LUNGALUNGA NG-CDF

P.O BOX 336-80400 UKUNDA

cdflungalunga@ngcdf.go.ke

PROPOSED CONSTRUCTION TO COMPLETION OF OPTION 1 BASIC MODEL DIGITAL HUB AT MWERENI.

TENDER NUMBER: L/L/NG-CDF/TD/2211311/03/2025-2026

OPEN TENDER METHOD

INVITATION DATE:2nd October,2026
CLOSING DATE: 16th October,2026

TIME: 11.00 AM

TABLE OF CONTENTS

INVITATION TO TENDER ..... **V**

APPENDIX TO THE PREFACE vii

GUIDELINES FOR PREPARATION OF TENDER DOCUMENTS vii

2. PART 1 - TENDERING PROCEDURES vii

3. PART 2 - PROCUREMENT ENTITY'S REQUIREMENTS vii

4. PART 3 - CONDITIONS OF CONTRACT AND CONTRACT FORMS viii

INVITATION TO TENDER X

SECTION I - INSTRUCTIONS TO TENDERERS **1**

A. General Provisions **1**

1. Scope of Tender 1

2. Fraud and Corruption 1

3. Eligible Tenderers 1

4. Eligible Goods, Equipment, and Services 3

5. Tenderer's Responsibilities 3

B. Contents of Tender Documents **3**

6. Sections of Tender Document 3

7. Site visit 4

8. Pre-Tender Meeting 4

9. Clarification and amendment of Tender Documents 5

10. Amendment of Tender Documents 5

C. Preparation of Tenders **5**

11. Cost of Tendering. 5

12. Language of Tender 5

13. Documents Comprising the Tender 5

14. Form of Tender and Schedules 6

15. Alternative Tenders 6

16. Tender Prices and Discounts 6

17. Currencies of Tender and Payment 7

18. Documents Comprising the Technical Proposal 7

19. Documents Establishing the Eligibility and Qualifications of the Tenderer

20. Period of Validity of Tenders 8

21. Tender Security 8

22. Format and Signing of Tender 9

D Sealing and Marking of Tenders 9

23. Sealing and Marking of Tenders 9
24. Deadline for Submission of Tenders 10
25. Late Tenders 10
26. Withdrawal, Substitution, and Modification of Tenders 10
27. Tender Opening 10

E. Evaluation and Comparison of Tenders 11

28. Confidentiality 11
29. Clarification of Tenders 11
30. Deviations, Reservations, and Omissions 12
31. Determination of Responsiveness 12
32. Non-material Non-conformities 12
33. Arithmetical Errors 12
34. Conversion to Single Currency 13
35. Margin of Preference and Reservations 13
36. Subcontractors 13
37. Evaluation of Tenders 13
38. Comparison of Tenders 14
39. Abnormally Low Tenders 14
40. Abnormally High Tenders 14
41. Unbalanced and/or Front-Loaded Tenders 14
42. Qualifications of the Tenderer 15
43. Best Evaluated Tender 15
44. Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders 15

F. Award of Contract 15

45. Award Criteria 15
46. Notice of Intention to enter into a Contract 15
47. Standstill Period 16
48. Debriefing by the Procuring Entity 16
49. Letter of Award 16
50. Signing of Contract 16

51. Appointment of Adjudicator 16
52. Performance Security 16
53. Publication of Procurement Contract 17
53. Procurement Related Complaints 17

SECTION II-TENDER DATA SHEET(TDS) 18

SECTION III - EVALUATION AND QUALIFY ON CRITERIA 23

1. General Provisions 23

2. Preliminary examination for Determination of Responsiveness 23
3. Tender Evaluation (ITT 35) 23
4. Multiple Contracts 23
5. Alternative Tenders (ITT 13.1) 24
6. Margin of Preference is not applicable 24
7. Post qualification and Contract award (ITT 39), more specifically 24

SECTION IV – TENDERING FORMS 25

QUALIFICATION FORMS 28

1. Form Equ. Equipment 28
2. Form per-1 29
4. FORM PER-2: 30

5. TENDERERS QUALIFICATION WITHOUT PRE-QUALIFICATION 32

FORM ELI -1.1 32

FORM ELI -1.2 33

FORM CON – 2 34

FORM FIN – 3.1 36

FORM FIN – 3.2 37

FORM FIN – 3.3 38

FORM FIN – 3.4 38

FORM EXP - 4.1 39

5.9 FORM EXP - 4.2(a) 40

5.11 FORM EXP - 4.2(b) 41

OTHER FORMS 42

6. FORM OF TENDER 42

a) TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE 45
b) CERTIFICATE OF INDEPENDENT TENDER DETERMINATION 48
c) SELF-DECLARATION FORM - SELF DECLARATION OF THE TENDERER 49
d) APPENDIX 1- FRAUD AND CORRUPTION 52

7. FORM OF TENDER SECURITY - DEMAND BANK GUARANTEE 54
8. FORM OF TENDER SECURITY (INSURANCE GUARANTEE) 55
9. FORM OF TENDER-SECURING DECLARATION 56
10. APPENDIX TO TENDER 57

