM SPECIFICATIONS	PROPOSED SOLUTION
Brand	State the brand, model and attach Technical Brochure (Mandatory)	
Features	<ul style="list-style-type: none"> <li>• Ports: LAN Gigabit Ethernet auto sensing</li> <li>• Cabling type: Category 5e or better</li> <li>• Antennas: Internal antennas optimized for installation on a wall or ceiling</li> <li>• LED indicators: Power, WLAN, LAN</li> <li>• Operating system: Linux</li> </ul> Physical Interfaces <ul style="list-style-type: none"> <li>• Ports: 10/100/1000 Ethernet, with support for 802.3af PoE ,</li> <li>Buttons: Reset button</li> <li>• LEDs: Power, Wireless, Ethernet</li> </ul> Physical Specifications <ul style="list-style-type: none"> <li>• Physical dimensions (W x D x H) 9.05 x 9.05 x .98 in. (230 x 230 x 25 mm)</li> <li>• Weight WAP561: 1.51 lb or 685 g; WAP551: 1.41 lb or 640g</li> </ul> Network Capabilities <ul style="list-style-type: none"> <li>• VLAN support: Yes</li> <li>• Number of VLANs: 1 management VLAN plus 16 VLANs for SSIDs</li> <li>• 802.1X supplicant: Yes, SSID-to-VLAN mapping: Yes</li> <li>• Auto channel selection: Yes</li> </ul>	
	<ul style="list-style-type: none"> <li>• Spanning tree: Yes, Load balancing: Yes</li> <li>• IPv6: Yes IPv6 host support IPv6 RADIUS, syslog, Network Time Protocol (NTP), etc.</li> <li>• Layer 2 802.1Q-based VLANS, 16 active VLANS plus 1 management VLAN</li> </ul> Quality of service (QoS) Wi-Fi Multimedia and Traffic Specification (WMM TSPEC)	
Performance	<ul style="list-style-type: none"> <li>• Wireless throughput Up to 450 Mbps data rate (real world throughput will vary)</li> <li>• Recommended user support Up to 64 connective users, 30 active users per radio</li> </ul> Multiple-Access Point Management <ul style="list-style-type: none"> <li>• Single Point Setup: Yes</li> <li>• Number of access points per cluster:16</li> </ul> Active clients per cluster: 480	

Wireless	<ul style="list-style-type: none"> <li>• Frequency: WAP551: Selectable radio band (2.4 or 5 GHz) WAP561: Dual concurrent radios (2.4 and 5 GHz)</li> <li>• Radio and modulation type: Single radio (WAP551) or dual radio (WAP561), orthogonal frequency division multiplexing (OFDM)</li> <li>• WLAN: 802.11b/g/n 3x3 multiple-input multiple-output (MIMO) with 3 spatial streams 20 and 40 MHz channels PHY data rate up to 450 Mbps 802.11 dynamic frequency selection (DFS), EU version only</li> <li>• Data rates supported 802.11a/b/g: 54, 48, 36, 24, 18, 12, 9, 6, 11, 5.5, 2, and 1 Mbps 802.11n: <ul style="list-style-type: none"> <li>◦ 20-MHz bandwidth: MCS 0-15 for supported data rates</li> <li>◦ 40-MHz bandwidth: MCS 0-15 for supported data rates</li> </ul> </li> </ul>	
Standards	<u>Standards Compliance</u> IEEE 802.11n, 802.11g, 802.11b, 802.3af, 802.3u, 802.1X (security authentication), 802.1Q (VLAN), 802.1D (Spanning Tree), 802.11i (WPA2 security), 802.11e (wireless QoS), IPv4 (RFC 791), IPv6 (RFC 2460)	
Security	<ul style="list-style-type: none"> <li>• WPA/WPA2: Yes, including Enterprise authentication</li> <li>• Access control Yes, management access control list (ACL) plus MAC ACL</li> <li>• Secure management HTTPS</li> <li>• Wi-Fi Protected Setup (WPS) Yes (soft WPS, no hardware push button)</li> <li>• SSID broadcast: Yes</li> <li>• Rogue access point detection: Yes</li> </ul>	

Management	<ul style="list-style-type: none"> <li>• Management protocols Web browser, Simple Network Management Protocol (SNMP) v3, Bonjour</li> <li>• Remote management: Yes</li> <li>• Event logging Local, remote syslog, email alerts</li> <li>• Network diagnostics Logging and packet capture</li> <li>• Web firmware upgrade: Firmware upgradable through web browser, imported/exported configuration file</li> </ul>	
	<ul style="list-style-type: none"> <li>• Dynamic Host Configuration Protocol (DHCP) client : Yes , IPv6 host: Yes , HTTP redirect: Yes</li> </ul>	
support	Locally Available Technical Support Services (Manufacturer's Letter of Authorization Mandatory)	
Warranty	Manufacturer's Limited Lifetime Warranty	

# **GENERAL, PARTICULAR AND TECHNICAL SPECIFICATIONS OF MATERIALS AND WORKS**

## **PART 1: GENERAL SPECIFICATIONS**

### **1.01 SITE LOCATION**

The site of the proposed works is at: **ATHI RIVER**

### **1.02 OBJECTIVE OF THE PROJECT**

- a) To implement structured cabling network based on industry standards for the active devices of CCTV network.
- b) To implement the network and associated devices and systems in strict adherence to stated specifications, manufacturer's guideline and relevant industry standards.

### **1.03. SCOPE OF WORKS.**

The works to be carried out include the supply, delivery, installation, testing, commissioning and leaving in functional and serviceable condition of CCTV network.

### **1.04 CLIMATIC CONDITIONS**

The following climatic conditions can apply at the site of the sub-contract works and all the plant, equipment, apparatus, materials and installations shall be suited for these conditions:

- Mean maximum temperature: 26.9<sup>0</sup> C.
- Mean minimum temperature: 14.6<sup>0</sup> C.
- Range of relative humidity: 20% - 80%.
- Salt content in the atmosphere: 0.2%.
- Altitude: 1088m above sea level.
- Latitude: 01' 22S.
- Solar radiation: 652 mean max.

In the event of extremely weather conditions (heavy rainfall / heat waves) during certain seasons of the year, the sub-contractor shall be deemed to have taken this into account both in process and planning of the execution of the contract works. Equipment de-rating factors for the temperature and altitude shall be stated. It is intended that ventilation and air filtration, if any shall be provided separately.

### **1.05 ELECTRICAL REQUIREMENTS.**

The equipment to be supplied shall be compatible with the 240 vac, 50 hz power supply.

### **1.06 POSITION OF SERVICES AND EQUIPMENT.**

The route services and approximate positions of apparatus will be produced and given by the PM, but their exact positions shall be determined by approved dimensional details on working drawings or on site by the PM. The Contractor shall ascertain on site that his/her work will not foil other services or furniture and all services through the ducts must be readily accessible for maintenance and arranged to allow maximum access along the ducts. Any work which has to be redone due to negligence in this respect, will be the contractor's responsibility.

### **1.07 SETTING TO WORK AND REGULATING SYSTEMS.**

The contractor shall carry out such tests of the contract as are required by KEBS standard specifications and codes of practice, I.E.E regulations or equal and approved codes, or the competent authority.

***No testing or commissioning shall be undertaken except in the presence of and to the satisfaction of the PM unless approved otherwise by the PM. (Contractor's own preliminary and proving tests exempted).***

The Contractor shall include in his/her tender for the costs for testing and commissioning the contract works as herein described. He/she shall submit for the approval to the PM a suitable program for testing and commissioning. The PM and the employer shall be given ample warning as to the dates on which testing and commissioning will take place.

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

#### **1.08 IDENTIFICATION OF PLANT AND COMPONENTS**

The Contractor shall supply and install identification labels to all plant and all switches and items of control equipment with, where no excessive heating is involved, white Traffolyte or equal labels engraved in block lettering denoting the name/function and/or section controlled. Where heating is likely to distort Traffolyte, approved aluminium labels with stamped or engraved lettering shall be used.

The labels shall be mounted on equipment and in most suitable positions. They shall be in English or internationally understood symbols capable of being read without difficulty. The labels shall conform to descriptions used on record drawing. Details of the lettering of the labels and the method of mounts or supporting shall be forwarded to the PM for approval prior to manufacture.

Further adherence to the following when labelling:

- (i) Horizontal and backbone cables shall be labelled at each end. The cable or it's label shall be marked with it's identifier. A unique identifier shall be marked on each faceplate to identify it as connecting hardware. Each port on the faceplate shall be labelled with it's identifier.
- (ii) A unique identifier shall be marked on each piece of connecting hardware to identify it as a connecting hardware. Each port of the connecting hardware shall be labelled with it's identifier.
- (iii) A unique identifier shall be marked on each piece of connecting hardware to identify it as a connecting hardware. Each port of the connecting hardware shall be labelled with it's identifier.

#### **1.09 WORKING DRAWINGS**

The Contractor shall prepare such working drawings as may be necessary.

The working drawings shall be completed in such details not only that the contract works can be executed on site but also that the PM can approve the contractor's designs and intentions in execution of the contract works.

Approved working drawings shall not be departed from except where provided for. Approval by the PM of working drawings shall neither relieve the contractor of any of his/her obligations under the contract nor relieve him/her from correcting any errors found subsequently in the approved working drawings or elsewhere associated therewith or with the works.

Working drawings shall be supplied to the PM for approval showing the location of identifiers for all Horizontal cabling routes and Terminations, Backbone Routing and Terminations Outlets/Connectors and Active components etc.....

#### **1.9 RECORD DRAWINGS**

During the execution of the works on site, the contractor shall, in a manner approved by the PM record on working or other drawings at site all information necessary for preparing Record Drawings of the installed contract works. Marked up working or other drawings and other documents shall be made available to the PM as he/she may require for inspection and checking. Record drawing shall include but not restricted to the following drawings or information:-

### 1.10 RECORD DRAWINGS

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- Working drawings amended as necessary but titled "Record Drawings" and certified as a true record of the "as installed" contract works.
- Fully dimensioned drawings of all plant and apparatus.
- System Schematic and trunking diagrams showing all salient information relating to control and instrumentation.
- Wiring diagrams of individual plant, apparatus, switch and control boards.
- These diagrams to include these particular to individual plant or apparatus and elsewhere applicable those applicable to system operation as a whole.

One reproducible copy of the Record Drawings of the contract works and Schematic diagrams shall be provided not later than one month afterwards. Notwithstanding the contractor's obligation referred above, if the contractor fails to produce to the PM's approval of the Record Drawings, within one month of partial or practical completion, the employer shall be at liberty to have these drawings produced by others. The cost of obtaining the necessary information shall be deducted from the out – standing payments due to the contractor.

### 1.11 TESTING

Both on completion of his/her work at the end of the guarantee period, the contractor shall carry out such tests as may be required in the presence of the PM or his/her representative, or the competent authority and shall provide all necessary instruments, labour and materials to do so. The contractor shall pay such charges related to such tests if any. The following tests, a minimum shall be done:

**General:** Testing of the entire cabling system as per ANSI/TIA/EIA-568B for Ethernet cables shall be performed prior to system hand over.

**Fibre Optic Testing:** Testing of Fibre Optic shall be as per IEEE 802.32 and ANSI/TIA/EIA-568B for 1000 Base-LC / 1000 Base-SC. Tenderers **MUST** enclose together with their submitted bids Brochures detailing technical literature and specifications of all active and passive devices. The brochures shall be used to evaluate the suitability of the devices for the proposed works. **ANY BID SUBMITTED WITHOUT THE BROCHURES SHALL BE CONSIDERED TECHNICALLY NON-RESPONSIVE AND SHALL SUBSEQUENTLY BE DISQUALIFIED.**

### 1.12 TRAINING

Training of at least six (6 No) system administrators and four (4 No) telephone operators shall be conducted by the contractor.

### 1.13 QUALITY OF MATERIALS

Materials and apparatus required for the complete installation as called for in the specifications or contract drawings shall be supplied by the contractor unless specified otherwise. Unless otherwise specified, all materials (including equipment, fittings, cables) shall be new, of the best quality and approved origin.

#### **1.14 WARRANTY**

The cabling installation shall carry a **warranty of at least 15 years** and the contractor shall issue the PM with a certificate from the cable manufacturer upon completion. The cost of the certification if any shall have been included in the prices. It has to be specified in both technical and financial proposals the duration the issuance of the certificate will take after completion and commissioning of the installation. **This shall include a manufacturer's authorization to provide support and product warranty.**

#### **1.15 EQUIPMENT GUARANTEE**

The contractor shall undertake in writing to rectify free of charge, all faults arising from faulty components, materials, design or workmanship by the manufacturer or contractor whichever is applicable. **This liability shall be for a minimum period of one calendar year from the date of acceptance of the equipment.** Twelve months limitation notwithstanding the period of liability shall not end until all defects which appear during the liability period have been rectified.

#### **1.16 PATENT RIGHTS**

The contractor shall fully indemnify the Government of Kenya against any action, claim or proceeding relating to infringement of any patent or design rights and shall pay any royalties which may be payable in respect of any article or any part thereof which shall have been supplied by the contractor to the PM and in like manner the Government of Kenya shall fully indemnify the contractor against any such action, claim or proceeding for infringement or alleged infringement under the works, the design thereof which shall have been supplied by the PM to the contractor, but this indemnity shall apply to the works only and any permission or request to manufacture to the order of the PM shall not relieve the contractor from liability should he/she manufacture for supply to other buyers.

#### **1.17 MINIMUM REQUIREMENTS**

This specification defines minimum requirements, but tenderers who offer superior facilities will be considered.

Any tender which does not comply with the minimum requirements will be rejected.

#### **1.18 EQUIPMENT FINISH**

The equipment finish shall be the responsibility of the contractor and shall be responsible for its protection during erection and in the course of making good to the building finishes after equipment erection.

#### **1.19 INTERFERENCE SUPPRESSION**

The equipment and all its accessories shall be suppressed so as not to interfere with any communications, radio, TV, security or electro-medical equipment, recording or computer systems.

#### **1.20 SERVER ROOM KEYS**

The contractor shall keep the server room locked at all times when his / her staff are not present and shall at the conclusion of the contract hand over all keys to the PM.

#### **LEGEND**

- **ANSI** - American National Standards Institute.
- **TIA** - Telecommunication Industry association.
- **EIA** - Electronic Industries Association.
- **ISO** - International Standards Association.
- **IEC** - International Electro – technical Committee.
- **NICs** - Network Interface Cards.
- **GBIC** - Giga Bit Interface Converter.
- **QOS** - Quality of Service.
- **PM** - Project Manger.
- **DTU** - Data Terminal Unit.

## **PART 2: PARTICULARS AND TECHNICAL SPECIFICATIONS**

### **PART 2A : STRUCTURED CABLING NETWORK.**

#### **1.01. REGULATIONS GOVERNING STRUCTURED CABLING.**

Materials, products and installations must comply to the mandatory provisions of all applicable industrial standards. The contractor shall in the execution and completion of the works in the detailed design for which he/she is responsible comply with the provisions of the following as necessary and relevant:

- (i) Communication Commission of Kenya (CCK).
- (ii) Energy Regulatory Commission (ERC).
- (iii) The current edition of the "Regulations for the electric Equipment of buildings" issued by the Institution of Electrical Engineers.
- (iv) The requirements of the Chief inspector of Factories for the Kenya Government.
- (v) Kenya Bureau of Standards (KEBS) standard specifications and codes of practice or other equal and approved standard specifications and codes.
- (vi) The bye laws of the Local Authority.
- (vii) Any other regulations applicable to Electric and Electronic Installations or Communications systems in Kenya.
- (viii) The employer's safety regulations.
- (ix) ANSI / TIA / EIA-568-B.1 – Commercial Building Telecommunications Cabling standard.
- (x) Part 1: General requirements.
- (xi) ANSI / TIA / EIA-568-B.2 – Commercial Building Telecommunication Cabling standard.
- (xii) Part 2: Balanced twisted pair cabling component.
- (xiii) ANSI / TIA / EIA-568-B.3 – Optical Fibre cabling components standard.
- (xiv) ANSI / TIA / EIA-569-A – Commercial building standard for telecommunications pathways and spaces.
- (xv) ANSI / TIA / EIA-607 (A) – Commercial building grounding and bonding requirements for telecommunications

#### **1.02 STRUCTURED CABLING NETWORK.**

Shall be an infrastructure for CCTV:

- (a) All cables must pass through conduits or trunkings.
- (b) All cables and connectors shall be permanently labelled.
- (c) No distortion due to kinks, sharp bends or excessive hauling tension shall be allowed.
- (d) Cables shall be run in a manner eliminating any possibility of strain on the cable itself or on the terminations and shall have no joints or splices.
- (e) Cables shall be kept at a minimum distance of 150mm from items liable to become hot or cold.
- (f) Bending radii shall be not less than eight times the overall cable diameter.
- (g) The manufacturers hauling tension shall not be exceeded and all cable ties and fixings shall be tightened to support the cable loom without distortion of the cable sheath.
- (h) The fibre optic cable shall be multi-mode optimal speed and with graded index and of nominal size 62.5/125, 50/125 micron or single mode optimal speed with nominal size of 9.0 micron and Fibre optic cable shall have a core / cladding diameter of nominal 850nm and 1300 nm optical wavelength.
- (i) The optical cable shall be of appropriate core with each core terminated on both ends.

The enhanced UTP (twisted pair copper 4 pair cable) shall be of CAT 6 grade and exceed ANSI/TIA/EIA-568-Aj and ISO/IEC 1100 standards. The cable wire gauge will be at least 22 swg.

### **1.03 METAL TRUNKING**

All metal trunking used shall be spray painted to approval and shall be fabricated from mild steel not less than 18 swg and have three compartments.

### **1.04 PATCH PANELS.**

- 1) Shall conform to ANSI / TIA / EIA-568A and be rack mounted.
- 2) Shall be equipped with RJ45 contacts of UTP with maximum ohms sockets with capacity of 8, 12, 24 or 48 ports.
- 3) Shall be earthed.
- 4) Fibre optic patch panels shall be configured to the number of strands / cores terminated at each location. Fibre optic patching shall be done from the cabinet housing optic boxes / panels as well as the optic electronic equipment.
- 5) Fibre optic patch panel shall have a sliding tray.
- 6) Except for patch cords used to connect NICs to the RJ45 sockets, all patch cords shall be labelled at each extremity with PVC support and intelligible marking. For other components the label shall be of stiff plastic PVC type.

### **1.05 NETWORK CONTROL EQUIPMENT**

- 1) Active devices used at the LAN edge shall have 8, 12, 24 or 48 ports for connection to the horizontal cabling.
- 2) Active devices shall be rack mounted.
- 3) Active devices for horizontal cabling shall support auto sensing 10/100/1000 mbps.
- 4) Active devices used at aggregation / transport layer of LAN shall support IP routing.
- 5) Active devices used at the LAN edge must be stackable and shall attach to the backbone cabling at 1000 mbps through fibre.
- 6) Where more than one active device is required to satisfactorily the floor data outlet distribution requirements they shall be stacked using interface operating at the backbone speed.

### **1.06 EQUIPMENT CABINETS**

- 1) The main cabinet shall be of appropriate size.
- 2) All cabinets for active devices shall conform to ANSI/TIA/EIA – 568B and ANSI/TIA/EIA-569A specifications with forced cooling.
- 3) Cabinets shall have adequate room for additional components typically 3U free space.
- 4) Power to the cabinets shall be switched off from within the cabinets. Proper power socket cables to be supplied with the cabinets.
- 5) All cabinets to conform to ANSI/TIA/EIA-568B, ANSI/TIA/EIA-569A with forced cooling and their location shall be determined on site.
- 6) Support for small factor pluggable (SFP) and industry leading density up to 240 of IEEE 8033 for 1000 Base-SX ports per system.

### **1.07 ETHERNET EDGE SWITCHES**

- 1) Each floor edge switch connecting to the backbone must include at least two ports of 1000 Base X Gigabit Ethernet with GIC support, QOS, Multiple queues with weighted round robin (WRR) scheduling and layer 3 switching and routing of IP, IPX and IP multicast traffic.
- 2) Each switch in the set up should give 10/100 mbps to the desktop.

There should be adequate switches to cater for the total number of network edge outlet points.

1. The switches connecting as a backbone shall have additional 10000 Base X port that shall be connected as a backup and shall be configured for automatic load balancing.
2. The switches shall be capable of supporting a redundant power supply and a CPU.
3. The network switches shall be:
  - a. **CCTV switches:** 24 port managed Gigabit Ethernet switch with 10/100/1000 MBPS PoE+ (at last 800W) and Ethernet LAN base feature set as **Cisco Catalyst 9200** series complete with SFP Ethernet ports and all necessary accessories or approved equivalent of same quality and capacity or better.

### **1.09 UNINTERRUPTIBLE POWER SUPPLY (UPS)**

This shall be an on-line Un-interruptible power supply with output rating of 3KVA of 240 vac, 50 Hz single phase supply. They shall provide power to the security surveillance system.

They shall be microprocessor based so that both output voltage and frequency are closely regulated and continuously monitored and also provide system diagnostic and shut down protection functions.

They shall feature a maintenance by-pass to enable normal routine maintenance operations to be performed without interruptions to the system and shall be fitted with both visual and audible alarms to indicate any change in equipment status such as:

Input power problems / faults, UPS faults, UPS overloaded, Battery discharging.

#### **Other features / parameters are:**

Input supply -----	240 vac, 50 Hz.
Power factor -----	0.8 lagging at full load.
Current limit -----	125% of the normal.
Output voltage -----	240 vac, 50Hz.
Output voltage tolerance -----	2%.
Output frequency tolerance -----	005%.
Run time -----	10 minutes.

The un-interruptible power supply shall be APC 1.5 / 3 / 5 / 10KVA single phase UPS, rack mountable, 240 /415 vac, 50Hz, manual bypass switch complete with all accessories or approved equivalent.

## **PART 2C : CCTV SURVEILLANCE SYSTEM**

### **1.01 CCTV SYSTEM GUIDELINES**

1. The CCTV surveillance system is required to ensure effective surveillance of an area as well as create a tamperproof record for post event analysis. The system shall provide an online display of video images on LED monitors / video wall / large plasma monitors located in central as well as local control rooms.
2. System should facilitate viewing of live and recorded images and controlling of all cameras by the authorized users present in the LAN.
3. System should provide inter – operability of hardware, OS, software, networking, printing, database connectivity, reporting, and communication protocols. System expansion should be possible through off-the- shelf available hardware.

**a. CCTV SYSTEM REQUIREMENTS.**

Proposed CCTV system shall be an open standard based integrated system with IP network centric functional and management architecture aimed at providing high speed manual / automatic operation for best performance.