PART II - WORK REQUIREMENTS 58

SECTION V - DRAWINGS 58

SECTION VI - SPECIFICATIONS 58

SECTION VII - BILLS OF QUANTITIES 59

1. Objectives 59
2. Day work Schedule 59
3. Provisional Sums 59
4. The Bills of Quantities 59

PART III-CONDITIONS OF CONTRACT AND CONTRACT FORMS 60

SECTION VIII - GENERAL CONDITIONS OF CONTRACT 60

A. General

1. Definitions 61
2. Interpretation 61
3. Language and Law 62
4. Project Manager's Decisions 63
5. Delegation 63
6. Communications 63
7. Subcontracting 63
8. Other Contractors 63
9. Personnel and Equipment 63
10. Procuring Entity's and Contractor's Risks 63
11. Procuring Entity's Risks 63
12. Contractor's Risks 64
13. Insurance 64
14. Site Data 64
15. Contractor to Construct the Works 64
16. The Works to Be Completed by the Intended Completion Date 64
17. Approval by the Project Manager 64
18. Safety 65
19. Discoveries 65
20. Possession of the Site 65
21. Access to the Site 65
22. Instructions, Inspections and Audits 65
23. Appointment of the Adjudicator 65
24. Settlement of Claims and Disputes 66
25. Fraud and Corruption 68

B. Time Control 68

1. Program 68
2. Extension of the Intended Completion Date 69

3. Acceleration.....69

4. Delays Ordered by the Project Manager.....69
5. Management Meetings 69
6. Early Warning.....70

C. Quality Control 69
1. Identifying Defects 69
2. Tests 69
3. Correction of Defects 69
4. Uncorrected Defects 69

D. Cost Control 70
1. Contract Price 70
2. Changes in the Contract Price 70
3. Variations 71
4. Cash Flow Forecasts 72
5. Payment Certificates 72
6. Payments 72
7. Compensation Events 73
8. Tax 73
9. Currency y of Payment 73
10. Price Adjustment 73
11. Retention 74
12. Liquidated Damages 74
13. Bonus 74
14. Advance Payment 74
15. Securities 75
16. Day works 75
17. Cost of Repairs 75

E. Finishing the Contract 75
1. Completion 75
2. Taking Over 75
3. Final Account 75
4. Operating and Maintenance Manuals 75
5. Termination 76
6. Payment upon Termination 76
7. Property 76
8. Release from Performance 76

SECTION IX - SPECIAL CONDITIONS OF CONTRACT 77

SECTION X - CONTRACT FORMS 88

FORM No. 1 - NOTIFICATION OF INTENTION TO AWARD 80

FORM No. 2 – REQUEST FOR REVIEW 83

FORM No. 3 - LETTER OF AWARD 83

FORM No. 4 - CONTRACT AGREEMENT 84

FORM No. 5 - PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee] 85

FORM No. 6- PERFORMANCE SECURITY [Option 2– Performance Bond] 86

FORM No. 7- ADVANCE PAYMENT SECURITY 88

FORM No. 8- RETENTION MONEY SECURITY 87

FORM No. 9- BENEFICIAL OWNERSHIP DISCLOSURE FORM 87

PROCURING ENTITY: LUNGALUNGA *NG-CDF, P.O BOX 336-80400, UKUNDA*

CONTRACT NAME AND DESCRIPTION: PROPOSED CONSTRUCTION TO COMPLETION OF OPTION 1 BASIC MODEL DIGITAL HUB AT MWERENI.

1. The *NG-CDF LUNGALUNGA* invites sealed tenders for the proposed construction to completion of Option 1 basic model digital hub at Mwereni for period of **Six (6) months.**
2. Tendering will be conducted under open competitive method open tender using a standardized tender document.Tendering is open to all.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours *0900-1500 hours* at the address given below NG-CDF LUNGALUNGA located at Kanana, off Ukunda Lungalunga Highway
4. A complete set of tender documents may be downloaded by interested tenders upon payment of a Tender documents may be obtained electronically from the Website(s) www.ngcdf.go.ke/www.tenders .go.ke. Tender documents obtained electronically will be free of charge.
5. Tender documents may be viewed and downloaded for free from the website www.ngcdf.go.ke/www.tenders .go.ke Tenderers who download the tender document must forward their particulars immediately to cdflungalunga@ngcdf.go.ke , 0718194163 *P.O BOX 336-80400, Ukunda* to facilitate any further clarification or addendum.
6. Tenders shall be quoted in **Kenya Shillings** and shall include all taxes. Tenders shall remain valid for180 days from the date of opening of tenders.
7. All Tenders must be accompanied by a tender security of **Kshs.180,000** from financial institution recognized by central bank of Kenya or insurance company approved by PPRA
8. The Tenderer shall chronologically serialize all pages of the tender documents submitted in the format of 1,2,3,4,…… fromthe cover page to the last page including all attachments.
9. Completed tenders must be delivered to the address below on or before **16th October, 2026 at 11.00am** Electronic Tenders will not be permitted.
10. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
11. Late tenders will be rejected.
10. The addresses referred to above are: NG-CDF LUNGALUNGA P.O BOX 336-80400, UKUNDA

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

1) Name of Procuring Entity- NG CDF LUNGALUNGA
2) Physical address for hand Courier Delivery to an office or Tender Box is located at NG- CDF LUNGALUNGA, Kanana,off Ukunda Lungalunga highway
3) Postal Address-P.O BOX 336-80400
4) Fund Account Manager, 0718194163: cdflungalunga@ngcdf.go.ke.

B. Addressfor Submission of Tenders.

1) Name of Procuring Entity- NG-CDF LUNGALUNGA
2) Postal Address-P.O BOX 336-80400, Ukunda.
3) Physical address for hand Courier Delivery to an office or Tender Box is NG- CDF LUNGALUNGA, Kanana, Off Ukunda Lungalunga highway

C. Address for Opening of Tenders

1) Name of Procuring Entity-LUNGALUNGA NG CDF
2) Physical address for the location Box is NG- CDF LUNGALUNGA, Ukunda, Off Ukunda Lungalunga Highway.

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

Name-CPA. Pole Davis Mwasambu (*Official of the Procuring Entity issuing the invitation)*

Designation: Fund Account Manager

Signature_____

Date 02/10/2026_____

SECTION I: INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

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 Documentare **specified in the TDS.**

2. Fraud and Corruption

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 theperson 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.
The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practicesin 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.
Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliatescompeting 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.
Unfair Competitive Advantage -Fairness and transparency in the tender process require that the Firms or their Affiliatescompeting 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

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 membersshall be jointly and severally liablefor 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.**

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 procurementproceedings.

A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified.A tenderer maybe 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 thistenderingprocess; or

e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of theworks that arethe 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 Contractimplementation; or
g) Would be providing goods, works, or non-consulting services resulting from or directly related to consultingservices for the preparation or implementation of the contract specified in this Tender Document or
h) Has a close business or family relationship with aprofessional staff of the Procuring Entitywho:
   i) are directly or indirectly involved in the preparation of the Tender document or specifications of theContract, and/or theTenderevaluation process ofsuch 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.

A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that isproven to have been involved any of these practices shall be automatically disqualified.
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 asa 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.
A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8.ATenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates inconformity 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 Contractincludingrelated Services.
Tenderer that has been debarred from participating in public procurement shall be ineligible totender or be awardeda contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.
Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) onlyif 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 anypublic entity or Government, and (iii) operating under commercial law andvested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.
AFirms 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 compliancewith 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 orcontracting of works or services from that country, or any payments to any country, person, or entity in that country. Atenderer shall providesuch documentaryevidence of eligibility satisfactory to the Procuring Entity, asthe Procuring Entity shall reasonablyrequest.
Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts andlabor) 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 enablethe Procuring Entity determine if this condition is met shall be provided in for this purpose isbe provided in *"SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9".*

Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if thetenderer is notregistered in Kenya or if the tenderer is registered in Kenya andhas less than 51 percentownershipby 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 provisionalsums.

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.
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 JVtenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Applicationfor exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing avalid taxclearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

4. Eligible Goods, Equipment, and Services

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 andservices.
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 shallnot be eligible for procurement.

5. Tenderer's Responsibilities

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.
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 beat the tenderer's own expense.
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.The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

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

6. Sections of Tender Document

The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, andwhich should beread inconjunction with anyAddenda 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

The Invitation to Tender Document (ITT) issued by the Procuring Entity is not part of the Contract documents. Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Tenderdocument, 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 shallprevail.

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

7. Site Visit on 9th October,2026

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

8. Pre-Tender Meeting

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

The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity notlater than the periodspecifiedinthe TDS before themeeting.

Minutes of the pre-Tender meetingand the pre-arranged pretender site visit of the site of the works,if applicable, including the text ofthe 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 shallnot identifythe source of thequestionsasked.

The Procuring Entityshall alsopromptlypublish anonym zed(*nonames*) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified inthe TDS. Any modification to the Tender Documents that maybecome necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made bythe Procuring Entityexclusivelythrough the issue of anAddendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting.

Nonattendance at the pre-Tender meeting will not beacausefor disqualification of a Tenderer.

9. Clarification and amendments of Tender Documents

ATenderer requiring any clarification of the Tender Document shall contact the Procuring Entity inwriting 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. Ifspecified in the TDS, theProcuring 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 underITT 8.4.

10. Amendment of Tendering Document

At any time prior to the deadline for submission of Tenders, the Procuring Entity may amendthe Tendering documentby issuing addenda.

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 alsopromptly publish the addendum on theProcuring Entity's web page in accordance with ITT 8.4.

To give prospective Tenderers reasonable time in which to take an addendum into account inpreparing their Tenders, theProcuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 25.2 below.

C. Preparation of Tenders

11. Cost of Tendering

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

12. Language of Tender

The Tender, as well as all correspondence and documentsrelating 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 maybe in another language provided they are accompanied by an accurate and notarized translation of the relevant passages intothe English Language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

13. Documents Comprising the Tender

The Tender shall comprise the following:

a) Form of Tender prepared in accordance with ITT 14;
b) Schedulesincluding priced Bill of Quantities, completed in accordance with ITT 14 and ITT 16;
c) Tender Security or Tender-Securing Declaration, in accordancewith ITT 21.1;
d) Alternative Tender, ifpermissible, in accordance with ITT 15;
e) Authorization: written confirmation authorizing the signatory of the Tender to commit theTenderer, inaccordance with ITT 22.3;
f) Qualifications: documentary evidence in accordance with ITT 19establishing theTenderer'squalifications to perform the Contract if its Tenderis accepted;
g) Conformity: a technical proposal in accordance with ITT 18;
h) Anyotherdocument required in the **TDS**.

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 besigned 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.

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

14. Form of Tender and Schedules

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

15. Alternative Tenders

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

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

Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives tothe requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall furtherprovide 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 technicalrequirements shall be considered bythe Procuring Entity. When specified in the TDS, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the TDS, as will the method for their evaluating, and described in Section VII, Works' Requirements.

16. Tender Prices and Discounts

The prices and discounts (including anyprice reduction) quoted bythe Tenderer in the Form ofTender and in the Bill ofQuantities shall conform to the requirements specified below.

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 bythe Procuring Entity. An item not listed in the priced Bill of Quantities shall be assumed tobe 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.

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

The Tenderer shall quote any discounts and the methodology for their application in the Formof Tender, in accordancewith ITT 14.1.

It will be specified in the TDS if the rates and prices quoted by the Tenderer are or are not subject to adjustment during theperformance of the Contract in accordance with the provisionsof 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 andweightingsfor the price adjustment formulae in the Schedule of Adjustment Data and the Procuring Entity mayrequire theTenderer to justifyits proposed indices and weightings.

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 shallspecify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted inaccordance with ITT 16.4, provided the Tenders for all lots (contracts) are opened at the same time.