1. System shall use Video signals from various types of indoor / outdoor CCD/CMOS colour cameras installed at different locations, process them for viewing on work stations / monitors at central control room / local control rooms and simultaneously record all the cameras after compression using H.264 / MPEG 4 or better standard. Joystick or mouse keyboard controllers shall be used for Pan, Tilt, Zoom and other functions of desired cameras.
2. System shall have a combination of digital CCD/CMOS colour video cameras with individual IP address, network video recorders (NVR / camera server), application software, colour video monitors, mouse keyboard, software based video matrix switcher, work station for system administration / management / maintenance etc...
3. The NVR / camera server can be embedded type or server based. However, the NVR / camera server software shall run on common off-the-shelf available servers (camera server and data base server).
4. NVR shall offer both video and stream management and video stream storage management. Recording frame rate and resolution in respect of individual channel shall be programmable.
5. System should ensure once recorded, the video cannot be altered; ensuring the audit trail is intact for evidential purposes.
6. System shall provide **sufficient storage of all the camera recordings for a period of 30 days or more at 25 fps, at 4 CIF** or better quality using necessary compression techniques for all cameras (extended capacity of cameras i.e present capacity +25%).
7. System shall use a combination of IP enabled cameras and analog CCD cameras with external encoder. The video shall be compressed using H.264/MPEG-4 or better standard and streamed over the IP network.
8. The recording resolution and frame rate for each camera shall be user programmable.
9. The area under surveillance shall be monitored and controlled from central / local control room(s) through workstations.
10. Surveillance CCTV system shall operate on 240 vac, 50 Hz single phase power supply. Power for all the equipment will be conditioned using on-line UPS with minimum 30 minutes or more back up. If any equipment operates on any voltage other than the supply voltage and supply frequency, necessary conversion / correction device for supply shall be supplied along with the equipment.
11. All the control equipment e.g servers, NVR / Camera server etc... shall be provided in standard racks.

**1.01 CAMERA CCTV REQUIREMENTS.**

1. **Camera with external encoder or IP camera shall be used for image capture.**
2. **Indoor cameras shall be either with fixed focal length lens or with Pan/Tilt and zoom lens as per site requirement. All outdoor cameras shall be day/night type.**
3. **Housing of cameras meant for indoor use shall be of IP42 rating whereas outdoor camera housing shall be of IP66 or better rating. They must be integrated by the camera manufacturer.**

**FIRE DETECTION AND ALARM SYSTEM ENGINEERING SPECIFICATION**  
**INTELLIGENT REPORTING FIRE DETECTION SYSTEM**

**PART 1          GENERAL**

**1.1. DESCRIPTION:**

- A. This section of the specification includes the furnishing, installation, connection and testing of the microprocessor controlled, intelligent reporting fire alarm equipment required to form a complete, operative, coordinated system. It shall include, but not be limited to, alarm initiating devices, alarm notification appliances, Fire Alarm Control Panel (FACP), auxiliary control devices, annunciators, and wiring as shown on the drawings and specified herein.
- B. The fire alarm system shall comply with requirements of **NFPA Standard 72** for Protected Premises Signaling Systems except as modified and supplemented by this specification. The system shall be electrically supervised and monitor the integrity of all conductors.
- C. The fire alarm system shall be manufactured by an **ISO 9001** certified company and meet the requirements of **BS EN9001: ANSI/ASQC Q9001-1994**.
- D. The **FACP** and peripheral devices shall be manufactured 100% by a single manufacturer.
- E. The system and its components shall be Underwriters Laboratories, Inc. listed under the appropriate UL testing standard as listed herein for fire alarm applications and the installation shall be in compliance with the UL listing.
- F. The installing company shall employ NICET (minimum Level II Fire Alarm Technology) technicians on site to guide the final checkout and to ensure the systems integrity.

**1.2. SCOPE:**

- A. A collection of NOTIFIER ONYX Series Fire Alarm Control Panels, Network Control Annunciators (NCA), Network Web Server (NWS), Embedded Gateway, BAC net Gateway, Modbus Gateway, Digital Voice Command (DVC) and a computer based Colour Graphic User Interface (ONYX Works) shall interface together creating a high speed network system.
- B. The Network shall be a true peer-to-peer communications architecture. Each node stores its own program and communicates equally with all other nodes.
- C. The Network shall be an IP based Ethernet architecture suitable for long range use on fibre optic media or wire media using VDSL technology.
- D. The Network Control Annunciator and ONYX Works Workstation shall be capable of displaying and controlling all Fire Alarm Control Panels on the network.

**1.3. SUBMITTALS    A. General:**

- 1. Two copies of all submittals shall be submitted to the Architect/Engineer for review.
- 2. All references to manufacturer's model numbers and other pertinent information herein is intended to establish minimum standards of performance, function and quality. Equivalent compatible UL-listed equipment from other manufacturers may be substituted for the specified equipment as long as the minimum standards are met. For equipment other than that specified, the contractor shall supply proof that such substitute equipment equals or exceeds the features, functions, performance, and quality of the specified equipment.

**A. Shop Drawings:**

- 1. Sufficient information, clearly presented, shall be included to determine compliance with drawings and specifications.
- 2. Include manufacturer's name(s), model numbers, ratings, power requirements, equipment layout, device arrangement, complete wiring point-to-point diagrams, and conduit layouts.
- 3. Show annunciator layout, configurations, and terminations.

#### **B. Shop Drawings:**

4. Sufficient information, clearly presented, shall be included to determine compliance with drawings and specifications.
5. Include manufacturer's name(s), model numbers, ratings, power requirements, equipment layout, device arrangement, complete wiring point-to-point diagrams, and conduit layouts.
6. Show annunciator layout, configurations, and terminations.

#### **C. Manuals:**

1. Submit simultaneously with the shop drawings, complete operating and maintenance manuals listing the manufacturer's name(s), including technical data sheets.
2. Wiring diagrams shall indicate internal wiring for each device and the interconnections between the items of equipment and Provide a clear and concise description of operation that gives, in detail, the information required to properly operate the equipment and system.

#### **4. Software Modifications**

1. Provide the services of a factory trained and authorized technician to perform all system software modifications, upgrades or changes. Response time of the technician to the site shall not exceed 4 hours. **NB : Provide all hardware, software, programming tools and documentation necessary to modify the fire alarm system on site. Modification includes**
2. Addition and deletion of devices, circuits, zones and changes to system operation and custom label changes for devices or zones. The system structure and software shall place no limit on the type or extent of software modifications on-site.

#### **5. Certifications:**

1. Together with the shop drawing submittal, submit a certification from the major equipment manufacturer indicating that the proposed supervisor of the installation and the proposed performer of contract maintenance is an authorized representative of the major equipment manufacturer. Include names and addresses in the certification.

#### **1.4. GUARRANTY:**

**A.** All work performed and all material and equipment furnished under this contract shall be free from defects and shall remain so for a period of at least one (1) year from the date of acceptance. The full cost of maintenance, labour and materials required to correct any defect during this one year period shall be included in the submittal bid.

#### **1.5. POST CONTRACT MAINTENANCE:**

**A.** Complete maintenance and repair service for the fire alarm system shall be available from a factory trained authorized representative of the manufacturer of the major equipment for a period of five (5) years after expiration of the guaranty. As part of the bid/proposal, include a quote for a maintenance contract to provide all maintenance, tests, and repairs described below. Include also a quote for unscheduled maintenance/repairs, including hourly rates for technicians trained on this equipment, and response travel costs for each year of the maintenance period. Submittals that do not identify all post contract maintenance costs will not be accepted. Rates and costs shall be valid for the period of five (5) years after expiration of the guaranty.

**B.** Maintenance and testing shall be on a semi annual basis or as required by the AHJ. A preventive maintenance schedule shall be provided by the contractor describing the protocol for preventive maintenance. The schedule shall include:

1. Systematic examination, adjustment and cleaning of all detectors, manual fire alarm stations, control panels, power supplies, relays, water flow switches and all accessories of the fire alarm system.
2. Each circuit in the fire alarm system shall be tested semi annually.

3. Each smoke detector shall be tested in accordance with the requirements of NFPA 72 Chapter 7.

**1.6. POST CONTRACT EXPANSIONS:**

- A. shall have the ability to provide parts and labour to expand the system specified, if so requested, for a period of five (5) years from the date of acceptance.
- B. As part of the submittal, include a quotation for all parts and material, and all installation and test labour as needed to increase the number of intelligent or addressable devices by ten percent (10%). This quotation shall include intelligent smoke detectors, intelligent heat detectors, addressable manual stations, addressable monitor modules and addressable modules equal in number to one tenth of the number required to meet this specification (list actual quantity of each type).
- C. The quotation shall include installation, test labour, and labour to reprogram the system for this 10% expansion. If additional FACP hardware is required, include the material and labour necessary to install this hardware.
- D. Do not include cost of conduit or wire or the cost to install conduit or wire except for labour to make final connections at the FACP and at each intelligent addressable device. Do not include the cost of conventional peripherals or the cost of initiating devices or notification appliances connected to the addressable monitor/control modules.
- E. Submittals that do not include this estimate of post contract expansion cost will not be accepted.

**1.7. APPLICABLE STANDARDS AND SPECIFICATIONS:**

The specifications and standards listed below form a part of this specification. The system shall fully comply with the latest issue of these standards, if applicable.

- A. Underwriters Laboratories Inc. (UL)
  - No. 268 Smoke Detectors for Fire Protective Signalling Systems
  - No. 864 Control Units for Fire Protective Signalling Systems
  - No. 268A Smoke Detectors for Duct Applications
  - No. 521 Heat Detectors for Fire Protective Signalling Systems
  - No. 464 Audible Signalling Appliances
  - No. 38 Manually Actuated Signalling Boxes
  - No. 346 Water flow Indicators for Fire Protective Signalling Systems
  - No. 1076 Control Units for Burglar Alarm Proprietary Protective Signalling Systems
  - No. 1971 Visual Notification Appliances
  - No. 2017 General-Purpose Signalling Device and Systems

- A. Local and State Building Codes.
- B. All requirements of the Authority Having Jurisdiction (AHJ).
- C. The Video Display Terminal (VDT) shall comply with Swedish magnetic emission and X-radiation guidelines MPR 1990:10.

**1.8. APPROVALS:**

- A. The fire alarm control panel shall meet UL Standard 864 (Control Units) and UL Standard 1076 (Proprietary Burglar Alarm Systems).

## **PART 2.0 PRODUCTS**

### **2.1. EQUIPMENT AND MATERIAL, GENERAL:**

- A.** All equipment and components shall be new, and the manufacturer's current model. The materials, appliances, equipment and devices shall be tested and listed by a nationally recognized approvals agency for use as part of a protective signalling system, meeting the National Fire Alarm Code.
- B.** All equipment and components shall be installed in strict compliance with manufacturers' recommendations. Consult the manufacturer's installation manuals for all wiring diagrams, schematics, physical equipment sizes, etc., before beginning system installation.
- C.** All equipment shall be attached to walls and ceiling/floor assemblies and shall be held firmly in place (e.g., detectors shall not be supported solely by suspended ceilings). Fasteners and supports shall be adequate to support the required load.

### **2.2. CONDUIT AND WIRE:**

#### **A. Conduit:**

- 1. Conduit shall be in accordance with The National Electrical Code (NEC), local and state requirements.
- 2. Where required, all wiring shall be installed in conduit or raceway. Conduit fill shall not exceed 40 percent of interior cross sectional area where three or more cables are contained within a single conduit.
- 3. Cable must be separated from any open conductors of power, or Class 1 circuits, and shall not be placed in any conduit, junction box or raceway containing these conductors, per NEC Article 760-55.
- 4. Wiring for 24 volt DC control, alarm notification, emergency communication and similar power-limited auxiliary functions may be run in the same conduit as initiating and signaling line circuits. All circuits shall be provided with transient suppression devices and the system shall be designed to permit simultaneous operation of all circuits without interference or loss of signals.
- 5. Conduit shall not enter the fire alarm control panel, or any other remotely mounted control panel equipment or back boxes, except where conduit entry is specified by the FACP manufacturer.
- 6. Conduit shall be 3/4-inch (19.1 mm) minimum.

#### **B. Wire:**

- 1. All fire alarm system wiring shall be new.
- 2. Wiring shall be in accordance with local, state and national codes (e.g., NEC Article 760) and as recommended by the manufacturer of the fire alarm system. Number and size of conductors shall be as recommended by the fire alarm system manufacturer, but not less than 18 AWG (1.02 mm).
- 3. All wire and cable shall be listed and/or approved by a recognized testing agency for use with a protective signalling system.
- 4. Wire and cable not installed in conduit shall have a fire resistance rating suitable for the installation as indicated in NFPA 70 (e.g., FPLR).
- 5. All field wiring shall be electrically supervised for open circuit and ground fault.

#### **C. Terminal Boxes, Junction Boxes and Cabinets:** All boxes and cabinets shall be UL listed for their use and purpose.

- D.** The fire alarm control panel shall be connected to a separate dedicated branch circuit, maximum 20 amperes. This circuit shall be labelled at the main power distribution panel as FIRE ALARM. Fire alarm control panel primary power wiring shall be **12 AWG**. The control panel cabinet shall be grounded securely to either a cold water pipe or grounding rod.

**Network Node: High Speed Network Communication.** The high speed network (HS-NCM) architecture shall be based on a Local Area Network (LAN), a firmware package that utilizes a peer-to-peer, inherently regenerative communication format and protocol. The network shall use a deterministic token-passing method. Collision detection and recovery type protocols are not acceptable substitutes due to life safety requirements. In addition, there shall be no master, polling computer, central file computer, display controller or other central element (weak link) in the network which, on failure, may cause complete loss of network. **communications or cause major degradation of network capability**

There shall be no cascading of CPUs or master/slave relationships at the network level to facilitate network communications. Failure of any node shall not cause failure or communication degradation of any other node or change the network communication protocol among surviving nodes located within distance limitations. Each node/panel shall communicate on the network at a baud rate of not less than 3Mbps on wire or 100Mbps on fibre. A node may be an intelligent ONYX Series Fire Alarm Control Panel (FACP), ONYX Works Workstation (ONYX Works), Embedded Gateway, Network Control Annunciator (NCA), BAC net Gateway, Modbus Gateway, Digital Voice Command Centre (DVC) or Network Web Server (NWS).

1. The network shall provide communications for single channel digital voice and telephone as well as panel to panel communications on the same network media (wire and/or fibre)
2. The network shall be capable of expansion to at least 200 nodes.
3. Each HS-NCM shall have the capability of communicating with two node addresses simultaneously.
4. The HS-NCM shall provide a connection point for network upload/download of panel application software and panel database configurations while nodes on the network are in service.
5. Network upload/download shall support broadcast and point to point operation. Each network node address shall be capable of storing Event equations. The event equations shall be used to activate outputs on one network node from inputs on other network nodes.
6. There shall be no cascading of CPUs or master/slave relationships at the network level to facilitate network communications. Failure of any node shall not cause failure or communication degradation of any other node or change the network communication protocol among surviving nodes located within distance limitations. Each node/panel shall communicate on the network at a baud rate of not less than 3Mbps on wire or 100Mbps on fibre. A node may be an intelligent ONYX Series Fire Alarm Control Panel (FACP), ONYX Works Workstation (ONYX Works), Embedded Gateway, Network Control Annunciator (NCA), BAC net Gateway, Modbus Gateway, Digital Voice Command Centre (DVC) or Network Web Server (NWS).
7. The network shall provide communications for single channel digital voice and telephone as well as panel to panel communications on the same network media (wire and/or fibre)
8. The network shall be capable of expansion to at least 200 nodes.
9. Each HS-NCM shall have the capability of communicating with two node addresses simultaneously.
10. The HS-NCM shall provide a connection point for network upload/download of panel application software and panel database configurations while nodes on the network are in service.
11. Network upload/download shall support broadcast and point to point operation.

Each network node address shall be capable of storing Event equations. The event equations shall be used to activate outputs on one network node from inputs on other network nodes.

1. The Network shall utilize an IP based Ethernet technology adapted for long range use on wire media using VDSL technology.
2. The Network shall be compatible with multimode and single mode fiber optic media without the use of external converters.
3. The Network shall be fully capable of Style 7 operation.
4. The network shall be capable of communicating via wire (14-18AWG) or fiber optic medium. A wire network shall include a fail-safe means of isolating the nodes in the unlikely event of complete power loss to a node.
5. The high speed (HS-NCM) shall function as a network repeater to increase the twisted-pair distance capability in 3,000 ft. increments. As an option, a HS-NCM shall be available for fiber optics that increases the fiber optic distance in dB increments stated in section 2.3.A.13. A mix (hybrid) fiber/wire network HS-NCM's shall also be supported. Systems that have distance limitations, and have no available means to regenerate signals are not suitable substitutes.
6. Fiber Optic Network Communication: The network shall support fiber optics with the following specifications:
  - a. Size = 62.5 micrometers / 125 micrometers Type=Multimode, Dual fiber, Plenum rated Distance=maximum 10 dB total attenuation between network nodes Connector type=ST or
  - b. Size =50.0 micrometers / 125 micrometers Type=Multimode, Dual fiber, Plenum rated Distance=maximum 6.5 dB total attenuation between network nodes Connector type=ST o
  - c. Size =9.0 micrometers / 125 micrometers Type=Single-mode, Dual fiber, Plenum rated Distance=maximum 30 dB total attenuation between network nodes Connector type=LC

## **B. Network Control Annunciator**

1. A network control annunciator shall be provided to display all system intelligent points. The NCA shall be capable of displaying information for all events on a fully utilized network, at least 300,000 points. The network display devices, which are only capable of displaying a subset of network points, shall not be suitable substitutes.
2. The NCA shall include a minimum of 640 characters, backlit by a long life, solid state LCD display. It shall also include a full QWERTY style keypad with tactile feel. Additionally, the network display shall include ten soft-keys for screen navigation and the ability to scroll events by type (i.e. Fire Alarm, Supervisory Alarm, Trouble, etc).
3. The network control annunciator shall have the ability to display up to eight events in order of priority and time of occurrence. Counters shall be provided to indicate the total number of events by type. The NCA shall mount in any of the network node fire alarm control panels. Optionally, the network display may mount in a back box designed for this use. The network shall support a minimum of 200 network control annunciators (not to exceed total node capacity) and shall connect to the network over either a wire or fibre interface.

The network control annunciator shall have an event history buffer capable of storing a minimum of 1000 events in non-volatile memory. Additionally, the NCA shall have a fire alarm history buffer capable of storing a minimum of 200 events in non-volatile memory. Systems that do not protect fire alarm events from being overwritten by other events are not suitable substitutes.

1. The NCA shall include two optically isolated, 9600 baud, industry standard EIA-232 ports for UL864 listed printers and CRT's. These peripheral devices shall print or display network activity.
2. The network control annunciator shall include control switches for system wide control of Acknowledge, Signal Silence, System Reset, Drill, and local Lamp Test. A mechanical means by which the controls switches are "locked out", such as a key, shall be available.
3. The NCA shall include long life LEDs to display Power, Fire Alarm, Pre Alarm, Security Alarm, System Trouble, Supervisory, Signals Silenced, Disabled Points, Other (non-fire) Events, and CPU Failure.
4. The network control annunciator shall include a Master password and up to nine User passwords. Each password shall be up to eight alpha-numeric characters in length. The Master password shall be authorized to access the programming and alter status menus. Each User password may have different levels of authorization assigned by the Master password.
5. The NCA shall allow editing of labels for all points within the network; control on/off of outputs; enable/disable of all network points; alter detector sensitivity; clear detector verification counters for any analogue addressable detector within the network; clear any history log within the network; change the Time/Date settings; initiate a Walk Test.
6. The network control annunciator shall support an optional Windows® based program utility. This utility shall allow the user create an NCA database, upload/download an NCA database, and download an upgrade to the NCA executive. To ensure program validity, this utility shall check stored databases for errors. A compare function shall be included to identify differences between databases.
7. For time keeping purposes the NCA shall include a time of day clock.
8. Each NCA shall support up to 32 additional 80 character remote display annunciators for displaying network activity. These "Terminal Mode" displays will mimic the activity appearing on the corresponding NCA.

### **C. ONYX Works Workstation**

1. The ONYX Works workstation shall utilize a Microsoft® operating system. Each workstation shall be capable of graphically annunciating and controlling all network activity. Network display devices that are only capable of displaying a subset of network points shall not be suitable substitutes.
2. The ONYX Works workstation shall be an industrial grade computer with the following minimum requirements: Intel® Dual Core processor, operating at a minimum of 2.16 GHz, 3.2 GB of RAM, 64 MB Video RAM, two 160 GB hard disks, mouse, DVD-ROM/CD-RW, 3PCI / 1 ISA expansion slots, sound card, 300 watt power supply, and SVGA graphics with a screen resolution of 1024 x 768. The ONYX Works workstation shall include a 19inch wide-screen LCD monitor.

The ONYX Works workstation shall be capable of storing over 100,000 network events in a history file. Events shall be stored on hard disk and shall be capable of back-up storage to a tape drive. The history buffer allows the operator to view events in a chronological order. A filter shall be available for displaying chronological events by operator, date, time, fire alarms, troubles (including security, supervisory and system/device), disabled points/zones, system programming, operator response and operator log in/log out. The ability to print history files shall also be available.

1. The ONYX Works workstation shall use a Windows® dialog box technology to address, interrogate, control, and/or modify intelligent points on each fire alarm node. This shall include, and not be limited to: Activating outputs, enabling or disabling points, adding or removing intelligent points, viewing intelligent detector sensitivity levels and modifying point information (custom messages, detector type, verification, day/night selection etc...).
2. The ONYX Works workstation shall include the ability to display system information in a graphical (floor plan) format. Each view, created using standard Windows® bitmap files, shall include icons created for intelligent devices. These icons shall blink and change to the appropriate programmed icon when an event occurs. When the device has been acknowledged, the icon shall become steady. Once the point has returned to normal, the normal icon is displayed. In addition to the graphical representation of the device, the user shall be able to link pictures, documents, and sound files to the device. The ONYX Works workstation shall also provide the ability to auto-vector to the floor plan (screen) of the device that is active. By selecting a device in the graphic presentation, the operator of the ONYXWORKS shall have the ability to log onto the corresponding node and interrogate the associated intelligent point.
3. The ONYX Works workstation shall use a Windows® dialog box technology to address, interrogate, control, and/or modify intelligent points on each fire alarm node. This shall include, and not be limited to: Activating outputs, enabling or disabling points, adding or removing intelligent points, viewing intelligent detector sensitivity levels and modifying point information (custom messages, detector type, verification, day/night selection etc...).
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5. The ONYX Works workstation shall have the ability to provide the following information through a Windows® pull down menu: An Event Counter that contains the number of new and total events on the network. The information that is displayed shall consist of Fire Alarms, Pre-Alarms, Security Alarms, Supervisory Alarms, and Troubles. Detailed Event window that contains all Off-Normal events, both unacknowledged and acknowledged that are present in the system.
6. The ONYX Works workstation shall have the option, from a Windows® pull down menu, to connect to a third party paging service that allows the ONYX Works workstation to automatically send text-based messages regarding system status to a typical text pager.
7. The ONYX Works workstation shall be UL-Listed for fire protection (UL864) and burglary (UL1076).

8. The ONYX Works workstation shall meet FCC regulations (Part 15, subpart J) regardless of its connection means to the network.
9. The ONYX Works workstation shall have a flexible way of assigning operator passwords. There shall be an unlimited number of possible operators, each with specific levels of control. Each operator shall have his/her own password. Operator password and control selection shall be available to a high level "administrator" who shall have complete control over levels of control.
10. The ONYX Works workstation shall include an industry-standard EIA-232 port for a UL864 listed printer.

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6. The ONYX Works workstation shall include an industry-standard EIA-232 port for a UL864 listed printer.