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

17. Currencies of Tenderand Payment

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

18. Documents Comprising the Technical Proposal

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, TenderForms, in sufficient detail to demonstrate theadequacyoftheTenderer's proposal tomeet thework'srequirements andthe completion time.

19. Documents Establishing the Eligibilityand Qualifications of the Tenderer

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

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

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 supplyall information required to satisfy thecriteria for eligibilityspecifiedin accordance with ITT 33.1.

Tenderers shall be asked to provide, as part of the data for qualification, such information,including details ofownership, as shall be required todetermine whether, according to the classification established by the Procuring Entity, a contractor or group of contractor's qualifies fora margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to theprocurement and/or contract managementprocesses, or a possibility of collusion between tenderers, and thereby help to prevent anycorruptinfluence inrelation to theprocurementprocess or contract management.

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 tokeep 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 toprovide required information on its ownership and control.

The Tenderer shall provide further documentary proof, information or authorizations that theProcuring 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 torequire 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 providedmay reveal a conflict of interest in relation to the award or management of the contract.

All information provided by the tenderer pursuant to these requirements must be complete,current and accurate as at thedate 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.

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 atendered pursuant to these requirements, thenthe tender will be rejected.

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

i) if theprocurement process is still ongoing, thetendererwill be disqualified from the procurement process,

ii) if thecontract has been awarded tothat tenderer, thecontract award willbe set aside,

iii) the tenderer will be referred to the relevant law enforcement authorities for investigation ofwhetherthe tendereror anyother personshave committed anycriminal offence.

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 anysuch act was not material, or was due to genuine errorwhich wasnot attributable to the intentional act, negligence or recklessness of thetenderer.

20. Period of Validityof Tenders

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 bythe Procuring Entity in accordance with ITT 24). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

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 deadlineof theextended 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.

If the award is delayed by a period exceeding the number of days to be specified in the TDSdays beyond the expiry ofthe 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 thefactor specified in theTDS;

b) in the case of adjustable price contracts, no adjustment shall be made; or in any case, tender evaluation shall bebased on the tender price without taking into consideration the applicable correction from those indicated above.

21. Tender Security

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 theamount and currency specified in the TDS. A Tender-SecuringDeclaration shall use the form includedin Section IV,Tender Forms.

If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demandguarantee in any of the followingforms at the Tenderer's option:

a) an unconditional Bank Guarantee issued byreputable commercial bank); or

b) an irrevocable letter of credit;

c) a Banker's chequeissued bya reputable commercial bank; or

d) another securityspecified in the TDS,

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.

If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.

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.

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.

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.

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

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

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

22. Format and Signing of Tender

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 inaccordance with ITT 15, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specifiedin the TDS **and**
clearly mark them "COPY." In the event of any discrepancy between the original and thecopies, the original shall prevail.

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

The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a personduly 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 personsigning the Tender.**

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.

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

D. Submission and Opening of Tenders

23. Sealingand Marking of Tenders

Depending on the sizes or quantities or weight of the tender documents, a tenderer may use anenvelope, package orcontainer. The Tenderer shall deliver the Tender in a single sealedenvelope, 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 singleenvelope, package orcontainer, the Tenderer shall place thefollowing separate, sealed envelopes:

a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, asdescribed in ITT 11; and
b) in an envelope or package or containermarked"COPIES", all required copies of the Tender; and
c) if alternative Tendersarepermitted in accordance with ITT 15, Andi relevant:
   i) in an envelope or package or container marked "ORIGINAL –ALTERNATIVE TENDER", thealternativeTender; and
   ii) in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", allrequiredcopies 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 theTenderer; and
c) bear the name and Reference number of the Tender.

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

24. Deadline for Submission ofTenders

Tenders must be received by the Procuring Entity at the address specified in the TDS **andno later than the date and time also specified in the** TDS**. When sospecifiedinthe** TDS**, Tenderers shall havethe option ofsubmitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submissionprocedures specifiedinthe** TDS**.**

The Procuring Entity may, at its discretion, extend the deadline for the submission ofTenders by amending theTender Documents in accordance with ITT 8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shallthereafter be subject tothedeadline asextended.

25. LateTenders

The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of tenders, inaccordance with ITT 24. Any Tender received by the ProcuringEntity after the deadline for submission of Tendersshall be declared late, rejected, and returned unopened tothe Tenderer.

26. Withdrawal, Substitution, and Modification of Tenders

A Tenderer maywithdraw, substitute, or modify its Tenderafter it has been submitted by sendinga written notice, duly signed by anauthorized representative, and shall include a copy of the authorization inaccordance with ITT 22.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of theTender 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 bythe Procuring Entityprior to the deadline prescribed for submission ofTenders, inaccordance withITT 24.

Tendersrequestedto be withdrawninaccordance with ITT 26.1 shall be returnedunopened totheTenderers.

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

27. Tender Opening

Except in the cases specified in ITT 23 and ITT 26.2, the Procuring Entity shall publiclyopen and read out allTenders 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 Tenderingis permittedinaccordance with ITT 24.1, shallbe asspecifiedinthe** TDS**.**

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 withdrawaland is readout at Tender opening.

Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tenderbeing substituted, and the substituted Tender shall not beopened, 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.

Next, envelopes marked "MODIFICATION" shall be opened and read out with thecorrespondingTender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request themodification and isread out at Tender opening.

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 aTender Security or Tender-Securing Declaration, if required; andany other details as the Procuring Entity may consider appropriate.

Only Tenders, alternative Tenders and discounts that are opened and read out at Tenderopening 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 thetender opening committee attending the opening. The number of representatives of the Procuring Entity to sign

shall be specified in the TDS**.**

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).