#### **D. NOTI-FIRE-NET Web Server**

1. The NOTI-FIRE-NET Web Server shall utilize a Microsoft® CE operating system. A fire alarm network web server shall be provided to remotely display off-normal conditions for all system intelligent points.
2. The web interface shall allow access to fire alarm control panel event history, event status, and device properties using Microsoft® Internet Explorer.
3. Event counters shall be provided to indicate the total number of events by event type.
4. Email notification of off-normal conditions, configurable by event type, shall be supported.
5. The NWS shall have a web interface that is accessible through the Internet or an Intranet.
6. A standard CAT-5 Ethernet connection to a local area network shall be supported.
7. The NWS shall support operator and administrator accounts and password. The administrator password shall be authorized to access the programming and configuration of the NWS.
8. Multiple users shall be able to access the NWS simultaneously.
9. The NWS shall mount in any of the network node fire alarm control panels.
10. The NWS shall have a UL ancillary listing for fire protection (UL864) as a minimum.
11. A standard CAT-5 Ethernet connection to a local area network shall be supported.
12. The NWS shall support operator and administrator accounts and password. The administrator password shall be authorized to access the programming and configuration of the NWS.

13. Multiple users shall be able to access the NWS simultaneously.
14. The NWS shall mount in any of the network node fire alarm control panels.
15. The NWS shall have a UL ancillary listing for fire protection (UL864) as a minimum.

#### **E. Embedded Gateway**

1. The Embedded Gateway shall utilize a Microsoft® CE operating system. The system shall provide an Embedded Gateway interface for remote connections of the Notifier Network containing the following panels via Ethernet (TCP/IP infrastructure): AFP-1010, AM2020, AFP-200, and the AFP-300/400 as well as ONYX® series control panels. The NFN Gateway and the Embedded Gateway will:
  - a. Serves as a bridge between an ONYX Works® Workstation and a NFN network, and it uses that Workstation as the primary reporting station for the NFN network
  - b. Translates a NFN network's panel and device data into data that can be interpreted by the ONYX Works® Workstation software application Monitors NFN networks using ARCNET network architecture.
2. This system shall also support up to 50 Embedded Gateways, which shall be connected via Ethernet. The network shall have the ability to use fibre optic cable (single-mode and multi-mode), wire (twisted pair copper media in a style 4 or style 7 configuration), or combination wire/fibre communications with support of up to 200 nodes on a High Speed Network.
  - a. Wire networks shall support 12 AWG, 1 Pair Shielded to 24 AWG, 4 Pair Unshielded following the manufacturer's guidelines.
  - b. Fibre optic networks shall support 62.5/125µm multimode cable 8dB limit, 50/125µm multimode cable 4.2dB limit and 9/125 µm single mode cable 30dB limit
  - c. Wire to fibre conversions using repeaters.
3. Data communications of 12 Mbps (wire) and 100 Mbps (fibre) on the High Speed Network.

#### **F. BAC net Gateway**

1. The BAC net Gateway shall utilize a Microsoft® CE operating system. The BAC net Gateway shall provide an interface between Notifier Fire Alarm Control Panels and clients using BAC net/IP communications protocol.
2. The clients will be required to subscribe to Event Notification objects per FACP and will receive device information as BAC net objects via the subscription.
3. The BAC net Gateway shall be compatible with the ONYX Series panels and the following NOTI-FIRE-NET devices:
  - a. NCA-2
  - b. DVC
  - c. ONYX Works
  - d. AFP-1010/AM2020 panels
4. The BAC net Gateway shall monitor a single ONYX FACP via the NUP port or monitor up to 14 nodes on the NOTI-FIRE-NET with a maximum combined object count of 15,000. Multiple BAC net Gateways can be used for networks with more than 15 nodes total.
5. The BAC net Gateway shall be PC programmable using the BAC net Gateway Configuration Tool on a compatible computer that is using Windows® XP Operating System.

#### **Modbus Gateway**

1. The Modbus Gateway shall utilize a Microsoft® CE operating system. The Modbus Gateway provides a communications link between networks that use the Modbus/TCP communications protocol and the Notifier FACP resident on an NFN network. The Modbus protocol will be consistent with Modbus Application Protocol Specification v1.1b.
2. The Modbus Gateway shall be compatible with the ONYX Series panels.
3. The Modbus Gateway shall monitor up to four compatible HS-NFN nodes and provide data such as event type, active/inactive, enabled/disabled, acknowledged/unacknowledged, device type, analog value (4-20mA module only) and system troubles.

4. The Modbus Gateway will support reads of up to 100 registers at a time for digital values and 10 registers reads at a time for analogue values.
5. The Modbus Gateway Configuration Tool, using a Windows® XP Operating System compatible computer, will be used to configure the Modbus Gateway.

### **PART 3.0 - EXECUTION**

#### **3.1. INSTALLATION:**

- A. Installation shall be in accordance with the NEC, NFPA 72, local and state codes, as shown on the drawings, and as recommended by the major equipment manufacturer.
- B. All conduit, junction boxes, conduit supports and hangers shall be concealed in finished areas and may be exposed in unfinished areas. Smoke detectors shall not be installed prior to the system programming and test period. If construction is ongoing during this period, measures shall be taken to protect smoke detectors from contamination and physical damage.
- C. All fire detection and alarm system devices, control panels and remote annunciators shall be flush mounted when located in finished areas and may be surface mounted when located in unfinished areas.
- D. Manual fire alarm boxes shall be suitable for surface mounting or semi-flush mounting as shown on the plans, and shall be installed not less than 42 inches (1067 mm), nor more than 48 inches (122 mm) above the finished floor.

#### **3.2. TEST:**

The service of a competent, factory-trained engineer or technician authorized by the manufacturer of the fire alarm equipment shall be provided to technically supervise and participate during all of the adjustments and tests for the system. All testing shall be in accordance with NFPA 72, Chapter 7.

- A. Before energizing the cables and wires, check for correct connections and test for short circuits, ground faults, continuity, and insulation.
- B. Close each sprinkler system flow valve and verify proper supervisory alarm at the FACP.
- C. Verify activation of all water flow switches.
- D. Open initiating device circuits and verify that the trouble signal actuates.
- E. Open and short signalling line circuits and verify that the trouble signal actuates.
- F. Open and short notification appliance circuits and verify that trouble signal actuates.
- G. Ground all circuits and verify response of trouble signals.
- H. Check presence and audibility of tone at all alarm notification devices.
- I. Check installation, supervision, and operation of all intelligent smoke detectors using the walk test.
- J. Each of the alarm conditions that the system is required to detect should be introduced on the system. Verify the proper receipt and the proper processing of the signal at the FACP and the correct activation of the control points.
- K. When the system is equipped with optional features, the manufacturer's manual shall be consulted to determine the proper testing procedures. This is intended to address such items as verifying controls performed by individually addressed or grouped devices, sensitivity monitoring, verification functionality and similar.

#### **FINAL INSPECTION:**

- A. At the final inspection, a factory-trained representative of the manufacturer of the major equipment shall demonstrate that the system functions properly in every respect.

#### **3.4. INSTRUCTION:**

- A. Instruction shall be provided as required for operating the system. Hands-on demonstrations of the operation of all system components and the entire system including program changes and functions shall be provided. The contractor and/or the systems manufacturer's representatives shall provide a typewritten "Sequence of Operation".

## **ELECTRICAL INSTALLATION WORKS**

### **PROPOSED WAREHOUSE RACKING SYSTEM STORAGE FOR ANTI – COUNTERFEIT AUTHORITY WAREHOUSE AT ATHI RIVER**

**SCHEDULE A - ELECTRICAL INSTALLATION WORKS (BILL No E1)**

**SCHEDULE B - ACCESS CONTROL (BILL No D1)**

**SCHEDULE C - FIRE ALARM SYSTEM (BILL No N1)**

**SCHEDULE D - VOICE AND DATA WORKS (BILL No G1)**

**SCHEDULE E - TELEPHONY**

**SCHEDULE F - CCTV NETWORK (BILL No J1)**

**PROPOSED ELECTRICAL AND DATA INSTALLATION WORKS**

**PROPOSED WAREHOUSE RACKING SYSTEM STORAGE FOR ANTI – COUNTERFEIT  
AUTHORITY WAREHOUSE AT ATHI RIVER**

**BILL NO. 1 - PRELIMINARY ITEMS**

ITEM No.	DESCRIPTION	AMOUNT
1	<p><i>[OPTIONAL]</i> The Contractor shall provide, or erect and maintain an approved lock-up office for the sole use of the Engineer and his own site staff. The office, which will have a total floor area of not less than..... m<sup>2</sup>, will be divided into two separate interconnected offices. Services to be provided shall include a telephone, water sanitary, electrical supply and drainage. The offices shall be supplied with furniture and equipment that shall include:</p> <p>Desk with chairs; large table with sufficient number of chairs; drawing table along the full length of one side with plan drawers and drawing stools: waste paper basket: sufficient number of pin boards: and any additional furniture and fittings as may reasonably be required during the Contract period. The Contractor shall provide the Architect and site staff with computer sets or laptops, printers and telephones all that are necessary for project use. The office furniture and equipment shall all be to the approval of the Engineer. The Contractor shall also provide all labour, equipment and consumable stores equipment throughout the currency of the contract.</p>	
2	<p><i>[OPTIONAL]</i> Contractor shall provide a house for Engineers site agent, which shall be one bedroomed temporary house with a sitting room, toilet, bathroom and a kitchen complete with electrical and sanitary installations and provide maintenance and paying of bills of water and electricity up to and including end of the contract period.</p>	
3	<p><i>[OPTIONAL]</i> Provide a signboard not less than_____square meters in size of a design type, and with lettering and colouring and in a position approved by the Engineer. The signboard shall be for the display of the Main Contractor's name and the names of all his Sub-Contractors, with the Procuring Entity's name painted thereon. All Consultants names be printed in letters not exceeding 50 mm high. No other signboard or advertising shall be allowed. The signboard shall be fully maintained during the Contract Period and shall be pulled down and removed at the end of the contract.</p>	
4	<p>Scope of contract works; The contractor shall supply, deliver, unload, hoist, fix, test, commission and hand-over in satisfactory working order the complete installations specified hereinafter and/or as shown on the Contract Drawings attached hereto, including the provision of labour, transport and plant for unloading material and storage, and handling into position and fixing, also the supply of ladders, scaffolding the other mechanical devices to plant, installation, painting, testing, setting to work, the removal from site from time to time of all superfluous material and rubbish caused by the works. The contractor shall supply all accessories, whether of items or equipment specified by the Builders Works Contractor but to be fixed and commissioned under this contract.</p>	
5	<p>Samples and materials generally: The contractor shall, when required, provide for approval at no extra cost, samples of all materials to be incorporated in the works. Such samples, when approved, shall be retained by the Engineer and shall form the standard for all such materials incorporated.</p>	

ITEM No.	DESCRIPTION	AMOUNT
6	<p><b>Identification of plant components:</b> The contractor shall supply and fix identification labels to all plant, starters, switches and items of control equipment including valves, with white traffolyte or equal labels engraved in red lettering denoting its name, function and section controlled. The labels shall be mounted on equipment and in the most convenient positions. Care shall be taken to ensure the labels can be read without difficulty. This requirement shall apply also to major components of items of control equipment. Details of the lettering of the labels and the method of mounting or supporting shall be forwarded to the Engineer for approval prior to manufacture.</p>	
7	<p><b>Contract Drawings:</b> The Contract Drawings when read in conjunction with the text of the Specification, have been completed in such detail as was considered necessary to enable competitive tenders to be obtained for the execution and completion of the Sub-contract works. The Contract Drawings are not intended to be Working Drawings and shall not be used unless exceptionally they are released for this purpose.</p>	
8	<p><b>Working Drawings:</b> The contractor shall prepare such Working Drawings. Three copies of all working drawings shall be submitted to the Engineer for approval. One copy of the working drawings submitted to the Engineer for approval shall be returned to the contractor indicating approval or amendment therein.</p>	
9	<p><b>Record Drawings</b> (As Installed) drawings During the execution of the Sub-contract Works the Sub-contractor shall, in a manner approved by the Engineer record on Working or other Drawings at site all information necessary for preparing Record Drawings of the installed Sub-contract Works. Marked-up Working or other Drawings and other documents shall be made available to the Engineer as he may require for inspection and checking.</p> <p>Record Drawings, may, subject to the approval of the Engineer, include approved Working Drawings adjusted as necessary and certified by the Sub-contractor as a correct record of the installation of the Sub-contract Works.</p>	
10	<p><b>Supervision by Engineer and Site Meetings:</b> - A competent Project Engineer appointed by the Engineer as his representative shall supervise the Contract works. The Project Engineer shall be responsible for issuing all the site instructions in any variations to the works and these shall be delivered through the Contractor with the authority of the Project Manager. Any instructions given verbal shall be confirmed in writing.</p> <p>The project engineer and (or) the Engineer shall attend management meetings arranged by the Project Manager and for which the Contractor or his representative shall also attend. For the purpose of supervising the project, provisional sums are provided to cover for transport and allowances. The Contractor shall in his tender allow for the provision of management meetings and site inspections, as instructed by the Engineer, and also profit and attendance on these funds. The funds shall be expended according to Project Manager's instructions to the contractor.</p>	

ITEM No.	DESCRIPTION	AMOUNT
11	<p><b><u>Maintenance Manual</u></b> Upon Practical Completion of the Sub-contract Works, the Sub-contractor shall furnish the Engineer four copies of a Maintenance Manual relating to the installation forming part of all of the Sub-contract Works.</p>	
12	<p><b><u>Testing and Inspection – Manufactured Plant</u></b> The Engineer reserves the right to inspect and test or witness of all manufactured plant equipment and materials.</p> <p>The right of the Engineer relating to the inspection, examination and testing of plant during manufacture shall be applicable to Insurance companies and inspection authorities so nominated by the Engineer.</p> <p>The contractor shall give two weeks’ notice to the Engineer of his intention to carry out any inspection or tests and the Engineer or his representative shall be entitled to witness such tests and inspections. Six copies of all test certificates and performance curves shall be submitted as soon as possible after the completion of such tests, to the Engineer for his approval.</p> <p>Plant or equipment which is shipped before the relevant test certificate has been approved by the Engineer shall be shipped at the contractor’s own risk and should the test certificate not be approved new tests may be ordered by the Engineer at the contractor’s expense.</p>	
13	<p><b><u>Testing and Inspection –Installation</u></b></p> <p>Allow for testing each section of the contract Works installation as described hereinafter to the satisfaction of the Engineer.</p>	
14	<p><b><u>Initial Maintenance</u></b> The contractor shall make routine maintenance once a month during the liability for the Defects Period and shall carry out all necessary adjustments and repairs, cleaning and oiling of moving parts. A monthly report of the inspection and any works done upon the installation shall be supplied to the Engineer. The contractor shall also provide a 24 -hour break-down service to attend to faults on or malfunctioning of the installation between the routine visits of inspection.</p> <p>The contractor shall allow in the contract Sum of the initial maintenance, inspection and break-down service and shall provide for all tools, instruments, plant and scaffolding and the transportation thereof, as required for the correct and full execution of these obligations and the provision, use or installation of all materials as oils, greases, sandpaper, etc., or parts which are periodically renewed such as brake linings etc., or parts which are faulty for any reason whatsoever excepting always Acts of God such as storm, tempest, flood, earthquake and civil revolt, acts of war and vandalism</p>	
15	<p><b><u>Protection</u></b> The contractor shall adequately cover up and protect his own work to prevent injury and also to cover up and protect from damage all parts of the building or premises where work is performed by him under the Contract.</p>	
16	<p><b>TOTAL CARRIED TO GRAND SUMMARY</b></p>	

## ELECTRICAL INSTALLATION WORKS

### SCHEDULE A BILL No E

#### ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent:</b>					
<b>1.00</b>	<b><u>DISCONNECTIONS AND REMOVAL WORKS</u></b>					
1.01	Carefully remove, store and arrange for handing over to client existing electrical cabling, lighting fittings and other accessories including provision of temporary power supply as shall be approved by Electrical Engineer.	<b>L.S</b>	<b>Item</b>			
<b>2.00</b>	<b>SUB MAINS WIRING / DISTRIBUTION CABLES</b>					
2.01	2.5 mm <sup>2</sup> CU/XLPE/SWA/PVC 2 core (ref.6944X) armoured power supply cable complete with accessories. <i>(high by lights )</i>	<b>M</b>	<b>500</b>			
<b>3.00</b>	<b>RAW POWER POINTS</b>					
3.01	Socket outlet point wired in 3 x 2.5 mm <sup>2</sup> PVC/SC CU Cables drawn in concealed 25 mm ∅ diameter HG PVC ring of Conduits/ metal clad trunking, c/w all accessories but excluding plates, <i>Twin</i>	<b>No</b>	<b>5</b>			
<b>4.00</b>	<b>SOCKET OUTLETS</b>					
4.01	13A, moulded ivory white switched UNIVERSAL socket outlet plates as MK or Crabtree : <i>Twin switched</i>	<b>No</b>	<b>5</b>			
<b>5.00</b>	20 amps DP ivory flash switch plates [as MK]	<b>No</b>	<b>2</b>			
<b>SUB TOTAL CARRIED FORWARD TO COLLECTION PAGE</b>						

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent: LIGHTING POINTS</b>					
6.00	Lighting point wired in 3x1.5 mm <sup>2</sup> PVC / SC CU Cables					
6.01	drawn in concealed 25 mm- Ø HG PVC Conduits / cable trays / trunkings c/w all accessories but excluding switches for:					
	a) One way switching	No	7			
	b) Two way switching	No	14			
7.00	<b>LIGHTING SWITCHES</b>					
7.01	10A, moulded ivory white flash switch plates as follows:					
	(a) One gang one way. [As MK]	No	3			
	(b) Two gang one way. [As MK]	No	2			
	(c) One gang Two way. [As MK]	No	2			
	(d) Two gang two way. [As MK]	No	2			
8.00	<b>LIGHTING FITTINGS</b>					
8.01	lighting fittings c/w all accessories:					
	a) Surface 36 watts twin batten water proof LED luminaire with clear prismatic diffusers as CAT No CO2100Z4K.	No	5			
	b) LED hipak wide optic high bay lights c/w mounting hook for up to 15 meters height [ As Cat HK25000ZRK].	No	12			
	c) Modular recessed circular washroom light (/14 watts 240vac fitting [As Linn] to approval	No	4			
9.00	<b>URINAL POWER POINTS</b>					
9.01	URINAL POWER point wired in 3 x 2.5 mm <sup>2</sup> PVC/SC CU Cables drawn in concealed 25 mm Ø diameter HG PVC ring of Conduits c/w all accessories	No	2			
<b>SUB TOTAL CARRIED FORWARD TO COLLECTION PAGE</b>						

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent:</b>					
<b>10.00</b>	<b>TRUNKING AND DUCTING</b>					
10.01	Lay Metal clad cable tray 150mm width complete with accessories for internal power / data cable reticulation.	M	50			
10.02	Lay HG/PVC flexible conduit of size 30mm Ø	M	30			
10.03	Rectangular skirting trunking type 'B' of dimensions 150 mm W x 50 mm D 2 compartment flush along all walls c/w accessories (Trunking to be powder coated and white in colour) complete with inside and outside corner bends, end covers, cover plates with outlet provisions for data/ voice and power points.	M	30			
<b>11.00</b>	<b>COOKER CONNECTION UNIT</b>					
11.01	Cooker outlet point wired in 3 x 4.0 mm <sup>2</sup> single core PVC Cables drawn in concealed 20 mm Ø heavy gauge ring of PVC Conduits, c/w all accessories.	No	1			
11.02	45 amps moulded 240 vac flash mounted ivory plate cooker outlets with all accessories :	No	1			
<b>12.00</b>	<b>EXIT SIGNAGE</b>					
12.01	Exit signage point wired in 3 x 1.5 mm <sup>2</sup> single core PVC Cables drawn in concealed 20 mm diameter heavy gauge PVC Conduits, complete with all accessories.	No	4			
12.02	2.2 – 5 watts ultra slim aluminium bodied LED 3 hour duration maintained and viewing distance up to 23 m fire exit signs	No	4			
12.03	600 x 600 emergency light s	No	4			
<b>13.00</b>	<b>ELECTRIC HAND DRIERS POINTS</b>					
13.01	Electric hand drier point wired in 3 x 2.5 mm <sup>2</sup> single core PVC Cables drawn in concealed 20 mm diameter heavy gauge PVC Conduits, c/w all accessories.	No	2			
<b>SUB TOTAL CARRIED FORWARD TO COLLECTION PAGE</b>						

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent:</b>					
<b>14.00</b>	<b>ELECTRIC EXTRACTOR FANS</b>					
14.01	Electric extractor fan point wired in 3 x 2.5 mm <sup>2</sup> ∅ single core PVC Cables drawn in concealed 20 mm diameter heavy gauge PVC Conduits, complete with all accessories.	<b>No</b>	<b>2</b>			
14.02	240 vac ceiling / window mounted extractor fans .	<b>No</b>	<b>2</b>			
<b>15.00</b>	<b>INTERNAL POWER DISTRIBUTION</b>					
15.01	Cable termination box as type No 2CVA 002 101 R1001.	<b>No</b>	<b>4</b>			
15.02	125 amps 12 way TPN wall mounted recessed and hinged flash cover distribution board complete with integral isolator and all other accessories except MCBs [as MEM]	<b>No</b>	<b>1</b>			
15.04	CE certified and marked DIN rail mounting, fast break time 2.3 – 2.5 mS, short circuit interrupt rating 6 / 10 KA MCBs c/w all accessories:					
	(a) 10 amps single pole [As MEM]	<b>No</b>	<b>4</b>			
	(b) 20 amps single pole [As MEM]	<b>No</b>	<b>4</b>			
	(c) 32 amps single pole [As MEM]	<b>No</b>	<b>5</b>			
<b>16.00</b>	<b>BONDING AND ELECTRICAL TESTS</b>					
16.01	Carry out equipotential bonding on all the installation and bond all metallic pipe work using earth bars.	<b>L.S</b>	<b>Item</b>			
16.02	Carry out all the electrical type tests on the electrical installation and ensure that the system complies fully with the I.E.E / Kenya Power & Lighting Co. Ltd Regulations	<b>L.S</b>	<b>Item</b>			
<b>17.00</b>	Contingency amount	<b>L.S</b>	<b>Item</b>			
<b>SUB TOTAL CARRIED FORWARD TO COLLECTION PAGE</b>						

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent:</b>					
<b>18.00</b>	<b>INDUSTRIAL SOCKETS / PLUGS / CONNECTORS</b>					
18.01	Industrial socket outlet point wired in 3 x 4.0 mm <sup>2</sup> single core PVC Cables drawn in concealed 20 mm diameter heavy gauge ring of PVC Conduits, c/w all accessories.	No	6			
18.02	240 vac 3 round pin 32 amps CAT: K9232YEL Industrial angled / straight panel surface water tight socket outlet wired, industrial plug CAT: K9032YEL pin configuration 3P+e c/w all accessories.	No	4			
18.03	240 vac 3 round pin 63 amps CAT: K9232YEL Industrial angled / straight panel surface water tight socket outlet wired, industrial plug CAT: K9032YEL pin configuration 3P+e c/w all accessories.	No	2			
<b>19.00</b>	<b>COMMANDO SAFETY SWITCH</b>					
19.01	PBT Mould case surface mounted TPN 4 pole IP66 240/415 vac 50/60 Hz, 32 amps operating current CAT: M4413 water proof, I.S.O metric conduit entries, direct action operating handle c/w earth lead adaptor.	No	6			
<b>20.00</b>	<b>MCCBs</b>					
20.01	160 amps 4 pole 50Ka breaking capacity main MCCBs in metal clad lockable DIN mounting housing in METSEC enclosure for branch circuit protection [As ABB]	No	1			
<b>SUB TOTAL CARRIED FORWARD TO COLLECTION PAGE</b>						

**COLLECTION PAGE FOR SCHEDULE A BILL No E**

ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER

**SCHEDULE A BILL No E**

S/ No	BILL No	ITEM No	Pg No	TOTAL KSHS	CTS
1	E	1.00 – 5.00	E/1		
		6.00 - 9.00	E/2		
		10.00 - 13.00	E/3		
		14.00 - 17.00	E/4		
		18.00 – 20.00	E/5		
<b>SUB-TOTAL CARRIED FORWARD TO PRICE SUMMARY PAGE</b>					

**SCHEDULE B: ACCESS CONTROL BILL No D1**

**ACCESS CONTROL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
<b>1.00</b>	<b>Supply, install, set up, configure, test and commission the following items as specified herein or approved equivalent.</b>					
	<b>ACCESS CONTROLLER</b>					
1.01	Biometric pin and proximity, IP- based single door Access Controller complete with its PSU and all accessories.	No	2			
1.02	Exit buttons.	No	2			
1.03	Maglock of 300 Kg holding force.	No	2			
1.04	Emergency break glass.	No	2			
1.05	Mounting brackets.	No	2			
1.06	PSU – 5 amps c/w battery	No	2			
1.07	Over ride switch	No	2			
1.08	Interface cable	M	100			
1.09	RFID cards	No	10			
1.10	Finger print reader	No	1			
1.11	Assorted Sundries, tags and labelling	L.S	Item			
<b>2.00</b>	Allow for minor alterations on builders works and making good of the same.	L.S	Item			
<b>3.00</b>	Training system administrators and operators on all the installed systems	L.S	Item			
<b>SUB TOTAL CARRIED FORWARD TO COLLECTION PAGE</b>						

**ACCESS CONTROL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

**SCHEDULE B: ACCESS CONTROL BILL No D1**

<b>S/ No</b>	<b>BILL No</b>	<b>ITEM No</b>	<b>Pg No</b>	<b>TOTAL KSHS</b>	<b>CTS</b>
<b>1</b>	<b>D1</b>	1.00 – 3.00	D /1		
<b>TOTAL FOR ACCESS CONTROL WORKS CARRIED FORWARD TO SUMMARY PRICE PAGE</b>					

**SCHEDULE C : Fire Alarm, BILL No N1**

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

ITEM No	ITEM DESCRIPTION	UNIT	QTY	UNIT RATE	AMOUNT KSHS	CTS
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent:</b>					
<b>1.00</b>	<b>FIRE ALARM SYSTEM</b>					
1.01	Programmable 230 vac [+10% / -15%] , 50 - 60 Hz electrical / electronic surface wall mounted Fire alarm panel. (As Manvier or Fire glass). Works include but not limited to identification of interconnections terminals, cabling and programming with the following features : <ul style="list-style-type: none"> <li>- 3 in 1 loop panel'</li> <li>- Up to 400 mA current dynamically shared across 3 loop circuits.</li> <li>- Up to 128 addresses / 32 zones.</li> <li>- Auto addressing, auto mapping with intel zone feature and On screen help function.</li> <li>- USB dual port role auto host / device to upload / download language file, firmware, configuration , vocal messages, etc.....</li> <li>- Walk test function, loop break location.</li> <li>- 4000 event log</li> <li>- Up to 4 repeaters.</li> </ul>	Unit	1			
<b>2.00</b>	<b>240 vac wall mounted AVS</b>	Unit	1			
<b>3.00</b>	<b>CALL POINT WIRING</b>					
3.01	Fire alarm manual call point wired in 2core x 1.5 mm <sup>2</sup> PVC/SC CU screened fire resistant Cables drawn in concealed 25 mm Ø diameter HG PVC ring of Conduits / metal clad trunking, complete with all accessories but excluding plates.	No	4			
<b>SUB TOTAL FOR CARRIED FORWARD TO COLLECTION PAGE</b>						

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

<b>ITEM No</b>	<b>ITEM DESCRIPTION</b>	<b>UNIT</b>	<b>QTY</b>	<b>UNIT RATE</b>	<b>AMOUNT KSHS</b>	<b>CTS</b>
	<b>Supply, install, test and commission the following complete as specified herein or approved equivalent:</b>					
<b>4.00</b>	<b>ADDRESSABLE INDOOR CALL POINT</b>					
4.01	Surface wall mounted call point complete with <ul style="list-style-type: none"> <li>- Integral short circuit isolator</li> <li>- LED indicator</li> <li>- Optional transparent hinged cover.</li> <li>- Plastic resettable element</li> </ul>	<b>No</b>	<b>4</b>			
<b>5.00</b>	<b>ADDRESSABLE SMOKE / HEAT DETECTORS</b>					
5.01	Addressable photoelectric smoke detector complete with common base (As Menvier) with the following features; <ul style="list-style-type: none"> <li>- Pulsing IR LED &amp; photodiode.</li> <li>- Lockable to base, 8 LEDS for 360<sup>0</sup> visibility</li> <li>- 17 to 28 volts DC</li> <li>- Coverage 100 m<sup>2</sup></li> <li>- Start up time 10 seconds</li> </ul>	<b>No</b>	<b>10</b>			
<b>6.00</b>	<b>ADDRESSABLE SOUNDER</b>					
6.01	Addressable 24v polarised 6" addressable wall mounted fire bell / sounder (As Menvier) with the following feature: <ul style="list-style-type: none"> <li>- 102dB</li> <li>- 17 – 28 V DC</li> </ul>	<b>No</b>	<b>2</b>			
<b>SUB TOTAL FOR CARRIED FORWARD TO COLLECTION PAGE</b>						

**N/2**

**SCHEDULE C: Fire Alarm, BILL No N1**

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

<b>S / No</b>	<b>BILL No</b>	<b>ITEM No</b>	<b>Pg No</b>	<b>TOTAL KSHS</b>	<b>CTS</b>
<b>1</b>	<b>N1</b>	1.0 - 3.00 4.00 – 7.00	N/1 N/2		
<b>SUB - TOTAL CARRIED FORWARD TO SUMMARY PRICE PAGE</b>					

**COLLECTION PAGE**

**ELECTRICAL WORKS, ANTI – COUNTERFEIT AUTHORITY ATHI RIVER**

SCHEDULE No	BILL No	ITEM No	Page No	TOTAL KSHS	CTS
	<b>1</b>	PRELIMINARY ITEMS			
<b>A</b>	<b>E1</b>	1.00 – 5.00	E/1		
		6.00 - 9.00	E/2		
		10.00 - 13.00	E/3		
		14.00 - 17.00	E/4		
		18.00 – 20.00	E/5		
<b>SUB TOTAL FOR BILL No E1 (Electrical Installation Works)</b>					
<b>B</b>	<b>D1</b>	1.00 – 3.00	D/1		
<b>SUB TOTAL FOR BILL No D1 (Access Control)</b>					
<b>C</b>	<b>N1</b>	1.00 – 3.00	N/1		
		4.00 - 7.00	N/2		
<b>SUB TOTAL FOR BILL No N1 (Fire alarm System Works)</b>					
<b>GRAND TOTAL CARRIED FORWARD TO SUMMARY PRICE PAGE (KSHS)</b>					

# PROVISIONAL SUMS

ITEM	DESCRIPTION	QTY	UNIT	RATE	K.SHS
	<u>PROVISIONAL SUMS</u>				
	<u>The following provisional sums are to be measured on completion and priced in accordance with the rates contained in these bills of quantities or prorata thereto or deducted in whole if not required</u>				
A	Allow a provisional sum of Kenya Shillings Five Hundred Thousand (Kshs 500,000.00) only for Contingencies		ITEM		500,000.00
B	Allow a provisional sum of Kenya Shillings One Million (Kshs 1,000,000.00) only for Structural works				1,000,000.00
	<b>TOTAL FOR PROVISIONAL SUMS CARRIED TO GRAND SUMMARY</b>				<b>1,500,000.00</b>

# GRAND SUMMARY

**PROPOSED REFURBISHMENT OF GO-DOWN NO. 16 AT KINANIE  
FOR ANTI-COUNTERFEIT AUTHORITY**

**GRAND SUMMARY**

ITEM	DESCRIPTION	Page No.	FOR TENDERER USE ONLY	FOR OFFICIAL USE ONLY
			K.SHS.	K.SHS.
A	PARTICULAR PRELIMINARIES	PP / 8		
B	GENERAL PRELIMINARIES	GP / 13		
C	<u>MEASURED WORKS:</u> GO-DOWN	MW / 4		
D	ELECTRICAL INSTALLATION WORKS	GS - 1		
E	PROVISIONAL SUMS	PS / 1		
	<b>SUB-TOTAL</b>			
	<i>ADD 0.03% PPRA LEVY</i>			
	<b>SUB-TOTAL - 2</b>			
	<b>GRAND TOTAL (IN KSHS) CARRIED TO FORM OF TENDER (V.A.T INCLUSIVE)</b>			

**Amount in words.** Kenya Shillings .....

.....

.....

**Tenderer's Signature and stamp**.....

Address .....

.....

Date .....

**Witness Signature** .....

Address .....

.....

Date .....

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## **PART III - THE CONDITIONS OF CONTRACT AND CONTRACT**

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## SECTION VIII - GENERAL CONDITIONS OF CONTRACT (GCC)

### ANTI-COUNTERFEIT AUTHORITY

# TENDER DOCUMENT FOR PROPOSED REPAIRS, REFURBISHMENT AND MAINTENANCE WORKS AT ACA GODOWN 16 IN ATHI RIVER..

## General Conditions of Contract

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### 1. General Provisions

#### 1.1 Definitions

In the Conditions of Contract (“these Conditions”), which include Particular Conditions, Parts A and B, and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

#### 1.1.1 The Contract

“**Bills of Quantities**”, “**Daywork Schedule**” and “**Schedule of Payment Currencies**” mean the documents so named (if any) which are comprised in the Schedules.

“**Contract Agreement**” means the contract agreement referred to in Sub-Clause 1.6 [Contract Agreement].

“**Contract**” means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these Conditions, the Specification, the Drawings, the Schedules, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.

“**Drawings**” means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract.

“**Laws**” means all national legislation, statutes, ordinances, and regulations and by-laws of any legally constituted public authority.

“**Letter of Acceptance**” means the letter of formal acceptance, signed by the contractor and the Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties.

“**Letter of Tender**” means the document entitled letter of tender or letter of tender, which was completed by the Contractor and includes the signed offer to the Procuring Entity for the Works.

“**SCC**” means the **Special Conditions of Contract completed by the Procuring Entity which modify the General Conditions of Contract.**

“**Schedules**” means the document(s) entitled schedules, completed by the Contractor and submitted with the Letter of Tender, as included in the Contract. Such document may include the Bills of Quantities, data, lists, and schedules of rates and/or prices.

“**Specification**” means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

“**Tender**” means the Letter of Tender and all other documents which the Contractor submitted with the Letter of Tender, as included in the Contract.

#### 1.1.2 Parties and Persons

“**Contractor's Personnel**” means the Contractor's Representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labor and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.

“**Contractor's Representative**” means the person named by the Contract or in the Contractor appointed from

time to time by the Contractor under Sub-Clause 4.3 [Contractor's Representative], who acts on behalf of the Contractor.

“**Contractor**” means the person(s) named as contractor in the Letter of Tender accepted by the Procuring Entity and the legal successors in title to this person(s).

“**Engineer**” means the person appointed by the Procuring Entity to act as the Engineer for the purposes of the Contract and named in the **SCC**, or other person appointed from time to time by the Procuring Entity and notified to the Contractor under Sub-Clause 3.4 [Replacement of the Engineer].

“**Party**” means the Procuring Entity or the Contractor, as the context requires.

“**Procuring Entity**” means the Entity named in the Special Conditions of Contract.

“**Procuring Entity's Personnel**” means the Engineer, the assistants referred to in Sub-Clause 3.2 [Delegation by the Engineer] and all other staff, labor and other employees of the Engineer and of the Procuring Entity; and any other personnel notified to the Contractor, by the Procuring Entity or the Engineer, as Procuring Entity's Personnel.

“**Procuring Entity**” means the person named as Procuring Entity in the **SCC** and the legal successors in title to this person.

“**Subcontractor**” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works; and the legal successors in title to each of these persons.

### 113 Dates, Tests, Periods and Completion

“**Base Date**” means a date 30 day prior to the submission of tenders.

“**Commencement Date**” means the date notified under Sub-Clause 8.1 [Commencement of Works].

“**Completion Certificate**” means the certificate issued under Sub-Clause 11.9 [Performance Certificate]. “**Day**” means a calendar day and “**year**” means 365 days.

“**Defects Notification Period**” means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], which extends over 365 days except if otherwise stated in the **SCC** (with any extension under Sub-Clause 11.3 [Extension of Defects Notification Period]), calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over of the Works and Sections].

“**Taking-Over Certificate**” means a certificate issued under Clause 10 [Procuring Entity's Taking Over].

“**Tests after Completion**” means the tests (if any) which are specified in the Contract and which are carried out in accordance with the Specification after the Works or a Section (as the case may be) are taken over by the Procuring Entity.

“**Tests on Completion**” means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Procuring Entity.

“**Time for Completion**” means the time for completing the Works or a Section (as the case may be) under Sub-Clause 8.2 [Time for Completion], as stated in the **SCC** (with any extension under Sub-Clause 8.4 [Extension of Time for Completion]), calculated from the Commencement Date.

### 114 Money and Payments

“**Accepted Contract Amount**” means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.

“**Contract Price**” means the price defined in Sub-Clause 14.1 [The Contract Price] and includes adjustments in accordance with the Contract.

“**Cost**” means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.

**“Final Payment Certificate”** means the payment certificate issued under Sub-Clause 14.13 [Issue of Final Payment Certificate].

**“Final Statement”** means the statement defined in Sub-Clause 14.11 [Application for Final Payment Certificate].

**“Foreign Currency”** means a currency in which part (or all) of the Contract Price is payable, but not the Local Currency.

**“Interim Payment Certificate”** means a payment certificate issued under Clause 14 [Contract Price and Payment], other than the Final Payment Certificate.

**“Local Currency”** means the currency of the Country.

**“Payment Certificate”** means a payment certificate issued under Clause 14 [Contract Price and Payment].

**“Provisional Sum”** means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional Sums].

**“Retention Money”** means the accumulated retention moneys which the Procuring Entity retains under Sub-Clause 14.3 [Application for Interim Payment Certificates] and pays under Sub-Clause 14.9 [Payment of Retention Money].

**“Statement”** means a statement submitted by the Contractor as part of an application, under Clause 14 [Contract Price and Payment], for a payment certificate.

## 115 Works and Goods

**“Contractor's Equipment”** means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Procuring Entity's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

**“Goods”** means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

**“Materials”** means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

**“Permanent Works”** means the permanent works to be executed by the Contractor under the Contract.

**“Plant”** means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Procuring Entity and relating to the construction or operation of the Works.

**“Section”** means a part of the Works specified in the SCC as a Section (if any).

**“Temporary Works”** means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

**“Works”** mean the Permanent Works and the Temporary Works, or either of them as appropriate.

## 116 Other Definitions

**“Contractor's Documents”** means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.

**“Country”** means Kenya as the country in which the Site is located, where the Permanent Works are to be executed.

**“Force Majeure”** is defined in Clause 19 [Force Majeure].

**“Laws”** means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.

“**Notice of Dissatisfaction**” means the notice given by either Party to the other under Sub-Clause 20.4 indicating its dissatisfaction and intention to commence arbitration.

“**Performance Security**” means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].

“**Procuring Entity's Equipment**” means the apparatus, machinery and vehicles (if any) made available by the Procuring Entity for the use of the Contractor in the execution of the Works, as stated in the Specification; but does not include Plant which has not been taken over by the Procuring Entity.

“**Site**” means the places where the Permanent Works are to be executed, including storage and working areas, and to which Plant and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.

“**Unforeseeable**” means not reasonably foreseeable by an experienced contractor by the Base Date.

“**Variation**” means any change to the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].

## 12 Interpretation

In the Contract, except where the context requires otherwise:

- a) Words indicating one gender include all genders;
- b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;
- d) “written” or “inwriting” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and
- e) the word “tender” is synonymous with “tender” and “tenderer” with “Tenderer” and the words “tender documents” with “tendering documents.”

## 13 Communications

131 Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

- a) In writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the **SCC**; and
- b) Delivered, sent or transmitted to the address for the recipient's communications as stated in the **SCC**.  
However:
  - i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
  - ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

132 Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer, a copy shall be sent to the Engineer or the other Party, as the case may be.

## 14 Law and Language

141 The Contract shall be governed by the **laws of Kenya**.

142 The ruling language of the Contract shall be the **English Language**.

## 15 Priority of Documents

151 The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a) The Contract Agreement,
- b) the Letter of Acceptance,
- c) the Particular Conditions–Part A,

- d) the Particular Conditions–Part B
- e) the General Conditions of Contract
- f) the Form of Tender,
- g) the Specifications and Bills of Quantities
- h) the Drawings, and
- i) the Schedules and any other documents forming part of the Contract.

152 If an ambiguity or discrepancy is found in the documents, the Engineer shall issue any necessary clarification or instruction.

## 16 Contract Agreement

The Parties shall enter into a Contract Agreement within 14 days after the Contractor receives the Letter of Acceptance, unless the Particular Conditions establish otherwise. The Contract Agreement shall be based upon the form annexed to the Particular Conditions. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Procuring Entity.

## 17 Assignment

Neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, either Party:

- a) May assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and
- b) May, as security in favor of a Procuring Entity or financial institution, assign its right to any moneys due, or to become due, under the Contract.

## 18 Care and Supply of Documents

181 The Specification and Drawings shall be in the custody and care of the Procuring Entity. Unless otherwise stated in the Contract, two copies of the Contract and of each subsequent Drawing shall be supplied to the Contractor, who may make or request further copies at the cost of the Contractor.

182 Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Procuring Entity. Unless otherwise stated in the Contract, the Contractor shall supply to the Engineer

183 The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Procuring Entity's Personnel shall have the right of access to all these documents at all reasonable times.

184 If a Party becomes aware of an error or defect in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

## 19 Delayed Drawings or Instructions

191 The Contractor shall give notice to the Engineer whenever the Works are likely to be delayed or disrupted if any necessary drawing or instruction is not issued to the Contractor within a particular time, which shall be reasonable. The notice shall include details of the necessary drawing or instruction, details of why and by when it should be issued, and the nature and amount of the delay or disruption likely to be suffered if it is late.

If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Engineer to issue the notified drawing or instruction within a time which is reasonable and is specified in the notice with supporting details, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

192 payment of any such Cost-plus profit, which shall be included in the Contract Price. After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

193 However, if and to the extent that the Engineer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

## **1.10 Procuring Entity's Use of Contractor's Documents**

1.101 As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor. The Contractor shall be deemed (by signing the Contract) to give to the Procuring Entity a non-terminable transferable non-exclusive royalty-free license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This license shall:

- a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

1.102 The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Procuring Entity for purposes other than those permitted under this Sub-Clause.

## **1.11 Contractor's Use of Procuring Entity's Documents**

As between the Parties, the Procuring Entity shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Procuring Entity. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Procuring Entity's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

## **1.12 Confidential Details**

The Contractor's and the Procuring Entity's Personnel shall disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation.

## **1.13 Compliance with Laws**

The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Particular Conditions:

- a) The Procuring Entity shall have obtained (or shall obtain) the planning, zoning, building permit or similar permission for the Permanent Works, and any other permissions described in the Specification as having been (or to be) obtained by the Procuring Entity; and the Procuring Entity shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Procuring Entity harmless against and from the consequences of any failure to do so, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence.

## **1.14 Joint and Several Liability**

If the Contractor constitutes (under applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons:

- a) These persons shall be deemed to be jointly and severally liable to the Procuring Entity for the performance of the Contract;
- b) these persons shall notify the Procuring Entity of their leader who shall have authority to bind the Contractor and each of these persons; and
- c) the Contractor shall not alter its composition or legal status without the prior consent of the Procuring Entity.

## **1.15 Inspections and Audit by the Procuring Entity**

Pursuant to paragraph 2.2 e. of Appendix B to the General Conditions, the Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Procuring Entity and/or persons appointed by the

Procuring Entity to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Procuring Entity if requested by the Procuring Entity. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 15.6 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Procuring Entity's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Procuring Entity's prevailing sanctions procedures).

## **2. THE PROCURING ENTITY**

### **2.1 Right of Access to the Site**

2.1.1 The Procuring Entity shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the SCC. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Procuring Entity is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Procuring Entity shall do so in the time and manner stated in the Specification. However, the Procuring Entity may withhold any such right or possession until the Performance Security has been received.

2.1.2 If no such time is stated in the SCC, the Procuring Entity shall give the Contractor right of access to, and possession of, the Site within such times as required to enable the Contractor to proceed without disruption in accordance with the program submitted under Sub-Clause 8.3 [Program].

2.1.3 If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Procuring Entity to give any such right or possession within such time, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

2.1.4 After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

2.1.5 However, if and to the extent that the Procuring Entity's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

### **2.2 Permits, Licenses or Approvals**

The Procuring Entity shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain properly:

- a) Copies of the Laws of the Country which are relevant to the Contract but are not readily available, and
- b) Any permits, licenses or approvals required by the Laws of the Country:
  - i) Which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws],
  - ii) For the delivery of Goods, including clearance through customs, and
  - iii) For the export of Contractor's Equipment when it is removed from the Site.

### **2.3 Procuring Entity's Personnel**

The Procuring Entity shall be responsible for ensuring that the Procuring Entity's Personnel and the Procuring Entity's other contractors on the Site:

- a) co-operate with the Contractor's efforts under Sub-Clause 4.6 [Co-operation], and
- b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b) and (c) of Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.18 [Protection of the Environment].

### **2.4 Procuring Entity's Financial Arrangement**

2.4.1 The Procuring Entity shall submit, before the Commencement Date and thereafter within 30 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Procuring Entity to pay the Contract Price punctually (as estimated at that time) in accordance with Clause 14 [Contract Price and Payment]. Before the Procuring Entity makes any material change to his financial arrangements, the Procuring Entity shall give notice to the

Contractor with detailed particulars.

242 In addition, if the Procuring Entity has notified to the Contractor that the Procuring Entity has suspended disbursements under its loan, which finances in whole or in part the execution of the Works, the Procuring Entity shall give notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the 2.4.3 Engineer, within 7 days of the Procuring Entity having received the suspension notification from the Procuring Entity. If alternative funds will be available in appropriate currencies to the Procuring Entity to continue making payments to the Contractor beyond a date 60 day after the date of Procuring Entity notification of the suspension, the Procuring Entity shall provide reasonable evidence in his notice of the extent to which such funds will be available.