The Procuring Entity shall prepare minutes of the Tender Opening that shallinclude, as aminimum:

a) the name of the Tenderer and whetherthere is awithdrawal, substitution, or modification;
b) theTender Price, per lot (contract) if applicable, includinganydiscounts;
c) anyalternative Tenders;
d) Thepresence or absence of a Tender Security, if one wasrequired.
e) Number of pages of each tender document submitted.

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 thetender opening register shall be distributed toall Tenderers upon request.

E. Evaluation and Comparison of Tenders

28. Confidentiality

Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosedto Tenderers or any other persons not officially concernedwith the Tender process until information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 46.

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.

Notwithstanding ITT 28.2, from the time of tender opening to the time of contract award,if a tenderer wishes to contactthe Procuring Entity on any matter related to the tendering process, it shall do so in writing.

29. Clarification of Tenders

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 ProcuringEntity 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, orpermitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the tenders, in accordance with ITT 33.

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

30. Deviations, Reservations, and Omissions

During the evaluation of tenders, the following definitionsapply:

a) "Deviation" is a departure fromtherequirements specified in the tender document;

b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance ofthe requirementsspecified in thetender document; and

c) "Omission" is the failure to submit part or all of the information or documentation required inthe Tenderdocument.

31. Determination of Responsiveness

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

A substantially responsive Tender is one that meets the requirements of the Tenderdocument without materialdeviation, reservation, or omission. Amaterial deviation, reservation, or omission is one that, if accepted, would:

a) affect in anysubstantial waythescope, quality, orperformanceof the Worksspecified in theContract; or

b) limit in any substantial way, inconsistent with the tender document, the Procuring Entity'srights or thetenderer's obligationsunder the proposed contract; or

c) if rectified, would unfairly affect the competitive position of other tenderers presentingsubstantiallyresponsive tenders.

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

31.4 **If a tender is not substantially responsive to the requirements of the tender document, itshall be rejected by theProcuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.**

32. Non-material Non-conformities

Provided that a tender is substantially responsive, the Procuring Entity may waive anynon-conformities in thetender.

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 thetender related to documentation requirements. Requesting information or documentation on such non-conformitiesshall 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.

Provided that a tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non- conformities related to the Tender Price. To this effect, theTender 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 theTDS.

33. Arithmetical Errors

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

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 ofthe tender asnon-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 disqualificationof thetender asnon-responsive. and

c) if thereisa discrepancybetween wordsand figures, the amount in words shall prevail

34. Currency provisions

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

35. Margin of Preference and Reservations

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

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

36. Nominated Subcontractors

Unless otherwise stated in the TDS**, the Procuring Entity does not intend to execute anyspecific elements of theWorks by subcontractors selected in advance by the Procuring Entity.**

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

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

37. Evaluation of Tenders

The Procuring Entity shall use the criteria and methodologies listed in this ITT and SectionIII, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria andmethodologies the Procuring Entity shall determine the Best Evaluated Tender in accordance with ITT 40.

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

a) priceadjustmentduetodiscountsoffered in accordance with ITT 16;
b) converting the amount resulting from applying (a) and (b) above, if relevant, to a singlecurrency inaccordance with ITT39;
c) price adjustment duetoquantifiable nonmaterial non-conformities in accordance with ITT 30.3;and
d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation andQualificationCriteria.

The estimated effect of the price adjustment provisions of the Conditions of Contract,applied over the period ofexecution of the Contract, shall not be considered in Tenderevaluation.

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 ofTender,is specifiedin Section III, Evaluation and Qualification Criteria.

38. Comparison ofTenders

The Procuring Entity shall compare the evaluated costs of all substantially responsiveTenders established inaccordance with ITT 38.2 to determine the Tender that has the lowest evaluated cost.

39. Abnormally Low Tenders

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'sability to perform the Contract forthe offered Tender Price or that genuine competition between Tenderers is compromised.

In the event of identification of a potentially Abnormally Low Tender, the ProcuringEntity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subjectmatter of the contract, scope,

proposed methodology, schedule, allocation of risks and responsibilities and any otherrequirements of theTender document.

After evaluation of the price analyses, in the event that the Procuring Entity determinesthat the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

40. Abnormally High Tenders

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 theProcuring Entity is concerned that it (the ProcuringEntity) may not be getting value for money or it may be paying too high a price for the contract compared with market pricesor that genuine competition between Tenderers is compromised.

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 contractare contributory to the abnormally high tenders. The Procuring Entity may also seek writtenclarification 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 mayaccept or not accept thetender depending on the Procuring Entity's budgetconsiderations.

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 casemaybe.

between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entityshall reject all Tenders and shallinstitute or cause competent Government Agencies to institute an investigation onthe causeofthecompromise, before retendering.

41. Unbalancedand/or Front-Loaded Tenders

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.

After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entitymay 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 forundelivered works; or
d) reject the Tender,

42. Qualifications of the Tenderer

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 specifiedin Section III, Evaluation and Qualification Criteria.

The determination shall be based upon an examination of the documentary evidence ofthe 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 theTender document), or any other firm(s) different from the Tenderer.

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 tothe Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similardetermination of that Tenderer's qualifications to perform satisfactorily.

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 performthe Contract for the offered Tender Price.

In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek writtenclarifications 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 otherrequirements of theTender document.

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 offeredTender Price, the Procuring Entity shall rejectthe Tender.

43. Best Evaluated Tender

Having compared the evaluated prices of Tenders, the Procuring Entity shall determinethe Best Evaluated Tender. The Best Evaluated Tender is the Tender of the Tenderer thatmeets the Qualification Criteria and whoseTenderhasbeen determinedto be:

a) Most responsive to the Tenderdocument; and

b) the lowest evaluated price.

44. Procuring Entity's Right toAcceptAnyTender, and to RejectAny or All Tenders.

The Procuring Entity reserves the right to accept or reject any Tender and to annul the Tender process and reject allTenders 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 tothe Tenderers.