## **25 Procuring Entity's Claims**

251 If the Procuring Entity considers itself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period, the Procuring Entity or the shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Procuring Entity's Equipment and Free-Issue Materials], or for other services requested by the Contractor.

252 The notice shall be given as soon as practicable and no longer than 30 days after the Procuring Entity became aware, or should have become aware, of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.

253 The particulars shall specify the Clause or other basis of the claim and shall include substantiation of the amount and/or extension to which the Procuring Entity considers itself to be entitled in connection with the Contract. The Engineer shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Procuring Entity is entitled to be paid by the Contractor, and/or(ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension of Defects Notification Period].

## **3. THE ENGINEER**

### **31 Engineer's Duties and Authority**

31.1 The Procuring Entity shall appoint the Engineer who shall carry out the duties assigned to him in the Contract. The Engineer's staff shall include suitably qualified engineers and other professionals who are competent to carry out these duties.

The Engineer shall have no authority to amend the Contract.

The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the Contract. If the Engineer is required to obtain the approval of the Procuring Entity before exercising a specified authority, the requirements shall be as stated in the Particular Conditions. The Procuring Entity shall promptly inform the Contractor of any change to the authority attributed to the Engineer.

31.2 However, whenever the Engineer exercises a specified authority for which the Procuring Entity's approval is required, then (for the purposes of the Contract) the Procuring Entity shall be deemed to have given approval. Except as otherwise stated in these Conditions:

- a) Whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Engineer shall be deemed to act for the Procuring Entity; the Engineer has no authority to relieve either Party of any duties, obligations or
- b) any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Engineer (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances; and
- c) any act by the Engineer in response to a Contractor's request except as otherwise expressly specified shall be notified in writing to the Contractor within 14 days of receipt.

31.2 The following provisions shall apply; The Engineer shall obtain the specific approval of the Procuring Entity before taking action under the-following Sub-Clauses of these Conditions:

- a) Sub-Clause 4.12: agreeing or determining an extension of time and/or additional cost.
- b) Sub-Clause 13.1: instructing a Variation, except;
  - i) In an emergency situation as determined by the Engineer, or
  - ii) If such a Variation would increase the Accepted Contract Amount by less than the percentage

specified in the SCC.

- c) Sub-Clause 13.3: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1 or 13.2.
- d) Sub-Clause 13.4: Specifying the amount payable in each of the applicable currencies.

3.13 Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Procuring Entity, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Procuring Entity.

### **32 Delegation by the Engineer**

32.1 The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Engineer shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations].

32.2 Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

- a) Any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer to reject the work, Plant or Materials;
- b) If the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

### **33 Instructions of the Engineer**

33.1 The Engineer may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

33.2 The Contractor shall comply with the instructions given by the Engineer or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Engineer or a delegated assistant:

- a) Gives an oral instruction,
- b) Receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and
- c) Does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation, then the confirmation shall constitute the written instruction of the Engineer or delegated assistant (as the case may be).

### **34 Replacement of the Engineer**

If the Procuring Entity intends to replace the Engineer, the Procuring Entity shall, not less than 21 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended replacement Engineer. If the Contractor considers the intended replacement Engineer to be unsuitable, he has the right to raise objection against him by notice to the Procuring Entity, with supporting particulars, and the Procuring Entity shall give full and fair consideration to this objection.

### **35 Determinations**

35.1 Whenever these Conditions provide that the Engineer shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Engineer shall consult with each Party in an endeavor to reach agreement.

If agreement is not achieved, the Engineer shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.

352 The Engineer shall give notice to both Parties of each agreement or determination, with supporting particulars, within 30 days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].

#### **4. THE CONTRACTOR**

##### **41 Contractor's General Obligations**

41.1 The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Engineer's instructions, and shall remedy any defects in the Works.

41.2 The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

41.3 All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country as defined by the Procuring Entity.

41.4 The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor (i) shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and (ii) shall not otherwise be responsible for the design or specification of the Permanent Works.

41.5 The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Engineer.

41.6 The Contractor shall not commence any Works, including mobilization and/or pre-construction activities (e.g. limited clearance for haul roads, site accesses and work site establishment, geotechnical investigations or investigations to select ancillary features such as quarries and borrowpits), unless the Engineer is satisfied that appropriate measures are in place to address environmental, social, health and safety risks and impacts.

41.7 If the Contract specifies that the Contractor shall design any part of the Permanent Works, then unless otherwise stated in the Particular Conditions:

- a) The Contractor shall submit to the Engineer the Contractor's Documents for this part in accordance with the procedures specified in the Contract;
- b) These Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language], and shall include additional information required by the Engineer to add to the Drawings for co-ordination of each Party's designs;
- c) The Contractor shall be responsible for this part and it shall, when the Works are completed, be fit for such purposes for which the part is intended as are specified in the Contract; and
- d) Prior to the commencement of the Tests on Completion, the Contractor shall submit to the Engineer the "as-built" documents and, if applicable, operation and maintenance manuals in accordance with the Specification and insufficient detail for the Procuring Entity to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until these documents and manuals have been submitted to the Engineer.

##### **42 Performance Security**

42.1 Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million shillings.

42.2 The Contractor shall obtain (at his cost) a Performance Security for proper performance, in the amount stated in the SCC and denominated in the currency (ies) of the Contractor in a freely convertible currency acceptable to the Procuring Entity. If an amount is not stated in the SCC, this Sub-Clause shall not apply.

42.3 The Contractor shall deliver the Performance Security to the Procuring Entity within 14 days after receiving

the Letter of Acceptance and shall send a copy to the Engineer. The Performance Security shall be issued by a reputable Procuring Entity or financial institution selected by the Contract or and shall be in the form annexed to the Particular Conditions, as stipulated by the Procuring Entity in the SCC, or in another form approved by the Procuring Entity.

424 The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 30 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.

425 The Procuring Entity shall not make a claim under the Performance Security, except for amounts to which the Procuring Entity is entitled under the Contract.

The Procuring Entity shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Procuring Entity was not entitled to make the claim.

426 The Procuring Entity shall return the Performance Security to the Contractor within 21 days after receiving a copy of the Performance Certificate.

427 Without limitation to the provisions of the rest of this Sub-Clause, whenever the Engineer determines an addition or are duction to the Contract Price as a result of a change in cost and/or legislation, or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Engineer's request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage.

### **43 Contractor's Representative**

431 The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract. Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Engineer for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked interms of Sub-Clause 6.9 [Contractor's Personnel], or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement.

432 The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer's prior consent, and the Engineer shall be notified accordingly.

433 The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Engineer].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at anytime revoke the delegation. Any delegation or revocation shall not take effect until the Engineer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

434 The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language]. If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

### **44 Subcontractors**

441 The Contractor shall not subcontract the whole of the Works.

442 The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Particular Conditions:

- a) The Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract;
- b) The prior consent of the Engineer shall be obtained to other proposed Sub contractors;
- c) the Contractor shall give the Procuring entity not less than 14 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site; and
- d) each subcontract shall include provisions which would entitle the Procuring Entity to require the subcontract to be assigned to the Procuring Entity under Sub-Clause 4.5 [Assignment of Benefit of Subcontract] (if or when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity].

443 The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.

444 Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.

#### **45 Assignment of Benefit of Subcontract**

If a Subcontractor's obligations extend beyond the expiry date of the relevant Defects Notification Period and the Engineer, prior to this date, instructs the Contractor to assign the benefit of such obligations to the Procuring Entity, then the Contractor shall do so. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Procuring Entity for the work carried out by the Subcontractor after the assignment takes effect.

#### **46 Co-operation**

461 The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:

- a) The Procuring Entity's Personnel,
- b) Any other contractors employed by the Procuring Entity, and
- c) The personnel of any legally constituted public authorities, who may be employed in the execution on or near the Site of any work not included in the Contract.

462 Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.

If, under the Contract, the Procuring Entity is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Engineer in the time and manner stated in the Specification.

#### **47 Setting Out**

471 The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

The Procuring Entity shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.

472 If the Contractor suffers delay and/or incurs Cost from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or Cost, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

473 After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent the error could not reasonably have been discovered, and (ii) the matters described in sub-paragraphs (a) and (b) above related to these.

## **48 Safety Procedures**

The Contractor shall:

- a) Comply with all applicable safety regulations,
- b) Take care for the safety of all persons entitled to be on the Site,
- c) Use reasonable efforts to keep the Site and Works clear of unnecessary obstructions as to avoid danger to these persons,
- d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Procuring Entity's Taking Over], and
- e) Provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

## **49 Quality Assurance**

491 The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Engineer shall be entitled to audit any aspect of the system.

492 Details of all procedures and compliance documents shall be submitted to the Engineer for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Engineer, evidence of the prior approval by the Contractor itself shall be apparent on the document itself. Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

## **410 Site Data**

4101 The Procuring Entity shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Procuring Entity's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Procuring Entity shall similarly make available to the Contractor or all such data which come into the Procuring Entity's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.

4102 To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Tender as to all relevant matters, including (without limitation):

- a) The form and nature of the Site, including sub-surface conditions,
- b) The hydrological and climatic conditions,
- c) The extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,
- d) The Laws, procedures and labor practices of the Country, and
- e) The Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

## **411 Sufficiency of the Accepted Contract Amount**

4111 The Contractor shall be deemed to:

- a) Have satisfied itself as to the correctness and sufficiency of the Accepted Contract Amount, and
- b) Have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.10 [Site Data].

4112 Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any defects.

## **412 Unforeseeable Physical Conditions**

4121 In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.

4122 If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the

Contractor shall give notice to the Engineer as soon as practicable.

This notice shall describe the physical conditions, so that they can be inspected by the Engineer, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Engineer may give. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

- 4.123 If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor shall be entitled subject to notice under Sub-Clause 20.1 [Contractor's Claims] to:
- a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
  - b) Payment of any such Cost, which shall be included in the Contract Price.
- 4.124 Upon receiving such notice and inspecting and/or investigating these physical conditions, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.
- 4.125 However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Engineer may also review whether other physical conditions in similar parts of the Works (if any) were more favorable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favorable conditions were encountered, the Engineer may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in any reduction in the Contract Price.
- 4.126 The Engineer shall take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which shall be made available by the Contractor, but shall not be bound by the Contractor's interpretation of any such evidence.

#### **4.13 Rights of Way and Facilities**

Unless otherwise specified in the Contract the Procuring Entity shall provide effective access to and possession of the Site including special and/or temporary rights-of-way which are necessary for the Works. The Contractor shall obtain, at his risk and cost, any additional rights of way or facilities outside the Site which he may require for the purposes of the Works.

#### **4.14 Avoidance of Interference**

- 4.141 The Contractor shall not interfere unnecessarily or improperly with:
- a) The convenience of the public, or
  - b) The access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Procuring Entity or of others.
- 4.142 The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

#### **4.15 Access Route**

- 4.151 The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site at Base Date. The Contractor shall use reasonable effort to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.
- 4.152 Except as otherwise stated in these Conditions:
- a) The Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
  - b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;

- c) the Procuring Entity shall not be responsible for any claims which may arise from the use or otherwise of any access route;
- d) the Procuring Entity does not guarantee the suitability or availability of particular access routes; and
- e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

#### **416 Transport of Goods**

Unless otherwise stated in the Particular Conditions:

- a) The Contractor shall give the Engineer not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;
- b) The Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and
- c) The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.

#### **417 Contractor's Equipment**

The Contractor shall be responsible for all Contractor's Equipment. When brought onto the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Engineer. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

#### **418 Protection of the Environment**

- 4181 The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.
- 4182 The Contractor shall ensure that emissions, surfaced is charges and effluent from the Contractor's activities shall not exceed the values stated in the Specification or prescribed by applicable Laws.

#### **419 Electricity, Water and Gas**

- 4191 The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Specifications, for the tests.

The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Specification. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

- 4192 The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Engineer in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.

#### **420 Procuring Entity's Equipment and Free-Issue Materials**

- 4201 The Procuring Entity shall make the Procuring Entity's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Specification. Unless otherwise stated in the Specification:

- a) The Procuring Entity shall be responsible for the Procuring Entity's Equipment, except that
- b) The Contractor shall be responsible for each item of Procuring Entity's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.

- 4202 The appropriate quantities and the amounts due (at such stated prices) for the use of Procuring Entity's Equipment shall be agreed or determined by the Engineer in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.

The Procuring Entity shall supply, free of charge, the "free-issue materials" (if any) in accordance with the details stated in the Specification. The Procuring Entity shall, at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them and shall promptly give notice to the Engineer of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Procuring Entity shall immediately rectify the notified shortage, defect or default.

4203 After this visual inspection, the free-issue materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody and control shall not relieve the Procuring Entity of liability for any shortage, defect or default not apparent from a visual inspection.

#### **421 Progress Reports**

4211 Unless otherwise stated in the Particular Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Engineer in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

4212 Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

4213 Each report shall include:

- a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
- b) photographs showing the status of manufacture and of progress on the Site;
- c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
  - i) commencement of manufacture,
  - ii) Contractor's inspections,
  - iii) tests, and
  - iv) shipment and arrival at the Site;
- d) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];
- e) copies of quality assurance documents, test results and certificates of Materials;
- f) list of notices given under Sub-Clause 2.5 [Procuring Entity's Claims] and notices given under Sub-Clause 20.1 [Contractor's Claims];
- g) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- h) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

4214 The Contractor shall provide immediate notification to the Engineer of incidents in the following categories. Full details of such incidents shall be provided to the Engineer within the time frame agreed with the Engineer.

- a) confirmed or likely violation of any law or international agreement;
- b) any fatality or serious injury;
- c) significant adverse effects or damage to private property (e.g. vehicle accident, damage from fly rock, working beyond the boundary);
- d) major pollution of drinking water aquifer or damage or destruction of rare or endangered habitat (including protected areas) or species; or
- e) any allegation of sexual harassment or sexual misbehavior, child abuse, defilement, or other violations involving children.

#### **422 Security of the Site**

Unless otherwise stated in the Particular Conditions:

- a) The Contractor shall be responsible for keeping unauthorized persons off the Site, and
- b) Authorized persons shall be limited to the Contractor's Personnel and the Procuring Entity's Personnel; and to any other personnel notified to the Contractor, by the Procuring Entity or the Engineer, as authorized personnel of the Procuring Entity's other contractors on the Site.

#### **423 Contractor's Operations on Site**

4231 The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Engineer as additional working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

4232 Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.

#### **424 Fossils**

4241 All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Procuring Entity. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

4242 The Contractor shall, upon discovery of any such finding, promptly give notice to the Engineer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

### **5. NOMINATED SUB CONTRACTORS**

#### **51 Definition of "nominated Subcontractor"**

In the Contract, "nominated Subcontractor" means a Subcontractor:

- a) Who is stated in the Contract as being a nominated Subcontractor, or
- b) whom the Engineer, under Clause 13 [Variations and Adjustments], instructs the Contractor to employ as a Subcontractor subject to Sub-Clause 5.2 [Objection to Notification].

#### **52 Objection to Nomination**

The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Engineer as soon as practicable, with supporting particulars. An objection shall be deemed reasonable if it arises from (among other things) any of the following matters, unless the Procuring Entity agrees in writing to indemnify the Contractor against and from the consequences of the matter:

- a) there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength;
- b) the nominated Subcontractor does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor, his agents and employees; or
- c) the nominated Subcontractor does not accept to enter into a subcontract which specifies that, for the subcontracted work (including design, if any), the nominated Subcontractor shall:
  - i) undertake to the Contractor such obligations and liabilities as will enable the Contractor to discharge his obligations and liabilities under the Contract;
  - ii) indemnify the Contractor against and from all obligations and liabilities arising under or in connection with the Contract and from the consequences of any failure by the Subcontractor to perform these obligations or to fulfil these liabilities, and
  - iii) be paid only if and when the Contractor has received from the Procuring Entity payments for sums due under the Subcontract referred to under Sub-Clause 5.3 [Payment to nominated Subcontractors].

#### **53 Payments to nominated Subcontractors**

The Contractor shall pay to the nominated Subcontractor the amounts shown on the nominated Subcontractor's invoices approved by the Contractor which the Engineer certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with sub-paragraph (b) of Sub-Clause 13.5 [Provisional Sums], except as stated in Sub-Clause 5.4 [Evidence of Payments].

#### **54 Evidence of Payments**

Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the

Engineer may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

- a) Submits this reasonable evidence to the Engineer, or
- b) i) satisfies the Engineer in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and
  - ii) submits to the Engineer reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement, then the Procuring Entity may (at his sole discretion) pay, direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Procuring Entity, the amount which the nominated Subcontractor was directly paid by the Procuring Entity.

## **6. STAFF AND LABOR**

### **6.1 Engagement of Staff and Labor**

Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labor, local or otherwise, and for their payment, feeding, transport, and, when appropriate, housing. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within the Country.

### **6.2 Rates of Wages and Conditions of Labor**

6.2.1 The Contractor shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Procuring Entity's whose trade or industry is similar to that of the Contractor.

6.2.2 The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in Kenya in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of Kenya for the time being in force, and the Contractor shall perform such duties in regard to such deductions there of as may be imposed on him by such Laws.

### **6.3 Persons in the Service of Procuring Entity**

The Contractor shall not recruit, or attempt to recruit, staff and labor from amongst the Procuring Entity's Personnel.

### **6.4 Labor Laws**

6.4.1 The Contractor shall comply with all the relevant labor Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

6.4.2 The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

### **6.5 Working Hours**

No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the SCC, unless:

- a) Otherwise stated in the Contract,
- b) The Engineer gives consent, or
- c) The work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer.

### **6.6 Facilities for Staff and Labor**

6.6.1 Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Procuring Entity's Personnel as stated in the Specification.

662 The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

## 67 Health and Safety

671 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

672 The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

673 The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Engineer may reasonably require.

674 HIV-AIDS Prevention. The Contractor shall conduct an HIV-AIDS awareness programme via an approved service provider and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of the HIV virus between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.

## 68 Contractor's Superintendence

681 Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.

682 Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

## 69 Contractor's Personnel

691 The Contractor's Personnel specified in the SCC shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- a) Persists in any misconduct or lack of care,
- b) Carries out duties incompetently or negligently,
- c) Fails to conform with any provisions of the Contract,
- d) Persists in any conduct which is prejudicial to safety, health, or the protection of the environment, or
- e) Based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works.

692 If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

## 610 Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

## 611 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

## 612 Foreign Personnel

6121 The Contractor may bring in to the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Procuring Entity will, if requested by the Contractor, use his Lowest endeavors in a timely and expeditious manner to assist the Contract or in obtaining any local, state, national or government permission required for bringing in the Contractor's personnel.

6122 The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

### **613 Supply of Foodstuffs**

6131 The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

### **614 Supply of Water**

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

### **615 Measures against Insect and Pest Nuisance**

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

### **616 Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereof by Contractor's Personnel.

### **617 Arms and Ammunition**

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

### **618 Festivals and Religious Customs**

The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.

### **619 Funeral Arrangements**

The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of his local employees who may die while engaged upon the Works.

### **620 Prohibition of Forced or Compulsory Labor**

The Contractor shall not employ forced labor, which consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labor, such as indentured labor, bonded labor or similar labor-contracting arrangements.

### **621 Prohibition of Harmful Child Labor**

The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Where the relevant labor laws of the Country have provisions for employment of minors, the Contract or shall follow those laws applicable to the Contractor. Children below the age of 18 years shall not be employed in dangerous work.

### **622 Employment Records of Workers**

The Contractor shall keep complete and accurate records of the employment of labor at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Engineer. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

## **623 Workers' Organizations**

The Contractor shall comply with laws on workers' rights to form and to join workers' organizations without interference and to bargain collectively.

## **624 Non-Discrimination and Equal Opportunity**

The Contractor shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment relationship on the principle of equal opportunity and fair treatment and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline.

## **7. Plant, Materials and Workmanship**

### **7.1 Manner of Execution**

The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:

- a) In the manner (if any) specified in the Contract,
- b) In a proper workman like and careful manner, in accordance with recognized good practice, and
- c) With properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

### **7.2 Samples**

The Contractor shall submit the following samples of Materials, and relevant information, to the Engineer for consent prior to using the Materials in or for the Works:

- a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and
- b) additional samples instructed by the Engineer as a Variation.  
Each sample shall be labeled as to origin and intended use in the Works.

### **7.3 Inspection**

73.1 The Procuring Entity's Personnel shall at all reasonable times:

- a) Have full access to all parts of the Site and to all places from which natural Materials are being obtained, and
- b) During production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.

73.2 The Contractor shall give the Procuring Entity's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

The Contractor shall give notice to the Engineer whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Engineer shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Engineer does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by the Engineer, uncover the work and thereafter reinstate and make good, all at the Contractor's cost.

### **7.4 Testing**

74.1 This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

74.2 Except as otherwise specified in the Contract, the Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labor, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

The Engineer may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

74.3 The Engineer shall give the Contractor not less than 24 hours' notice of the Engineer's intention to attend the tests. If the Engineer does not attend at the time and place agreed, the Contractor may proceed with the tests,

unless otherwise instructed by the Engineer, and the tests shall then be deemed to have been made in the Engineer's presence.

If the Contractor suffers delay and/or incurs Cost from complying with these instructions or as a result of a delay for which the Procuring Entity is responsible, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) Payment of any such Cost-plus profit, which shall be included in the Contract Price.

744 After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall promptly forward to the Engineer duly certified reports of the tests. When the specified tests have been passed, the Engineer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Engineer has not attended the tests, he shall be deemed to have accepted the readings as accurate.

## **75 Rejection**

751 If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Engineer may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

752 If the Engineer requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Procuring Entity to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity.

## **76 Remedial Work**

761 Notwithstanding any previous test or certification, the Engineer may instruct the Contractor to:

- a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
- b) remove and re-execute any other work which is not in accordance with the Contract, and
- c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

762 The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).

763 If the Contractor fails to comply with the instruction, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity all costs arising from this failure.

## **77 Ownership of Plant and Materials**

Except as otherwise provided in the Contract, each item of Plant and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Procuring Entity at whichever is the earlier of the following times, free from liens and other encumbrances:

- a) When it is incorporated in the Works;
- b) When the Contractor is paid the corresponding value of the Plant and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

## **78 Royalties**

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

- a) Natural Materials obtained from outside the Site, and
- b) The disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.

## **8. COMMENCEMENT, DELAYS AND SUSPENSION**

## **81 Commencement of Works**

- 81.1 Except as otherwise specified in the Special Conditions of Contract, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Engineer's notification recording the agreement of both Parties on such fulfilment and instructing to commence the Work is received by the Contractor:
- a) Contract by relevant authorities of the Country;
  - b) delivery to the Contractor of reasonable evidence of the Procuring Entity's financial arrangements (under Sub-Clause 2.4 [Procuring Entity's Financial Arrangements]);
  - c) signature of the Contract Agreement by both Parties, and if required, approval of the except if otherwise specified in the SCC, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works
  - d) receipt by the Contract or of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding Procuring Entity guarantee has been delivered by the Contractor.
- 81.2 If the said Engineer's instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor].
- 81.3 The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date and shall then proceed with the Works with due expedition and without delay.