F. Award of Contract

45. Award Criteria

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

46. Notice of Intention to enter intoa Contract

Upon award of the contract and Prior to the expiry of the Tender Validity Period theProcuring Entity shallissue a Notification of Intention to Enter into a Contract /
Notification of award to all tenderers which shall contain, at a minimum, thefollowing 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 isaddressed wasunsuccessful, unless the price information in (c) above already reveals the reason;
d) the expirydate of the Standstill Period; and
e) instructions on howtorequest a debriefing and/or submit a complaint during the standstillperiod;

47. Standstill Period

The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 daysto allow any dissatisfiedtender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.

Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer theNotification of Intention to Enter intoa Contract withthesuccessful Tenderer.

48. Debriefingbythe Procuring Entity

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

Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderershall bear its own costs of attending such a debriefingmeeting.

49. Letter ofAward

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

50. Signing ofContract

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

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

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

51. Appointment ofAdjudicator

The Procuring Entity proposes the person named in the TDS **to be appointed as Adjudicator under the Contract, atthe 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 theAdjudicator, 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 theAdjudicator.**

52. Performance Security

Within twenty-one (21)days of the receipt of the Letter of Acceptance from the ProcuringEntity, 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, unlessthe Procuring Entityhasagreed in writing that a correspondent bankis not required.**

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

52.3 **Performance security shall not be required for contracts estimated to cost less thanKenya shillings five million shillings**.

53. Publication of Procurement Contract

Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at itsnotice 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 theselection methodused;

c) thename 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 Tenderopening.

54. Procurement Related Complaints and Administrative Review

The proceduresfor making Procurement-related Complaints are as specifiedin the TDS**.**

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

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

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	A. General
ITT 1.1	The name of the contract is - **PROPOSED CONSTRUCTION TO COMPLETION OF OPTION 1 BASIC MODEL DIGITAL HUB AT MWERENI.** The reference number of the Contract is - **L/L/NG-CDF/TD/2211311/03/2025-2026**
ITT 2.3	The Information made available on competing firms is as follows: NOTAPPLICABLE
ITT 2.4	The firms that provided consulting services for the contract being tendered for are :STATE DEPATMENT OF PUBLIC WORKS-UKUNDA
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: NOTAPPLICABLE
B. Contents of Tender Document	
8.1	) Pre-Tender conference *SHALL NOT* take place at the following date, time andplace: Date: NOT APPLICABLE Time: NOT APPLICABLE Place: NOT APPLICABLE) A pre-tender visit of the site of the works *SHALL* take place at the following date, time and place: Date: 0 9 /10/2026 Time: 11.00 am Place.Mwereni (Mwangulu)

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 8.2	The Tenderer will submit any questions in writing, to reach the Procuring Entity not laterthan AS PER THE ADVERT
ITT 8.4	The Procuring Entity's website where Minutes of the pre-Tender meeting and the pre-arranged pretender site visit will be published is NOT APPLICABLE
ITT 9.1	For Clarification of Tender purposes, for obtaining further information and for purchasingtender documents, the Procuring Entity's address is: (1) Name of Procuring Entity LUNGALUNGA NG CDF Physical address for hand Courier Delivery to an office or Tender Box (City, Street, Building, Floor Number and Room) KWALE COUNTY, LUNGALUNGA NG-CDF KANANA, OFF UKUNDA LUNGALUNGA HIGHWAY (3) Postal Address P.O BOX 336-80400 UKUNDA DAVIS POLE, 0718194163 and dpole@ngcdf.go.ke address of the officer to be contacted.
C. Preparation of Tenders	
ITP 13.1 (h)	The Tenderer shall submit the following additional documents in its Tender: *AS PERTHE EVALUATION CRITEIA*
ITT 15.1	Alternative Tenders *SHALL NO BE* considered.
ITT 15.2	Alternative times for completion *SHALL NOT BE* permitted.
ITT 15.4	Alternative technical solutions SHALL NOT be permitted for the following parts of theWorks:

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 16.5	The prices quoted by the Tenderer SHALL NOT be ADJUSTED_____*[insert "subject to adjustment" or "fixed"]*
ITT 20.1	The Tender validity period shall be 180 DAYS
ITT 20.3 (a)	(a) The delayed to exceeding AS PER CONTRACT number of days. (b) The Tender price shall be adjusted by the following percentages of the tender price: By 0% of t*he local currency portion of the Contract price adjusted to reflect localinflation during the period of extension,* *and*) *By 0% the foreign currency portion of the Contract price adjusted to reflect theinternational inflation during the period of extension*
ITT 21.1	A Tender Security SHALL BE required. A Tender-Securing Declaration SHALL NOT BE required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be Kshs.**180,000**/- FROM FINANCIAL INSTITUTION RECOGNISED BY CENTRALBANK OF KENYA OR INSUARANCE COMPANYAPPROVED BY PPRA
ITT 21.2 (d)	The other Tender Security shall be NOT APPLICABLE
ITT 21.5	On the Performance Security, other documents required shall be AS PERSPECIAL CONDITIONS OF CONTRACTS
	_____
ITT 22.1	In addition to the original ONLY