## **82 Time for Completion**

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:

- a) achieving the passing of the Tests on Completion, and
- b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

## **83 Program**

- 83.1 The Contractor shall submit a detailed time program to the Engineer within 14 days after receiving the notice under Sub-Clause 8.1 [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous program is inconsistent with actual progress or with the Contractor's obligations. Each program shall include:
- a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing,
  - b) each of these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
  - c) the sequence and timing of inspections and tests specified in the Contract, and
  - d) a supporting report which includes:
    - i) a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and
    - ii) details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage.
- 83.2 Unless the Engineer, within 14 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the program, subject to his other obligations under the Contract. The Procuring Entity's Personnel shall be entitled to rely upon the program when planning their activities.
- 83.3 The Contractor shall promptly give notice to the Engineer of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works. The Engineer may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Sub-Clause 13.3 [Variation Procedure].
- 83.4 If, at anytime, the Engineer gives notice to the Contractor that a program fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised program to the Engineer in accordance with this Sub-Clause.

## **84 Extension of Time for Completion**

- 841 The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:
- a) a Variation (unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure]) or other substantial change in the quantity of an item of work included in the Contract,
  - b) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,
  - c) exceptionally adverse climatic conditions,
  - d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or
  - e) Any delay, impediment or prevention caused by or attributable to the Procuring Entity, the Procuring Entity's Personnel, or the Procuring Entity's other contractors.
- 842 If the Contractor considers itself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Engineer in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Engineer shall review previous determinations and may increase, but shall not decrease, the total extension of time.

## **85 Delays Caused by Authorities**

If the following conditions apply, namely:

- a) The Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in the Country,
- b) These authorities delay or disrupt the Contractor's work, and
- c) The delay or disruption was Unforeseeable, then this delay or disruption will be considered as a cause of delay under sub-paragraph (b) of Sub-Clause 8.4 [Extension of Time for Completion].

## **86 Rate of Progress**

861 If, at any time:

- a) Actual progress is too slow to complete within the Time for Completion, and/or
- b) Progress has fallen (or will fall) behind the current program under Sub-Clause 8.3 [Program], other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Engineer may instruct the Contractor to submit, under Sub-Clause 8.3 [Program], a revised program and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

Unless the Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Procuring Entity to incur additional costs, the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity, in addition to delay damages (if any) under Sub-Clause 8.7 below.

- 862 Additional costs of revised methods including acceleration measures, instructed by the Engineer to reduce delays resulting from causes listed under Sub-Clause 8.4 [Extension of Time for Completion] shall be paid by the Procuring Entity, without generating, however, any other additional payment benefit to the Contractor.

## **87 Delay Damages**

- 871 If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion], the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay delay damages to the Procuring Entity for this default. These delay damages shall be the sum stated in the SCC, which shall be paid for everyday which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the SCC.

- 872 These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity] prior to completion of the Works. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

## **88 Suspension of Work**

881 The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

882 The Engineer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

### **89 Consequences of Suspension**

891 If the Contractor suffers delay and/or incurs Cost from complying with the Engineer's instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Engineer and shall be titled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) Payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

892 The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

### **810 Payment for Plant and Materials in Event of Suspension**

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to Site, if:

- a) the work on Plant or delivery of Plant and/or Materials has been suspended for more than 30 days, and
- b) the Contractor has marked the Plant and/or Materials as the Procuring Entity's property in accordance with the Engineer's instructions.

### **811 Prolonged Suspension**

If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Engineer's permission to proceed. If the Engineer does not give permission within 30 days after being requested to do so, the Contractor may, by giving notice to the Engineer, treat the suspension as an omission under Clause 13 [Variations and Adjustments] of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause 16.2 [Termination by Contractor].

### **812 Resumption of Work**

After the permission or instruction to proceed is given, the Contractor and the Engineer shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension after receiving from the Engineer an instruction to this effect under Clause 13 [Variations and Adjustments].

## **9. TESTS ON COMPLETION**

### **91 Contractor's Obligations**

91.1 The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [Testing], after providing the documents in accordance with sub-paragraph (d) of Sub-Clause 4.1 [Contractor's General Obligations].

91.2 The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contract or will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.

91.3 In considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Procuring Entity on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Engineer.

## **92 Delayed Tests**

921 If the Tests on Completion are being unduly delayed by the Procuring Entity, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, the Engineer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contract or may fix and of which he shall give notice to the Engineer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Procuring Entity's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contract or and the results of the Tests shall be accepted as accurate.

## **93 Retesting**

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Engineer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

## **94 Failure to Pass Tests on Completion**

941 If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Engineer shall be entitled to:

- a) Order further repetition of Tests on Completion under Sub-Clause 9.3;
- b) If the failure deprives the Procuring Entity of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Procuring Entity shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects]; or
- c) Issue a Taking-Over Certificate, if the Procuring Entity so requests.

942 In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Procuring Entity as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Procuring Entity may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations].

## **10. PROCURING ENTITY'S TAKING OVER**

### **10.1 Taking Over of the Works and Sections**

10.1.1 Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Procuring Entity when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

10.1.2 The Contract or may apply by notice to the Engineer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contract or may similarly apply for a Taking-Over Certificate for each Section.

10.1.3 The Engineer shall, within 30 days after receiving the Contractor's application:

- a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

10.1.4 If the Engineer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within

the period of 30 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

## **102 Taking Over of Parts of the Works**

1021 The Engineer may, at the sole discretion of the Procuring Entity, issue a Taking-Over Certificate for any part of the Permanent Works.

The Procuring Entity shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Engineer has issued a Taking-Over Certificate for this part. However, if the Procuring Entity does use any part of the Works before the Taking-Over Certificate is issued:

- a) The part which is used shall be deemed to have been taken over as from the date on which it is used,
- b) The Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Procuring Entity, and
- c) If requested by the Contractor, the Engineer shall issue a Taking-Over Certificate for this part.

1022 After the Engineer has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period.

1023 If the Contractor incurs Cost as a result of the Procuring Entity taking over and/or using a part of the Works, other than such use as is specified in the Contractor agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost-plus profit, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

1024 If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages] and shall not affect the maximum amount of these damages.

## **103 Interference with Tests on Completion**

1031 If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Procuring Entity is responsible, the Procuring Entity shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.

The Engineer shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Engineer shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.

1032 If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) Payment of any such Cost-plus profit, which shall be included in the Contract Price.

1033 After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

## **104 Surfaces Requiring Reinstatement**

Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.

## **11. Defects Liability**

### **11.1 Completion of Outstanding Work and Remedying Defects**

11.1.1 In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by

the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

- a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Engineer, and
- b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Procuring Entity on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).

1112 If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Procuring Entity.

### **11.2 Cost of Remedying Defects**

1121 All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

- a) Any design for which the Contractor is responsible,
- b) Plant, Materials or workmanship not being in accordance with the Contract, or
- c) Failure by the Contractor to comply with any other obligation.

1122 If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Procuring Entity, and Sub-Clause 13.3 [Variation Procedure] shall apply.

### **11.3 Extension of Defects Notification Period**

1131 The Procuring Entity shall be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or by reason of damage attributable to the Contractor. However, a Defects Notification Period shall not be extended by more than two years.

1132 If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/or Materials would otherwise have expired.

### **11.4 Failure to Remedy Defects**

1141 If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Procuring Entity, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

1142 If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Procuring Entity may (at his option):

- a) Carry out the work itself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity the costs reasonably incurred by the Procuring Entity in remedying the defect or damage;
- b) Require the Engineer to agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations]; or
- c) If the defect or damage deprives the Procuring Entity of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use.

1143 Without prejudice to any other rights, under the Contract otherwise, the Procuring Entity shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.

### **11.5 Removal of Defective Work**

If the defect or damage cannot be remedied expeditiously on the Site and the Procuring Entity gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the

full replacement cost of these items, or to provide other appropriate security.

## **11.6 Further Tests**

11.61 If the work of remedying of any defect or damage may affect the performance of the Works, the Engineer may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 30 days after the defect or damage is remedied.

11.62 These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remedying Defects], for the cost of the remedial work.

## **11.7 Right of Access**

Until the Performance Certificate has been issued, the Contractor shall have such right of access to the Works as is reasonably required in order to comply with this Clause, except as may be inconsistent with the Procuring Entity's reasonable security restrictions.

## **11.8 Contractor to Search**

The Contractor shall, if required by the Engineer, search for the cause of any defect, under the direction of the Engineer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus profit shall be agreed or determined by the Engineer in accordance with Sub-Clause 3.5 [Determinations] and shall be included in the Contract Price.

## **11.9 Completion Certificate**

11.91 Performance of the Contractor's obligations shall not be considered to have been completed until the Engineer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.

11.92 The Engineer shall issue the Performance Certificate within 30 days after the latest of the expiry dates of the Defects Notification Periods, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any defects. A copy of the Performance Certificate shall be issued to the Procuring Entity.

11.93 Only the Performance Certificate shall be deemed to constitute acceptance of the Works.

## **11.10 Unfulfilled Obligations**

After the Performance Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

## **11.11 Clearance of Site**

11.11.1 Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

11.11.2 If all these items have not been removed within 30 days after receipt by the Contractor of the Performance Certificate, the Procuring Entity may sell or otherwise dispose of any remaining items. The Procuring Entity shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Procuring Entity's costs, the Contractor shall pay the outstanding balance to the Procuring Entity.

## **12. MEASUREMENT AND EVALUATION**

### **12.1 Works to be Measured**

12.1.1 The Works shall be measured, and valued for payment, in accordance with this Clause. The Contractor shall show in each application under Sub-Clauses 14.3 [Application for Interim Payment Certificates], 14.10

[Statement on Completion] and 14.11 [Application for Final Payment Certificate] the quantities and other particulars detailing the amounts which he considers to be entitled under the Contract.

- 1212 Whenever the Engineer requires any part of the Works to be measured, reasonable notice shall be given to the Contractor's Representative, who shall:
- a) promptly either attend or send another qualified representative to assist the Engineer in making the measurement, and
  - b) supply any particulars requested by the Engineer.

If the Contractor fails to attend or send a representative, the measurement made by (or on behalf of) the Engineer shall be accepted as accurate.

- 1213 Except as otherwise stated in the Contract, wherever any Permanent Works are to be measured from records, these shall be prepared by the Engineer. The Contractor shall, as and when requested, attend to examine and agree the records with the Engineer, and shall sign the same when agreed. If the Contractor does not attend, the records shall be accepted as accurate.

- 1214 If the Contractor examines and disagrees the records, and/or does not sign them as agreed, then the Contractor shall give notice to the Engineer of the respects in which the records are asserted to be inaccurate. After receiving this notice, the Engineer shall review the records and either confirm or vary them and certify the payment of the undisputed part. If the Contractor does not so give notice to the Engineer within 14 days after being requested to examine the records, they shall be accepted as accurate.

## 122 Method of Measurement

Except as otherwise stated in the Contract and notwithstanding local practice:

- a) Measurement shall be made of the net actual quantity of each item of the Permanent Works, and
- b) The method of measurement shall be in accordance with the Bills of Quantities or other applicable Schedules.

## 123 Evaluation

- 1231 Except as otherwise stated in the Contract, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the Contract Price by evaluating each item of work, applying the measurement agreed or determined in accordance with the above Sub-Clauses 12.1 and 12.2 and the appropriate rate or price for the item.

For each item of work, the appropriate rate or price for the item shall be the rate or price specified for such item in the Contractor, if there is no such item, specified for similar work.

- 1232 Any item of work included in the Bills of Quantities for which no rate or price was specified shall be considered as included in other rates and prices in the Bills of Quantities and will not be paid for separately.

However, a new rate or price shall be appropriate for an item of work if:

- a)
  - i) the measured quantity of the item is changed by more than 25% from the quantity of this item in the Bills of Quantities or another Schedule,
  - ii) This change in quantity multiplied by such specified rate for this item exceeds 0.25% of the Accepted Contract Amount,
  - iii) This change in quantity directly changes the Cost per unit quantity of this item by more than 1%, and
  - iv) This item is not specified in the Contract as a "fixed rate item"; or
- b)
  - i) the work is instructed under Clause 13 [Variations and Adjustments],
  - ii) no rate or price is specified in the Contract for this item, and
  - iii) no specified rate or price is appropriate because the item of work is not of similar character, or is not executed under similar conditions, as any item in the Contract.

- 1233 Each new rate or price shall be derived from any relevant rates or prices in the Contract, with reasonable adjustments to take account of the matters described in sub-paragraph (a) and/or (b), as applicable. If no rates or prices are relevant for the derivation of a new rate or price, it shall be

derived from the reasonable Cost of executing the work, together with profit, taking account of any other relevant matters.

1234 Until such time as an appropriate rate or price is agreed or determined, the Engineer shall determine a provisional rate or price for the purposes of Interim Payment Certificates as soon as the concerned work commences.

1235 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (*which would be the tender price*), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: (*corrected tender price*–*tender price*)/*tender price* X 100.

## 124 Omissions

Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:

- a) the Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;
- b) the omission of the work will result (or has resulted) in this sum not forming part of the Contract Price; and
- c) this cost is not deemed to be included in the evaluation of any substituted work; then the Contractor shall give notice to the Engineer accordingly, with supporting particulars. Upon receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this cost, which shall be included in the Contract Price.

## 13. VARIATIONS AND ADJUSTMENTS

### 13.1 Right to Vary

13.1.1 Variations may be initiated by the Engineer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

13.1.2 The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works. Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction.

Each Variation may include:

- a) Changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),
- b) Changes to the quality and other characteristics of any item of work,
- c) Changes to the levels, positions and/or dimensions of any part of the Works,
- d) Omission of any work unless it is to be carried out by others,
- e) Any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or
- f) Changes to the sequence or timing of the execution of the Works.

13.1.3 The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or approves a Variation.

### 13.2 Value Engineering

13.2.1 The Contractor may, at any time, submit to the Engineer a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Procuring Entity of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Procuring Entity of the completed Works, or (iv) otherwise be of benefit to the Procuring Entity.

1322 The proposal shall be prepared at the cost of the Contract or and shall include the items listed in Sub- Clause 13.3 [Variation Procedure].

If a proposal, which is approved by the Engineer, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:

- a) The Contractor shall design this part,
- b) Sub-paragraphs (a) to (d) of Sub-Clause 4.1 [Contractor's General Obligations] shall apply, and
- c) If this change results in a reduction in the contract value of this part, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:
  - i) such reduction in contract value, resulting from the change, excluding adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost], and
  - ii) the reduction (if any) in the value to the Procuring Entity of the varied works, taking account of any reductions in quality, anticipated life or operational efficiencies.

1323 However, if amount (i) is less than amount (ii), there shall not be a fee.

### **133 Variation Procedure**

1331 If the Engineer requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- a) a description of the proposed work to be performed and a programme for its execution,
- b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion, and
- c) the Contractor's proposal for evaluation of the Variation.

1332 The Engineer shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

1333 Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Engineer to the Contractor, who shall acknowledge receipt.

Each Variation shall be evaluated in accordance with Clause 12 [Measurement and Evaluation], unless the Engineer instructs or approves otherwise in accordance with this Clause.

### **134 Payment in Applicable Currencies**

If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.

### **135 Provisional Sums**

1351 Each Provisional Sum shall only be used, in whole or in part, in accordance with the Engineer's instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Engineer shall have instructed. For each Provisional Sum, the Engineer may instruct:

- a) Work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under Sub-Clause 13.3 [Variation Procedure]; and/or
- b) Plant, Materials or services to be purchased by the Contractor, from a nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]) or otherwise; and for which there shall be

included in the Contract Price:

- i) The actual amounts paid (or due to be paid) by the Contractor, and
- ii) A sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the appropriate Schedule.
- iii) If there is no such rate, the percentage rate stated in the SCC shall be applied.

1352 The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation.

### **13.6 Daywork**

1361 For work of a minor or incidental nature, the Engineer may instruct that a Variation shall be executed on a daywork basis. The work shall then be valued in accordance with the Daywork Schedule included in the Contract, and the following procedure shall apply. If a Daywork Schedule is not included in the Contract, this Sub-Clauses shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Engineer. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.

1362 Except for any items for which the Daywork Schedule specifies that payment is not due, the Contractor shall deliver each day to the Engineer accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

- a) The names, occupations and time of Contractor's Personnel,
- b) The identification, type and time of Contractor's Equipment and Temporary Works, and
- c) The quantities and types of Plant and Materials used.

1363 One copy of each statement will, if correct, or when agreed, be signed by the Engineer and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Engineer, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payment Certificates].

### **13.7 Adjustments for Changes in Legislation**

1371 The Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of the Country (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.

1372 If the Contract or suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) Payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

1373 Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause

13.8 [Adjustments for Changes in Cost].

### 138 Adjustments for Changes in Cost

- 1381 In this Sub-Clause, “table of adjustment data” means the completed table of adjustment data for local and foreign currencies included in the Schedules. If there is no such table of adjustment data, this Sub- Clause shall not apply.
- 1382 If this Sub-Clause applies, the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labor, Goods and other inputs to the Works, by the addition or deduction of the amounts determined by the formulae prescribed in this Sub-Clause. To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.
- 1383 The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be of the following general type:

$$P_n = a + b L_n / L_o + c E_n / E_o + d M_n / M_o + \quad \text{where:}$$

“ $P_n$ ” is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period “ $n$ ”, this period being a month unless otherwise stated in the SCC;

“ $a$ ” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

“ $b$ ”, “ $c$ ”, “ $d$ ”, ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works, as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labor, equipment and materials;

“ $L_n$ ”, “ $E_n$ ”, “ $M_n$ ”, ... are the current cost indices or reference prices for period “ $n$ ”, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

“ $L_o$ ”, “ $E_o$ ”, “ $M_o$ ” ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

- 1384 The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Engineer. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table) for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.
- 1385 In cases where the “currency of index” is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the central Procuring Entity of the Country, of this relevant currency on the above date for which the index is required to be applicable.
- 1386 Until such time as each current cost index is available, the Engineer shall determine a provisional index for the issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.
- 1387 If the Contractor fails to complete the Works within the Time for Completion, adjustment of prices thereafter shall be made using either (i) each index or price applicable on the date 49 days prior to the expiry of the Time for Completion of the Works, or (ii) the current index or price, which ever is more favorable to the Procuring Entity.
- 1388 The weightings (coefficients) for each of the factors of cost stated in the table(s) of adjustment data shall

only be adjusted if they have been rendered unreasonable, unbalanced or inapplicable, as a result of Variations.

## **14. CONTRACT PRICE AND PAYMENT**

### **14.1 The Contract Price**

14.1.1 Unless otherwise stated in the Particular Conditions:

- a) the Contract Price shall be agreed or determined under Sub-Clause 12.3 [Evaluation] and be subject to adjustments in accordance with the Contract;
- b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation];
- c) any quantities which may be set out in the Bills of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities:
  - i) of the Works which the Contractor is required to execute, or
  - ii) for the purposes of Clause 12 [Measurement and Evaluation]; and
- d) the Contractor shall submit to the Engineer, within 30 days after the Commencement Date, a proposed breakdown of each lumpsum price in the Schedules.

14.1.2 The Engineer may take account of the breakdown when preparing Payment Certificates, but shall not be bound by it.

14.1.3 Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts there for, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of import duties and taxes upon importation.

### **14.2 Advance Payment**

14.2.1 The Procuring Entity shall make an advance payment, as an interest- free loan for mobilization and cashflow support, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total advance payment, the number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in the **SCC**. Unless and until the Procuring Entity receives this guarantee, or if the total advance payment is not stated in the **SCC**, this Sub-Clause shall not apply.

14.2.2 The Engineer shall deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Interim Payment Certificates]) and after the Procuring Entity receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by a reputable Procuring Entity or financial institution selected by the Contractor and shall be in the form annexed to the Particular Conditions or in another form approved by the Procuring Entity.

14.2.3 The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 30 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

14.2.4 Unless stated otherwise in the **SCC**, the advance payment shall be repaid through percentage deductions from the interim payments determined by the Engineer in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates], as follows:

- a) Deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention) exceeds 30 percent (30%) of the Accepted Contract Amount less Provisional Sums; and
- b) Deductions shall be made at the amortization rate stated in the **SCC** of the amount of each Interim Payment Certificate (excluding the advance payment and deductions for its repayments as well as deductions for retention money) in the currencies and proportions of the advance payment until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when 90 percent (90%) of the Accepted Contract Amount less Provisional Sums has been certified for payment.

14.2.5 If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Procuring Entity], Clause 16 [Suspension and Termination by Contractor] or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under Clause 15 [Termination by

Procuring Entity], except for Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination for Convenience], payable by the Contractor to the Procuring Entity.

#### **143 Application for Interim Payment Certificates**

1431 The Contractor shall submit a Statement in six copies to the Engineer after the end of each month, in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers itself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.21 [Progress Reports].

1432 The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:

- a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);
- b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];
- c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in the SCC to the total of the above amounts, until the amount so retained by the Procuring Entity reaches the limit of Retention Money (if any) stated in the SCC;
- d) any amounts to be added for the advance payment and (if more than one instalment) and to be deducted for its repayments in accordance with Sub-Clause 14.2 [Advance Payment];
- e) any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];
- f) any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
- g) the deduction of amounts certified in all previous Payment Certificates.

1433 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (*which would be the tender price*), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows:  $(\text{corrected tender price} - \text{tender price}) / \text{tender price} \times 100$ .

#### **144 Schedule of Payments**

1441 If the Contract includes a schedule of payments specifying the instalments in which the Contract Price will be paid, then unless otherwise stated in this schedule:

- a) The instalments quoted in this schedule of payments shall be the estimated contract values for the purposes of sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates];
- b) Sub-Clause 14.5 [Plant and Materials intended for the Works] shall not apply; and
- c) If these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less or more than that on which this schedule of payments was based, then the Engineer may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less or more than that on which the instalments were previously based.

1442 If the Contract does not include a schedule of payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

#### **145 Plant and Materials intended for the Works (see SCC for lists)**

1451 If this Sub-Clause applies, Interim Payment Certificates shall include, under sub-paragraph (e) of Sub-Clause 14.3, (i) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and (ii) a reduction when the contract value of such Plant and Materials is included as part of the Permanent Works under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates].

1452 If the lists referred to in sub-paragraphs (b) (i) or (c) (i) below are not included in the Schedules, this Sub-Clause shall not apply. The Engineer shall determine and certify each addition if the following conditions are

satisfied:

- a) The Contractor has:
  - i) Kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and
  - ii) Submitted a statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence; and either:
- b) The relevant Plant and Materials:
  - i) Are those listed in the Schedules for payment when shipped,
  - ii) Have been shipped to the Country, enroute to the Site, in accordance with the Contract; and
  - iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Engineer together with evidence of payment of freight and insurance, any other documents reasonably required, and an Procuring Entity guarantee in a form and issued by an entity approved by the Procuring Entity in amounts and currencies equal to the amount due under this Sub-Clause: this guarantee may be in a similar form to the form referred to in Sub-Clause 14.2[Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration;
- c) the relevant Plant and Materials:
  - i) are those listed in the Schedules for payment when delivered to the Site, and
  - ii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration, and appear to be in accordance with the Contract.

1453 The additional amount to be certified shall be the equivalent of eighty percent (80%) of the Engineer's determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this Sub-Clause and of the contract value of the Plant and Materials.

1454 The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificate shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.

#### **146 Issue of Interim Payment Certificates**

1461 No amount will be certified or paid until the Procuring Entity has received and approved the Performance Security. Thereafter, the Engineer shall, within 30 days after receiving a Statement and supporting documents, deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate which shall state the amount which the Engineer fairly determines to be due, with all supporting particulars for any reduction or withholding made

However, prior to issuing the Taking-Over Certificate for the Works, the Engineer shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated in the SCC. In this event, the Engineer shall give notice to the Contractor accordingly.

1462 An Interim Payment Certificate shall not be withheld for any other reason, although:

- a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or
- b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer, the value of this work or obligation may be withheld until the work or obligation has been performed.

1463 The Engineer may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Engineer's acceptance, approval, consent or satisfaction.

#### **147 Payment**

1471 The Procuring Entity shall pay to the Contractor:

- a) The first instalment of the advance payment within 42 days after issuing the Letter of Acceptance or within 21 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause 14.2 [Advance Payment], whichever is later;

- b) the amount certified in each Interim Payment Certificate within 56 days after the Engineer receives the Statement and supporting documents; or, at a time when the Procuring Entity's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor within 14 days after such statement is submitted, any discrepancy being rectified in the next payment to the Contractor; and
- c) the amount certified in the Final Payment Certificate within 56 days after the Procuring Entity receives this Payment Certificate; or, at a time when the Procuring Entity's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the undisputed amount shown in the Final Statement within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2 [Termination by Contractor].

1472 Payment of the amount due in each currency shall be made in to the Procuring Entity account, nominated by the Contractor, in the payment country (for this currency) specified in the Contract.

#### **148 Delayed Payment**

1481 If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its sub-paragraph (b)) of the date on which any Interim Payment Certificate is issued.

1482 Unless otherwise stated in the Particular Conditions, these financing charges shall be calculated at the annual rate of three percentage points above the discount rate of the central Procuring Entity in the country of the currency of payment, or if not available, the inter-Procuring Entity offered rate, and shall be paid in such currency.

The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

#### **149 Payment of Retention Money**

1491 When the Taking-Over Certificate has been issued for the Works, the first half of the Retention Money shall be certified by the Engineer for payment to the Contractor. If a Taking-Over Certificate is issued for a Section or part of the Works, a proportion of the Retention Money shall be certified and paid. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section or part, by the estimated final Contract Price.

1492 Promptly after the latest of the expiry dates of the Defects Notification Periods, the outstanding balance of the Retention Money shall be certified by the Engineer for payment to the Contractor. If a Taking-Over Certificate was issued for a Section, a proportion of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Notification Period for the Section. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section by the estimated final Contract Price.

1493 However, if any work remains to be executed under Clause 11 [Defects Liability], the Engineer shall be entitled to withhold certification of the estimated cost of this work until it has been executed.

1494 When calculating these proportions, no account shall be taken of any adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost].

1495 Unless otherwise stated in the Particular Conditions, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a guarantee, in the form annexed to the Particular Conditions or in another form approved by the Procuring Entity and issued by a reputable Procuring Entity or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contract or has executed and completed the Works and remedied any defects, as specified for the Performance Security in Sub-Clause 4.2. On receipt by the Procuring Entity of the required guarantee, the Engineer shall certify and the Procuring Entity shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release under the second paragraph of this Sub-Clause. The Procuring Entity shall return the guarantee to the Contractor within 21 days after receiving a copy of the Performance Certificate.

1496 If the Performance Security required under Sub-Clause 4.2 is in the form of a demand guarantee, and the

amount guaranteed under it when the Taking-Over Certificate is issued is more than half of the Retention Money, then the Retention Money guarantee will not be required. If the amount guaranteed under the Performance Security when the Taking-Over Certificate is issued is less than half of the Retention Money, the Retention Money guarantee will only be required for the difference between half of the Retention Money and the amount guaranteed under the Performance Security.

#### **14.10 Statement at Completion**

Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Engineer six copies of a Statement at completion with supporting documents, in accordance with Sub-Clause

14.3 [Application for Interim Payment Certificates], showing:

- a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
- b) any further sums which the Contractor considers to be due, and
- c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

The Engineer shall then certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates].

#### **14.11 Application for Final Payment Certificate**

14.11.1 Within 56 days after receiving the Performance Certificate, the Contractor shall submit, to the Engineer, six copies of a draft final statement with supporting documents showing in detail in a form approved by the Engineer:

- a) The value of all work done in accordance with the Contract, and
- b) Any further sums which the Contractor considers to be due to him under the Contract otherwise.

14.11.2 If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require within 30 days from receipt of said draft and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed. This agreed statement is referred to in these Conditions as the "Final Statement".

14.11.3 However, if, following discussions between the Engineer and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Engineer shall deliver to the Procuring Entity (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under Sub-Clause 20.4 [Obtaining Dispute Board's Decision] or Sub-Clause 20.5 [Amicable Settlement], the Contractor shall then prepare and submit to the Procuring Entity (with a copy to the Engineer) a Final Statement.

#### **14.12 Discharge**

When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.

#### **14.13 Issue of Final Payment Certificate**

14.13.1 Within 30 days after receiving the Final Statement and discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall deliver, to the Procuring Entity and to the Contractor, the Final Payment Certificate which shall state:

- (a) The amount which he fairly determines is finally due, and
- (b) After giving credit to the Procuring Entity for all amounts previously paid by the Procuring Entity and for all sums to which the Procuring Entity is entitled, the balance (if any) due from the Procuring Entity to the Contractor or from the Contractor to the Procuring Entity, as the case may be.

14.13.1 If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 30 days, the Engineer shall issue the Final Payment Certificate for such amount as he fairly determines to be due.

## **14.14 Cessation of Procuring Entity's Liability**

- 14.14.1 The Procuring Entity shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:
- a) In the Final Statement and also
  - b) (Except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 14.10[Statement at Completion].
- 14.14.2 However, this Sub-Clause shall not limit the Procuring Entity's liability under his indemnification obligations, or the Procuring Entity's liability in any case of fraud, deliberate default or reckless misconduct by the Procuring Entity.

## **14.15 Currencies of Payment**

The Contract Price shall be paid in the currency or currencies named in the Schedule of Payment Currencies. If more than one currency is so named, payments shall be made as follows:

- a) If the Accepted Contract Amount was expressed in Local Currency only:
  - (i) The proportions or amounts of the Local and Foreign Currencies, and the fixed rates of exchange to be used for calculating the payments, shall be as stated in the Schedule of Payment Currencies, except as otherwise agreed by both Parties;
  - ii) payments and deductions under Sub-Clause 13.5 [Provisional Sums] and Sub-Clause 13.7 [Adjustments for Changes in Legislation] shall be made in the applicable currencies and proportions; and
  - iii) other payments and deductions under sub-paragraphs (a) to (d) of Sub-Clause 14.3 [Application for Interim Payment Certificates] shall be made in the currencies and proportions specified in sub-paragraph (a) (i) above;
- b) payment of the damages specified in the SCC, shall be made in the currencies and proportions specified in the Schedule of Payment Currencies;
- c) other payments to the Procuring Entity by the Contractor shall be made in the currency in which the sum was expended by the Procuring Entity, or in such currency as may be agreed by both Parties;
- d) if any amount payable by the Contractor to the Procuring Entity in a particular currency exceeds the sum payable by the Procuring Entity to the Contractor in that currency, the Procuring Entity may recover the balance of this amount from the sums otherwise payable to the Contractor in other currencies; and
- e) if no rates of exchange are stated in the Schedule of Payment Currencies, they shall be those prevailing on the Base Date and determined by the central Procuring Entity of the Country.

## **15. TERMINATION BY PROCURING ENTITY**

### **15.1 Notice to Correct**

If the Contractor fails to carry out any obligation under the Contract, the Engineer may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

### **15.2 Termination by Procuring Entity**

- 15.2.1 The Procuring Entity shall be entitled to terminate the Contract if the Contractor:
- a) fails to comply with Sub-Clause 4.2 [Performance Security] or with a notice under Sub-Clause 15.1 [Notice to Correct],
  - b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,
  - c) without reasonable excuse fails:
    - (i) to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension], or
    - ii) to comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [Remedial Work], within 30 days after receiving it,
  - d) subcontracts the whole of the Works or as signs the Contract without the required agreement,
  - e) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or
  - f) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other

thing of value, as an inducement or reward:

- i) for doing or forbearing to do any action in relation to the Contract, or
  - ii) for showing or for bearing to show favor or disfavor to any person in relation to the Contract, or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination, or
- g) based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 2.2 of the Appendix B to these General Conditions, in competing for or in executing the Contract.

1522 In any of these events or circumstances, the Procuring Entity may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (e) or (f) or (g), the Procuring Entity may by notice terminate the Contract immediately.

1523 The Procuring Entity's election to terminate the Contract shall not prejudice any other rights of the Procuring Entity, under the Contract or otherwise.

The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Engineer. However, the Contractor shall use his lowest efforts to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

After termination, the Procuring Entity may complete the Works and/or arrange for any other entities to do so. The Procuring Entity and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.

The Procuring Entity shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Procuring Entity, these items may be sold by the Procuring Entity in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

### 153 Valuation at Date of Termination

As soon as practicable after a notice of termination under Sub-Clause 15.2 [Termination by Procuring Entity] has taken effect, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

### 154 Payment after Termination

After a notice of termination under Sub-Clause 15.2 [Termination by Procuring Entity] has taken effect, the Procuring Entity may:

- a) Proceed in accordance with Sub-Clause 2.5 [Procuring Entity's Claims],
- b) Withhold further payments to the Contractor until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Procuring Entity, have been established, and/or
- c) Recover from the Contractor any losses and damages incurred by the Procuring Entity and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 15.3 [Valuation at Date of Termination]. After recovering any such losses, damages and extra costs, the Procuring Entity shall pay any balance to the Contractor.

### 155 Procuring Entity's Entitlement to Termination for Convenience

1551 The Procuring Entity shall be entitled to terminate the Contract, at any time for the Procuring Entity's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 30 days after the later of the dates on which the Contractor receives this notice or the Procuring Entity returns the Performance Security. The Procuring Entity shall not terminate the Contract under this Sub-Clause in order to execute the Works itself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor under Clause 16.2[Termination by Contractor].

1552 After this termination, the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 16.4 [Payment on Termination].

## **15.6 Fraud and Corruption**

The Procuring Entity requires compliance with the national law and regulations against corruption. All available sanctions will apply where corruption is detected.

## **16. SUSPENSION AND TERMINATION BY CONTRACTOR**

### **16.1 Contractor's Entitlement to Suspend Work**

- 1611 If the Engineer fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or the Procuring Entity fails to comply with Sub-Clause 2.4 [Procuring Entity's Financial Arrangements] or Sub-Clause 14.7 [Payment], the Contractor may, after giving not less than 21 days' notice to the Procuring Entity, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence or payment, as the case may be and as described in the notice.
- 1612 Notwithstanding the above, if the Procuring Entity has suspended disbursements under the loan or credit from which payments to the Contractor are being made, in whole or in part, for the execution of the Works, and no alternative funds are available as provided for in Sub-Clause 2.4 [Procuring Entity's Financial Arrangements], the Contractor may by notice suspend work or reduce the rate of work at any time, but not less than 7 days after the Procuring Entity having received the suspension notification from the Procuring Entity.
- 1613 The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8 [Delayed Payment] and to termination under Sub-Clause 16.2 [Termination by Contractor].
- 1614 If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant Sub-Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.
- 1615 If the Contractor suffers delay and/or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
  - b) payment of any such Cost-plus profit, which shall be included in the Contract Price.
- 1616 After receiving this notice, the Engineers shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

### **16.2 Termination by Contractor**

- 1621 The Contractor shall be entitled to terminate the Contract if:
- a) the Contractor does not receive the reasonable evidence within 42 days after giving notice under Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work] in respect of a failure to comply with Sub-Clause 2.4 [Procuring Entity's Financial Arrangements],
  - b) the Engineer fails, within 56 days after receiving a Statement and supporting documents, to issue the relevant Payment Certificate,
  - c) the Contractor does not receive the amount due under an Interim Payment Certificate within 42 days after the expiry of the time stated in Sub-Clause 14.7 [Payment] within which payment is to be made (except for deductions in accordance with Sub-Clause 2.5 [Procuring Entity's Claims]),
  - d) the Procuring Entity substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the economic balance of the Contract and/or the ability of the Contractor to perform the Contract,
  - e) the Procuring Entity fails to comply with Sub-Clause 1.6 [Contract Agreement] or Sub-Clause 1.7 [Assignment],
  - f) a prolonged suspension affects the whole of the Works as described in Sub-Clause 8.11 [Prolonged Suspension], or
  - g) the Procuring Entity becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.
  - h) The Contractor does not receive the Engineer's instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 [Commencement of Works].

1622 In any of these events or circumstances, the Contractor may, upon giving 14 days' notice to the Procuring Entity, terminate the Contract. However, in the case of sub-paragraph (f) or (g), the Contractor may by notice terminate the Contract immediately.

1623 In the event the Procuring Entity suspends the loan or credit from which part or whole of the payments to the Contractor are being made, if the Contractor has not received the sums due to him upon expiration of the 14 days referred to in Sub-Clause 14.7 [Payment] for payments under Interim Payment Certificates, the Contractor may, without prejudice to the Contractor's entitlement to financing charges under Sub-Clause 14.8 [Delayed Payment], take one of the following actions, namely (i) suspend work or reduce the rate of work under Sub-Clause 16.1 above, or (ii) terminate the Contract by giving notice to the Procuring Entity, with a copy to the Engineer, such termination to take effect 14 days after the giving of the notice.

The Contractor's election to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contract or otherwise.

### **163 Cessation of Work and Removal of Contractor's Equipment**

After a notice of termination under Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination for Convenience], Sub-Clause 16.2 [Termination by Contractor] or Sub-Clause 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall promptly:

- a) Cease all further work, except for such work as may have been instructed by the Engineer for the protection of life or property or for the safety of the Works,
- b) Handover Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
- c) Remove all other Goods from the Site, except as necessary for safety, and leave the Site.

### **164 Payment on Termination**

After a notice of termination under Sub-Clause 16.2 [Termination by Contractor] has taken effect, the Procuring Entity shall promptly:

- a) Return the Performance Security to the Contractor,
- b) Pay the Contractor in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release], and
- c) Pay to the Contractor the amount of any loss or damage sustained by the Contractor as a result of this termination.

## **17. RISK AND RESPONSIBILITY**

### **17.1 Indemnities**

17.1.1 The Contractor shall indemnify and hold harmless the Procuring Entity, the Procuring Entity's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) Bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful actor breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of the irrelative agents, and
- (b) Damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, the irrelative agents, or any one directly or indirectly employed by any of them.

17.1.2 The Procuring Entity shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their

respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d)(i), (ii) and (iii) of Sub-Clause 18.3 [Insurance Against Injury to Persons and Damage to Property].

## **172 Contractor's Care of the Works**

1721 The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Procuring Entity. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Procuring Entity.

1722 After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

1723 If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

1724 The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

## **173 Procuring Entity's Risks**

The risks referred to in Sub-Clause 17.4 [Consequences of Procuring Entity's Risks] below, insofar as they directly affect the execution of the Works in the Country, are:

- a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war, within the Country,
- c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel,
- d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,
- e) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,
- f) use or occupation by the Procuring Entity of any part of the Permanent Works, except as may be specified in the Contract,
- g) design of any part of the Works by the Procuring Entity's Personnel or by others for whom the Procuring Entity is responsible, and
- h) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventive precautions.

## **174 Consequences of Procuring Entity's Risks**

1741 If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer.

1742 If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 17.3 [Procuring Entity's Risks], Cost plus profit shall be payable.

1743 After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

## **175 Intellectual and Industrial Property Rights**

- 1751 In this Sub-Clause, “infringement” means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, tradename, trade secret or other intellectual or industrial property right relating to the Works; and “claim” means a claim (or proceedings pursuing a claim) alleging an infringement.
- 1752 Whenever a Party does not give notice to the other Party of any claim within 30 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.
- 1753 The Procuring Entity shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:
- a) An unavoidable result of the Contractor's compliance with the Contract, or
  - b) A result of any Works being used by the Procuring Entity:
    - i) For a purpose other than that indicated by, or reasonably to be inferred from, the
    - ii) Contract, or
    - iii) In conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.
- 1754 The Contractor shall indemnify and hold the Procuring Entity harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.
- 1755 If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

## **17.6 Limitation of Liability**

- 1761 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contractor for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 8.7 [Delay Damages]; Sub-Clause 11.2 [Cost of Remedying Defects]; Sub-Clause 15.4 [Payment after Termination]; Sub-Clause 16.4 [Payment on Termination]; Sub-Clause 17.1 [Indemnities]; Sub-Clause 17.4 (b) [Consequences of Procuring Entity's Risks] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights].
- 1762 The total liability of the Contractor to the Procuring Entity, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Procuring Entity's Equipment and Free- Issue Materials], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum resulting from the application of a multiplier (less or greater than one) to the Accepted Contract Amount, as stated in the SCC, or (if such multiplier or other sum is not so stated) the Accepted Contract Amount.
- 1763 This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

## **17.7 Use of Procuring Entity's Accommodation/Facilities**

- 1771 The Contractor shall take full responsibility for the care of the Procuring Entity provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contract or until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).
- 1772 If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Procuring Entity is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Engineer.

## **18. INSURANCE**

### **18.1 General Requirements for Insurances**

- 18.1.1 In this Clause, “insuring Party” means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

- 1812 Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Procuring Entity. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.
- 1813 Wherever the Procuring Entity is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.
- 1814 If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Procuring Entity shall act for Procuring Entity's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.
- 1815 Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.
- 1816 The relevant insuring Party shall, within the respective periods stated in the SCC (calculated from the Commencement Date), submit to the other Party:
- a) Evidence that the insurances described in this Clause have been effected, and
  - b) Copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].
- 1817 When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer.
- 1818 Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.
- Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.
- 1819 The insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.
- 181.10 Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Procuring Entity, under the other terms of the Contract otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Procuring Entity in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.
- 181.11 Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Procuring Entity's Claims] or Sub-Clause 20.1 [Contractor's Claims], as applicable.
- 181.12 The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to Clause 18) with insurers from any eligible source country.

## **18.2 Insurance for Works and Contractor's Equipment**

- 1821 The insuring Party shall insure the Works, Plant, Materials and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.

- 1822 The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability]).
- 1823 The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.
- 1824 Unless otherwise stated in the Particular Conditions, insurances under this Sub-Clause:
- a) Shall be effected and maintained by the Contractor as insuring Party,
  - b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage,
  - c) shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks],
  - d) shall also cover, to the extent specifically required in the tendering documents of the Contract, loss or damage to a part of the Works which is attributable to the use or occupation by the Procuring Entity of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h) of Sub-Clause 17.3 [Procuring Entity's Risks], excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated in the SCC (if an amount is not so stated, this sub-paragraph (d) shall not apply), and
  - e) may however exclude loss of, damage to, and reinstatement of:
    - i) a part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),
    - ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,
    - iii) a part of the Works which has been taken over by the Procuring Entity, except to the extent that the Contractor is liable for the loss or damage, and
    - iv) Goods while they are not in the Country, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].
- 1825 If, more than one year after the Base Date, the cover described in sub-paragraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Procuring Entity, with supporting particulars. The Procuring Entity shall then (i) be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

### **18.3 Insurance against Injury to Persons and Damage to Property**

- 1831 The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.
- 1832 This insurance shall be for a limit per occurrence of not less than the amount stated in the SCC, with no limit on the number of occurrences. If an amount is not stated in the SCC, this Sub-Clause shall not apply. Unless otherwise stated in the Particular Conditions, the insurances specified in this Sub-Clause:
- a) Shall be effected and maintained by the Contractor as insuring Party,
  - b) Shall be in the joint names of the Parties,
  - c) Shall be extended to cover liability for all loss and damage to the Procuring Entity's property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and
  - d) May however exclude liability to the extent that it arises from:
    - i) The Procuring Entity's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,
    - ii) damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any defects, and
    - iii) a cause listed in Sub-Clause 17.3 [Procuring Entity's Risks], except to the extent that cover is available at commercially reasonable terms.

## **184 Insurance for Contractor's Personnel**

1841 The Contract or shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

1842 The insurance shall cover the Procuring Entity and the Engineer against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Procuring Entity or of the Procuring Entity's Personnel.

1843 The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

## **19. FORCE MAJEURE**

### **19.1 Definition of Force Majeure**

19.1.1 In this Clause, "Force Majeure" means an exceptional event or circumstance:

- a) Which is beyond a Party's control,
- b) Which such Party could not reasonably have provided against before entering into the Contract,
- c) Which, having arisen, such Party could not reasonably have avoided or overcome, and
- d) Which is not substantially attributable to the other Party.

19.1.2 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- ii) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,
- iii) riot, commotion, disorder, strike or lock out by persons other than the Contractor's Personnel,
- iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

### **19.2 Notice of Force Majeure**

19.2.1 If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

19.2.2 The Party shall, having given notice, be excused performance of its obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

### **19.3 Duty to Minimize Delay**

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected by the ForceMajeure.

### **19.4 Consequences of Force Majeure**

19.4.1 If the Contractor is prevented from performing his substantial obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay

and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in sub-paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment].

1942 After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

### **195 Force Majeure Affecting Subcontractor**

If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

### **196 Optional Termination, Payment and Release**

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

Upon such termination, the Engineer shall determine the value of the work done and issue a Payment Certificate which shall include:

- a) The amounts payable for any work carried out for which a price is stated in the Contract;
- b) The Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;
- c) other Cost or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;
- d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and their turn of these items to the Contractor's works in his country (or to any other destination at no greater cost); and
- e) the Cost of repatriation of the Contractor's staff and labor employed wholly in connection with the Works at the date of termination.

### **197 Release from Performance**

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- a) The Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- b) The sum payable by the Procuring Entity to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.

## **20. CLAIMS, DISPUTES AND ARBITRATION**

### **20.1 Contractor's Claims**

2011 If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the

Contractor shall give Notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 30 days after the Contractor became aware, or should have become aware, of the event or circumstance.

- 20.12 If the Contractor fails to give notice of a claim within such period of 30 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.
- 20.13 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
- 20.13 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Procuring Entity's liability, the Engineer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.
- 20.14 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:
- a) This fully detailed claim shall be considered as interim;
  - b) The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and
  - c) The Contractor shall send a final claim within 30 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.
- 20.15 Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer and approved by the Contractor, the Engineer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.
- 20.16 Within the above defined period of 42 days, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
- 20.17 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 20.18 If the Engineer does not respond within the time frame defined in this Clause, either Party may consider that the claim is rejected by the Engineer and any of the Parties may refer to Arbitration in accordance with Sub-Clause 20.4 [Arbitration].
- 20.19 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of Sub-Clause 20.3 (f).

## **20.2 Amicable Settlement**

Where a notice of a claim has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a notice of a claim in accordance with Sub-Clause 20.1 above should move to commence arbitration after the fifty-sixth day from the day on which a notice of a claim was given, even if no attempt at an amicable settlement has been made.

## **20.3 Matters that may be referred to arbitration**

Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:

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

## **20.4 Arbitration**

20.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.3 shall be finally settled by arbitration.