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: A WRITTEN POWER OF ATTORNEY FROM THE COMMISSIONER OF OATHS
D. Submission and Opening of Tenders	
ITT 24.1	(A) For Tender submission purposes only, the Procuring Entity's address is: (1) Name of Procuring Entity LUNGALUNGANG CDF (2) Postal Address P.O BOX 336-80400 UKUNDA (3) Physical address for hand Courier Delivery to an office or Tender Box (City, Street, Building, Floor Number and Room KANANA OFF UKUNDA LUNGALUNGA HIGHWAY (4) Date and time for submission of Tender AS PER THE ADVERT (5) Tenderer **SHALL NOT SUBMIT** tenders electronically.
ITT 27.1	The Tender opening shall take place at the time and the address for Opening of Tenders provided below: (1) Name of Procuring Entity LUNGALUNGA NG CDF (2) Physical address for the location (City, Street, Building, Floor Number and Room) LUNGALUNGA NG CDF,KANANA, OFF UKUNDA LUNGALUNGA HIGHWAY (3) State date and time of tender opening. AS PER THE ADVERT

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 27.1	NOT APPLICABLE
ITT 27.6	The number of representatives of the Procuring Entity to sign is the Tender Opening Committee
E. Evaluation and Comparison of Tenders	
ITT 32.3	The adjustment shall be based on the NOT APPLICABLE*]* price of the item or componentas 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 35.2	The invitation to tender is extended to the following groups that qualify for ReservationsNOT RESERVE
ITT 36.1	At this time, the Procuring Entity *DOES NOT INTEND* to execute certain specific partsof the Works by subcontractors selected in advance.
ITT 36.2	Contractor's may propose subcontracting: Maximum percentage of subcontracting permitted is:*0% of the total contract amount.* Tenderers planning to subcontract more than 10% of total volume of work shall specify, in the Form of Tender, the activity (ies) or parts of the Works to be subcontracted along with complete details of the subcontractors and their qualification and experience.
ITT 36.3	*NOT APPLICABLE* The parts of the Works for which the Procuring Entity permits Tenderers to propose Specialized Subcontractors are designated as follows: _____ _____ _____ For the above-designated parts of the Works that may require Specialized Sub contractors, therelevant qualifications of the proposed Specialized

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	Subcontractors will be added to the qualifications of the Tenderer for the purpose of evaluation.
ITT 37.2 (d)	Additional requirements apply. These are detailed in the evaluation criteria inSection III, Evaluation and Qualification Criteria. AS PER EVALUATION CRITERIA
ITT 51.1	NOT APPLICABLE
ITT 52.2	Other documents required are AS PER THE EVALUATION CRITERIA
ITT 54.1	The procedures for making a Procurement-related Complaints are detailed in the "Regulations" available from the PPRA Website www.ppra.go.ke or email complaints@ppra.go.ke. If a Tenderer wishes to make a Procurement-related Complaint,the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to: For the attention: *DIRECTOR GENERAL PPRA* Title/position: *DIRECTOR GENERAL PPRA* Procuring Entity: *PPRA* Email address*: P.O BOX 58535-00200* In summary, a Procurement-related Complaint may challenge any of the following: (i) the terms of the Tender Documents; and

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	(ii) the Procuring Entity's decision to award the contract.

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1.General Provisions

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

a) For construction turnover or financial data required for each year - Exchange rate prevailing on the last dayof 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 maybe corrected by the Procuring Entity.

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

Evaluation and contract award Criteria

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

2.Preliminary examination for Determination of Responsiveness

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

ITT 11.1 (h)	The Tenderer shall submit the following additional documents in its Tender: 1. Duly Prepared, signed and stamped Form of Tender (in company's letter head) 2. Dully Completed, Signed and Stamped Confidential Business Questionnaire 3. Duly Completed, Signed and stamped Certificate of independent tender determination 4. Duly Completed, Signed and stamped Self-Declarations of the tenderer Form (SD1) 5. Duly Completed, Signed and stamped Self-declaration indicating that the person/tenderer will not engage in any corrupt or fraudulent practice Form (SD 2) 6. Duly Completed, Signed and stamped Declaration and commitment to the code of ethicsform 7. Valid Copy of certificate of incorporation/ Registration 8. Valid Copy of Current County Business permit. 9. Submission of valid CR12 form showing the list of directors /shareholding (issued within the last 12 months) or National Identity Card(s) for Sole Proprietorship/Partnership) 10. Provide an original Tender security in the prescribed format either a bank guarantee from a bank approved by Central Bank of Kenya or a guarantee from an insurance companyregistered and licensed by the Insurance Regulatory Authority and listed by the PPRA in the amount: **Kshs.180,000.00** of the tender sum valid for 180 days 11. Attach Current Category of Registration with National Construction Authority (NCA) in the relevant trade; category NCA 8 and above for the main contractor, and NCA8 Category and above for Electrical subcontractors and NCA Category 4 and they shall engage as their domestic subcontractors. 12. Attach Main contractor and subcontractor's Annual Practicing license from the NCA for the current year 13. Duly Priced Bills of Quantities, 14. Provide Original and a copy of tender document properly bound and Paginated/Serialized, 15. Submit a written power of attorney authorizing the signatory of the bid to commit the Bidder Executed by a Commissioner for Oaths, in accordance with ITT 20.3

The four criteria for tender evaluation criteria

1 Experience of the company

2 Financial capacity of the company

3 Qualification of staff Company

4 Equipment holding

The pass mark under the technical evaluation is 70%. Any bidder who scores below the pass mark will beconsidered non responsive hence disqualified from further evaluation.