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

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

20.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.

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

20.6 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Engineer from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

20.7 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

20.7 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Engineer shall not be altered by reason of any arbitration being conducted during the progress of the Works.

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

## **20.5 Arbitration with National Contractors**

20.1 If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

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

v) Institution of Engineers of Kenya

2052 The institution written to first by the aggrieved party shall take precedence over all other institutions.

## **20.6 Arbitration with Foreign Contractors**

207.1 Arbitration with foreign contractors shall be conducted in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules.

207.2 The place of arbitration shall be a location specified in the **SCC**; and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language].

## **20.7 Alternative Arbitration Proceedings**

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

## **20.8 Failure to Comply with Arbitrator's Decision**

2081 The award of such Arbitrator shall be final and binding upon the parties.

2082 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

## **20.9 Contract operations continue**

Notwithstanding any reference to arbitration herein,

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

## Section IX - Special Conditions of Contract

The following Special Conditions shall supplement the GCC. Whenever there is a conflict, the provisions here in shall prevail over those in the GCC.

Conditions	Sub-Clause	Data
<b>Part A - Contract Data</b>		
Procuring Entity's name and address	Heading	The Procuring Entity is <b>Anti Counterfeit Authority</b>
Name and Reference No. of the Contract	Heading and 1.1	<b>Proposed Repair Works at ACA Athi River</b> <b>Tender No. ACA/OT/02/2025-2026</b>
Engineers Name and address	Heading and 3.1.1	<b>Executive Director.</b> Ant-Counterfeit Authority, P.O Box 47771-00100, Nairobi, Kenya
Contractor's Representative's name	4.3.1	<i>[insert the name of the Contractor's Representative agreed by the Procuring Entity prior to Contract signature]</i>
Key Personnel names	16.9.1	<i>[insert the name of each Key Personnel agreed by the Procuring Entity prior to Contract signature]</i>
Time for Completion	1.1.	<b>6 Months</b>
Defects Liability Period	1.1	<b>1 year</b>
Defects Notification Period	1.1	<b>30 days</b>
Sections	1.1	<i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Electronic transmission systems	1.3	<b>N/A</b>
Time for the Parties entering into a Contract Agreement	1.6	<b>Within 30 days</b>
Commencement Date	8.1.1	The start date shall be no later than 14 days after possession of site is given
Time for access to the Site	2.1.1	No later than the Commencement Date, and not later than 14 no. days after Commencement Date
Architect Duties and Authority	3.1.6 (b) (ii)	Variations resulting in an increase of the Accepted Contract Amount shall be <b>as guided by the Public Procurement and Asset Disposal Act, 2015 and all amendments thereafter and attendant Regulations.</b>
Performance Security	4.2.1	The performance security will be in the form of a performance bond in the amount(s) of <b>10% percent of the Accepted Contract Amount</b> and in the same currency(ies) of the Accepted Contract Amount. <b>The Security issued shall be of its full value, and partial/split Securities shall be rejected.</b>
Nominated Sub-Contractors	5.1	<i>Add the following Paragraphs at the end of Sub-clause 5.1:</i>  5.1.1. The provisions governing Provisional Sums under Clause 13.6 shall similarly apply, with necessary modifications, to the Prime Cost Sums included in the contract Bills of Quantities.

Conditions	Sub- Clause	Data
		<p>5.1.2. The nominated sub-contractor shall carry out and complete the sub-contract works in every respect to the reasonable satisfaction of the Contractor and of the Architect and in conformity with all the reasonable directions and requirement of the Contractor.</p> <p>5.1.3. The Contractor and the nominated sub-contractor shall enter into a sub-contract agreement which provides (inter alia):</p> <p>5.1.3.1. That the nominated sub-contractor shall observe, perform and comply with all the provisions of this contract on the part of the Contractor to be observed, performed and complied with so far as they relate and apply to the sub-contract works or to any portion of the same.</p> <p>5.1.3.2. That the nominated sub-contractor shall indemnify the Contractor against the same liabilities in respect of the sub-contract works as those for which the Contractor is liable to indemnify the Procuring Entity under this contract.</p> <p>5.1.3.3. That the nominated sub-contractor shall indemnify the Contractor against claims in respect of any negligence, omission or default of such subcontractor, his servants or agents or any misuse by him or them of any scaffolding or other equipment, and shall insure himself against any such claims and produce the policy or policies and receipts in respect of premiums paid as and when required by either the Architect or the Contractor.</p> <p>5.1.3.4. That the sub-contract works shall be completed within the period or (where they are to be completed in parts) periods therein specified.</p> <p>5.1.3.5. That the Contractor shall not without the written consent of the Architect, grant any extension of time for the completion of the sub-contract works or any section thereof, and that the Contractor shall inform the Architect of any representation made by the nominated sub-contractor as to the cause of any delay in the progress or completion of the sub-contract works or any section thereof.</p> <p>5.1.3.6. That if the nominated sub-contractor shall fail to complete the sub-contract works or (where the sub-contract works are to be completed in sections) any section thereof, within the period therein specified or within any extended time granted by the Contractor with the written consent of the Architect and the Architect certifies in writing to the Contractor that the same ought reasonable so to have been completed, the nominated sub-contractor shall</p>

Conditions	Sub- Clause	Data
		<p>pay or allow to the Contractor either a sum calculated at the rate therein agreed as liquidated damages for the period during which the said works or any section thereof, as the case may be, shall so remain or have remained incomplete or (where no such rate is therein agree), a sum equivalent to any loss or damage suffered or incurred by the Contractor and caused by the failure of the nominated sub-contractor as aforesaid.</p> <p>5.1.3.7. That the Contractor shall retain from the sum directed by the Architect as having been included in the calculation of the amount stated as due in any certificate issued under Clause 14.0 of these conditions in respect of the total value of work, materials or goods executed or supplied by the nominated sub- contractor the percentage of such value named in the Special Conditions (Part A) as the Percentage of Retention.</p> <p>5.1.3.8. That the Procuring Entity, the Architect, and other agents of the Procuring Entity, shall have a right of access to the workshops and other places of the nominated sub-contractor where work is being prepared as provided for in Clause 7.3 of these conditions.</p> <p>5.1.4. The Architect shall direct the Contractor as to the total value of the work, materials or goods executed or supplied by a nominated sub-contractor included in the calculation of the amount stated as due in any certificate issued under clause 14.0 of these conditions and shall forthwith inform the nominated sub-contractor in writing of the amount of the said total value. The sum representing such total value shall be paid by the Contractor within seven days after receipt by the Contractor of the sum to which the Contractor shall be entitled by virtue of the certificate less only;</p> <p>5.1.4.1. Any retention money which the Contract may be entitled to deduct under the terms of the sub-contract, and</p> <p>5.1.4.2. Any sum to which the Contractor may be entitled in respect of delay in the completion of the sub-contract works or any section thereof, and</p> <p>5.1.4.3. Amounts already paid under previous certificates.</p> <p>5.1.4.4. Where applicable, the Architect may, with the consent of the Procuring Entity, certify and authorize payments to Nominated Subcontractors that diverge from the milestones outlined in the Schedule of Payments. Subsequent Certificates shall be adjusted to account for amounts previously certified in the preceding or divergent Certificates.</p>

Conditions	Sub- Clause	Data
		<p>5.1.5. Prior to issuing any Certificate as per Clause 14.0 of these conditions, the Architect may require the Contractor to provide reasonable evidence that all amounts included in previous certificates as due to any nominated subcontractor have been appropriately paid. If the Contractor fails to fulfill such a request, the Architect may advise the Procuring Entity to directly pay the owed amount to the relevant nominated subcontractor and deduct it from any sums due or to become due to the Contractor.</p> <p>5.1.6. Should any nominated subcontractor fail to complete the subcontract works within the stipulated period, or within any extended time granted by the Contractor with the written consent of the Architect, the Architect shall certify in writing if completion could reasonably have been expected. Upon issuance, the Architect shall promptly provide a copy of such certification to both the nominated subcontractor and the Procuring Entity.</p> <p>5.1.7. The Contractor may be permitted to tender any of the works for which Prime Cost Sums are included in the contract Bills of Quantities but without prejudice to the Procuring Entity's right to reject the lowest or any tender.</p> <p>5.1.8. If a nominated sub-contractor terminates the sub-contract or the Contractor terminates the sub-contract on the advice of the Architect, the Procuring Entity shall make a further nomination of a sub-contractor as may be necessary to carry out and complete the work left incomplete by the sub-contractor whose employment has been terminated. Any additional costs arising therefrom shall be borne by the Procuring Entity.</p> <p>5.1.9. Notwithstanding the above, the Architect may instruct, with the consent of the Procuring Entity and the Contractor, that the incomplete work shall be executed by the Contractor and such instruction shall be deemed to be a variation to the contract.</p> <p>5.1.10. Provided that where a nominated sub-contractor terminates the sub-contract as a result of a default by the Contractor, or the Contractor terminates the sub-contract without the written advice of the Architect, the Contractor shall be liable to the Procuring Entity for any additional costs arising therefrom.</p> <p>5.1.11. Where a nominated sub-contract provides a defect liability period which extends beyond the Contractor's defects liability period, the Contractor's obligations and liabilities in connection with the defects of the nominated sub-contract shall nevertheless terminate at the end of the Contractor's defects liability period. The remaining portion of the nominated sub-contractor's defects liability period</p>

Conditions	Sub-Clause	Data
		<p>shall be subject to a direct agreement between the Procuring Entity and the nominated sub-contractor and shall not form part of this agreement.</p> <p>5.1.12. Where a sub-contractor is required to give a guarantee or warranty relating to the sub-contract works such guarantee or warranty shall be assigned by the sub-contractor to the Procuring Entity.</p> <p>5.1.13. The employment of a nominated sub-contractor under these conditions shall terminate forthwith upon the termination (for any reason) of the Contractor's employment under the contract.</p> <p>5.1.14. Neither the existence nor the exercise of the foregoing powers nor anything else contained in these conditions shall render the Procuring Entity in any way liable to any nominated sub-contractor.</p>
Delay damages for the Works	8.7 & 14.15(b)	<b>0.05 % of the Contract Price per week or part thereof.</b> <i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Maximum amount of delay damages	8.7.1	<b>10%</b> of the final Contract Price.
Provisional Sums	13.6. (b)(ii)	<b>N/A</b>
Adjustments for Changes in Cost	13.9	<b>N/A</b>
Total advance payment	14.2.1	<b>Upto 10%</b> of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable.
Advance Payment Guarantee	14.2.1	The advance payment guarantee will be issued in the prescribed format in the amount of <b>the full value of the Total Advance Payment</b> and in the same currency(ies) of the Advance Payment. <b>The Guarantee issued shall be of its full value, and partial/split Guarantees shall be rejected.</b>
Repayment amortization rate of advance payment	14.2.5 (b)	<p>The amounts to be recovered in each payment certificate shall be computed using the following formula:</p> $R = \frac{A(x^1 - x^{11})}{90 - 30}$ <p><b>Where;</b>  <b>A</b> - Amount of the advance which has been granted.  <b>x<sup>1</sup></b> - The amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will exceed 30% but not exceed 90%.  <b>x<sup>11</sup></b> - The amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 90% but not less than 30%.  <b>R</b> - Amount to be reimbursed in current valuation.</p>
Percentage of Retention	14.3.2 (c)	<b>10%</b> of the certified amounts.
Limit of Retention Money	14.3.2 (c)	<b>10%</b> of the Accepted Contract Amount
Plant and Materials	14.5.3(b)(i)	Not applicable

Conditions	Sub- Clause	Data
	14.5.3(c)(i)	Not applicable
Minimum Amount of Interim Payment Certificates	14.6.2	<b>5%</b> of the Accepted Contract Amount
Publishing source of commercial interest rates for financial charges in case of delayed payment	14.8	<b>Shall be in accordance with the prevailing mean commercial lending rate as determined by the Central Bank of Kenya.</b>
Maximum total liability of the Contractor to the Procuring Entity	17.6.2	The product of <b>1.1</b> times the Accepted Contract Amount.
Periods for submission of insurance: a. Evidence of insurance. b. Relevant policies	18.1.6	<b>14 days</b> <b>14 days</b>
Maximum amount of deductibles for insurance of the Procuring Entity's risks	18.2.4 (d)	<i>[Insert maximum amount of deductibles]</i> - <b>N/A</b>
Minimum amount of third-party insurance	18.3.2	<i>[Insert amount of third-party insurance]</i> - <b>N/A</b>
The place of arbitration	20.7.2	<b>Nairobi, Kenya</b>

## **SECTION X - CONTRACT FORMS**

FORM No. 1 - NOTIFICATION OF INTENTION TO AWARD

FORM No. 2 - REQUEST FOR REVIEW

FORM No. 3 - LETTER OF AWARD

FORM No. 4 - CONTRACT AGREEMENT

FORM No. 5 - PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee]

FORM No. 6 - PERFORMANCE SECURITY [Option 2– Performance Bond]

FORM No. 7 - ADVANCE PAYMENT SECURITY

FORM No. 8 - RETENTION MONEY SECURITY

## **FORM No 1: NOTIFICATION OF INTENTION TO AWARD OF CONTRACT**

This Notification of Award shall be sent to each Tenderer that submitted a Tender and was not successful. Send this Notification to the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

### **FORMAT**

1. **For the attention of Tenderer's Authorized Representative**

- i) Name: *[insert Authorized Representative's name]*
- ii) Address: *[insert Authorized Representative's Address]*
- iii) Telephone: *[insert Authorized Representative's telephone/fax numbers]*
- iv) Email Address: *[insert Authorized Representative's email address]*

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

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

This Notification is sent by *(Name and designation)* \_\_\_\_\_

3. **Notification of Award**

- i) Procuring Entity: *[insert the name of the Procuring Entity]*
- ii) Project: *[insert name of project]*
- iii) Contract title: *[insert the name of the contract]*
- iv) ITT No: *[insert ITT reference number from Procurement Plan]*

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

4. Request a debriefing in relation to the evaluation of your tender by submitting a Procurement-related Complaint in relation to the decision to award the contracts.

a) The successful tenderers

i) Name of successful Tender \_\_\_\_\_

ii) Address of the successful Tender \_\_\_\_\_  
\_\_\_\_\_

iii) Contract price of the successful Tender Kenya Shillings \_\_\_\_\_  
(in words \_\_\_\_\_)

b) The reasons for your tender being unsuccessful are as follows:

c) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out.

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

(Note a) State NE if not evaluated

#### 5. How to request a debriefing

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

#### 6. How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [insert date] (local time).
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:
  - i) Attention: [insert full name of person, if applicable]
  - ii) Title/position: [insert title/position]
  - iii) Agency: [insert name of Procuring Entity]
  - iv) Email address: [insert email address]
- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website [www.ppra.go.ke](http://www.ppra.go.ke).

You should read these documents before preparing and submitting your complaint.

- e) There are four essential requirements:
  - i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process and is the recipient of a Notification of Intention to Award.
  - ii) The complaint can only challenge the decision to award the contract.
  - iii) You must submit the complaint within the period stated above.
  - iv) You must include, in your complaint, all of the information required to support your complaint.

**7. Standstill Period**

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

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

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title/position:** \_\_\_\_\_

\_\_\_\_\_

**Telephone:** \_\_\_\_\_

**FORM NO. 2- REQUEST FOR REVIEW**

**FORM FOR REVIEW (r.203(1))**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

**APPLICATION NO..... OF.....20.....**

**BETWEEN**

..... **APPLICANT**

**AND**

..... **RESPONDENT (Procuring Entity)**

Request for review of the decision of the..... (Name of the Procuring Entity of .....dated the...day of .....20.....in the matter of Tender No.....of .....20..... for..... (Tender description).

**REQUEST FOR REVIEW**

I/We....., the above-named Applicant(s), of address: Physical address..... P. O. Box No..... Tel. No..... Email....., hereby request the Public Procurement Administrative Review Board to review the whole/part of the above-mentioned decision on the following grounds, namely: 1.

2.

By this memorandum, the Applicant requests the Board for an order/order that:

1.

2.

SIGNED .....(Applicant) Dated on.....day of ...../...20.....

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FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on..... day of .....20.....

**SIGNED**

**Board Secretary**

**FORM NO 3: LETTER OF AWARD**

*letterhead paper of the Procuring Entity]*

*[date]*

To: *[name and address of the Contractor]*

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is here by accepted by .....*(name of Procuring Entity)*.

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

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Procuring Entity: .....

Attachment: *Contract Agreement*: .....

**FORM NO 4: CONTRACT AGREEMENT**

THIS AGREEMENT made the day of..... 20....., between.....  
.....of.....(hereinafter “the Procuring  
Entity”), of the one part, and.....of.....(hereinafter  
“the Contractor”), of the other part:

WHEREAS the Procuring Entity desires that the Works known as.....should be  
executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these  
Works and the remedying of any defects there in,

The Procuring Entity and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - a) The Notification of Award
  - b) the Form of Tender
  - c) the addenda Nos.....(if any)
  - d) the Special Conditions of Contract
  - e) the General Conditions of Contract;
  - f) the Specifications
  - g) the Drawings; and
  - h) the completed Schedules and any other documents forming part of the contract.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as specified in this Agreement, the Contractor here by covenants with the Procuring Entity to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity here by covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects there in, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

INWITNESS where of the parties here to have caused this Agreement to be executed in accordance with the  
Laws of Kenya on the day, month and year specified above.

Signed and sealed by.....(for the Procuring Entity)

Signed and sealed by.....(for the Contractor).

**FORM NO. 5 - PERFORMANCE SECURITY**

**[Option 1 - Unconditional Demand Bank Guarantee]**

*[Guarantor letterhead]*

**Beneficiary:** *[insert name and Address of Procuring Entity]*

**Date:** \_\_\_\_\_ *[Insert date of issue]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that \_\_\_\_\_ (hereinafter called "the Contractor") has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with (name of Procuring Entity) \_\_\_\_\_ (the Procuring Entity as the Beneficiary), for the execution of \_\_\_\_\_ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (in words),<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.
4. This guarantee shall expire, no later than the.....Day of....., .....<sup>2</sup>, and any demand for payment under it must be received by us at the office indicated above on or before that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.” .....

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

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

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

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

**FORM No. 6- PERFORMANCE SECURITY**

**[Option 2– Performance Bond]**

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

*[Guarantor letterhead or SWIFT identifier code]* **Beneficiary:** *[insert name and Address of Procuring Entity]*

**Date:** \_\_\_\_\_ *[Insert date of issue]* **PERFORMANCE BOND No.:** \_\_\_\_\_

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond \_\_\_\_\_ as Principal (hereinafter called “the Contractor”) and \_\_\_\_\_] as Surety (hereinafter called “the Surety”), are held and firmly bound unto \_\_\_\_\_] as Obligee (hereinafter called “the Procuring Entity”) in the amount of \_\_\_\_\_ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, for \_\_\_\_\_ in accordance with the documents, plans, specifications, and amendments there to, which to the extent here in provided for, are by reference made part here of and are here in after referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity's obligations there under, the Surety may promptly remedy the default, or shall promptly:
  - a) Complete the Contract in accordance with its terms and conditions; or
  - b) Obtain a tender or tenders from qualified tenderers for submission to the Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Procuring Entity and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Procuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
  - c) Pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named here in or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.
6. In testimony whereof, the Contractor has here unto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly at tested by the signature of his legal representative, this day \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_\_.

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

**FORM NO. 7 - ADVANCE PAYMENT SECURITY**

**[Demand Bank Guarantee]**

*[Guarantor letterhead]*

**Beneficiary:** \_\_\_\_\_ *[Insert name and Address of Procuring Entity]* **Date:** \_\_\_\_\_ *[Insert date of issue]*

**ADVANCE PAYMENT GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that \_\_\_\_\_ (hereinafter called "the Contractor") has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum \_\_\_\_\_ (in words \_\_\_\_\_) is to be made against an advance payment guarantee.
3. At the request of the Contractor, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (in words \_\_\_\_\_)<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
  - a) Has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
  - b) Has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account number \_\_\_\_\_ at \_\_\_\_\_.
5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_\_, <sup>2</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

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

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

<sup>1</sup>The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency of the advance payment as specified in the Contract.

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

**FORM NO. 8 – RETENTION MONEY SECURITY**

**[Demand Bank Guarantee]**

*[Guarantor letterhead]*

**Beneficiary:** \_\_\_\_\_ *[Insert name and Address of Procuring Entity]*

**Date:** \_\_\_\_\_ *[Insert date of issue]*

**Advance payment guarantee no.** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that \_\_\_\_\_ *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Contractor") has entered into Contract No. \_\_\_\_\_ *[insert reference number of the contract]* dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of *[insert the second half of the Retention Money]* is to be made against a Retention Money guarantee.
3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* \_\_\_\_\_ *([insert amount in words \_\_\_\_\_])*<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or showgrounds for your demand or the sum specified there in.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its account number \_\_\_\_\_ at \_\_\_\_\_ *[insert name and address of Applicant's bank]*.
5. This guarantee shall expire no later than the.....Day of.....2.....<sup>2</sup>, and any demand for payment under it must be received by us at the office indicated above on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

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

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

<sup>1</sup>The Guarantor shall insert an amount representing the amount of the second half of the Retention Money.

<sup>2</sup>Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

**FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM**

**(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)**

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

*This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.*

Tender Reference No.: \_\_\_\_\_ [insert identification no]  
 Name of the Tender Title/Description: \_\_\_\_\_ [insert name of the assignment] to: \_\_\_\_\_ [insert complete name of Procuring Entity]

In response to the requirement in your notification of award dated \_\_\_ [insert date of notification of award] to furnish additional information on beneficial ownership: \_\_\_\_\_ [select one option as applicable and delete the options that are not applicable]

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

**Details of Beneficial ownership**

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
<b>1.</b>	Full Name		Directly----- ----- % of shares	Directly..... .....% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes ----No---- 2. Is this right held directly or indirectly?:  Direct..... ...  Indirect..... ...	1. Exercises significant influence or control over the Company body of the Company (tenderer)  Yes ----No---- 2. Is this influence or control exercised directly or indirectly?  Direct.....  Indirect.....
	National identity card number or Passport number					
	Personal Identification Number (where applicable)		Indirectly---- -----% of shares	Indirectly----- % of voting rights		
	Nationality					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
Occupation or profession						

Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes/No)
2.	Full Name	Directly----- ----- % of shares  Indirectly---- -----% of shares	Directly..... .....% of voting rights  Indirectly----- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes ----No---- 2. Is this right held directly or indirectly?:  Direct..... ...  Indirect..... ...	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes ----No---- 2. Is this influence or control exercised directly or indirectly?  Direct.....  Indirect.....
	National identity card number or Passport number				
	Personal Identification Number (where applicable)				
	Nationality(ies)				
	Date of birth [dd/mm/yyyy]				
	Postal address				
	Residential address				
	Telephone number				
	Email address				
	Occupation or profession				
3.  e.t .c					

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020. (Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
- (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

*Name of the Tenderer:.....\*[insert complete name of the Tenderer]\_\_\_\_\_*

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

*Designation of the person signing the Tender: ..... [insert complete title of the person signing the Tender]*

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

*Date this ..... [insert date of signing] day of.....[Insert month], [insert year]*

Bidder Official Stamp