EVALUATION CRITERIA

Preliminary Evaluation

Statutory and General Requirements (Missing any of the following will lead to a disqualification and your quote will not be considered to the next stage of evaluation)		
	Requirement Description	Responsive (Yes/No)
1. Registration Certificate as a Company	1. Attach Copy of a Valid Certificate of Incorporation or Business Registration. (Limited Companies MUST attach a copy of Valid CR12 Certificates for the current year (2026) with Copies of all director's Identity Cards, Sole proprietor must attach copy identity card)	
2.Tax Compliance	1. Attach copy of a Valid Tax Compliance certificate	
3. Pin Certificate	1.Attach copy of a KRA Pin certificate with eligibility for VAT	
4. Registration by National Construction Authority	1. **Must** Attach copy of a Valid NCA8 and above Certificate for building works 2**. Must** Attach copy of a Valid NCA8 and above Practicing License for building works.	
5. Trade License	**MUST** Attach copy of relevant and valid Single Business Permit.	
6. Completeness of Tender Forms	All relevant forms Must be dully filled and remain in their respective page numbers in the tender document during tender submission.	
7. Affidavits	Attach sworn in affidavits for; 1. Bidder's Litigation history past and current 2. Not to engage in corruption or fraudulent activities. (The above two MUST be within tender period) and Submit a written power of attorney authorizing the signatory of the bid to commit theBidder Executed by a Commissioner for Oaths,	
8. Bid Presentation.	All attachments **Must** be **sequentially machine serialized**	
9.Bank Statements	**Must** attach bank statements for the year 2025&2026 endorsed by respective bank.	
10.Site visit form	**MUST** attach Tender site visit form dully signed and stamped by the procuring Entity.	

TECHNICAL EVALUATION

Similar Works

Construction Practicing Experience	**General experience** under contracts in the role of contractor, subcontractor, or management contractor for the last three years. **Three** [**3**] Previous Building and Construction Works of similar nature and complexity *(Bidders to provide Notification of Award, Local Service Order/Local Purchase/Commencement Letter/Contract and Completion Certificate.*	Maximum Score	Awarded Score
	i. Similar building construction works of Kshs.5m and above (Each 10 marks)	30Mrks	
	ii. Similar building construction works of lesser magnitude shall be calculated as follows:- value of works attached/Bidders contract sum*10		
Total for Similar Works		Maximum Score **30Mrks**	

Key Personnel

	Schedule of Bidder's proposed personnel and their experience records. ***(Attach proof or evidence of qualification or CVs)*: Provide academic and professional certificates**	Maximum Score	Awarded Score
Site Engineer	Bachelor's degree/ diploma in civil engineering, architecture or construction in project management i. Over 10yrs experience-10marks ii. 5-9 yrs- experience-7 marks iii. Below 5yrs-3 marks	20	
Site Foreman	Minimum Diploma in Civil Engineering, Architecture or Construction Project Management or any related field I. Over 5 years-10mrks II. 2-5 yrs experience-7 marks III. Below 2 years' experience-3 marks	20	
Artisan Mason	Minimum Grade Test III		
	i. Over 5 years-5mrks ii. 2-5 yrs experience-3mrks iii. Below 2 year Experience-2mrk	10	
		50	

Key Equipment/Machinery *(Attach proof or evidence of ownership/lease)*

(Owned Equipment/Machinery-full marks) Leased Equipment/Machinery – 1/2mark) Lease agreements must be accompanied with relevant logbooks or receipts)

		Maximum Score	Awarded Score
Concrete Mixer	1No.	2.5marks	

Porker Vibrator	1No.	2.5marks	
1No. tipper/truck	1No.	2.5marks	
1No. Pickup	1No.	2.5marks	
Total Equipment Machinery		**10mrks**	
Construction Schedule / Works Program/Work Plan.		Maximum Score	Awarded Score
Construction Schedule / Works Program	Indicating Key Milestones	2mrks	
	Arranged in Logical sequence	2mrks	
	Clearly showing Critical Path	2mrks	
	Within Six Months	2mrks	
	Material Mobilization Plan	2mrks	
Total for Construction Schedule		**Maximum Score-10mrks**	

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

thefollowing criteria shall apply:

i) **Alternative Completion Times, i**f permitted under ITT 13.2, will be evaluated

asfollows:NOT APPLICABLE

ii) **Alternative Technical Solutions** for specified parts of the Works, if permitted under ITT13.4, will beevaluated as follows: …NOT APPLICABLE

iii) **Other Criteria; i**fpermitted under ITT 35.2(d): AS PER EVALUATION CRITERIA

……

4. Multiple Contracts-NOT APPLICABLE

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

OPTION 1

i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.

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

OPTION 2

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

Alternative Tenders (ITT 13.1) NOT APPLICABLE

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.

Margin of Preference isnot applicable NOT APPLICABLE

5. Post qualification and Contract ward (ITT 39), more specifically, -NOT APPLICABLE

a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluatedtenderer, 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 realassets, lines of credit, and other financial means (independent of any contractual advance p a y m en t) sufficient to meet t h e construction cash flow of Kenya Shillings

_____.

ii) Minimum average annual construction turnover of KenyaShillings....., equivalent calculated as

total certified payments received for contracts in progress and/or completed within the last _____years.

iii) At least_____of contract(s) of a similar nature executed within Kenya,or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub- contractor each of minimum value Kenya shillings____equivalent.

iv) Contractor's Representative and Key Personnel, which are specified as

v) Contractors key equipment listed on the table "Contractor's Equipment" below and more specifically listed as *[specify requirements for each lot as applicable]* _____

vi) Other conditions depending on their seriousness.

a) History of non-performing contracts**:**
Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last ONE YEAR The required information shall be furnished in the appropriate form.

b) Pending Litigation
Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shallremain 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 provideinformation on pendinglitigationsin the appropriate form.

c) Litigation History
There shall be no consistent history of court/arbitral award decisions againstthe Tenderer, in the last_____. All parties to the contract shallfurnishthe information in the appropriate form about any litigation or arbitration resulting fromcontracts completed or ongoing under its executionover the year's specified. A consistent history of awards against theTendereror anymemberofa JVmayresult in rejection of thetender.

6. QUALIFICATION FORM SUMMARY

1	2	3	*4*
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be CompletedbyTenderer MUST MEET***
1	Nationality	Nationality in accordance with ITT 3.6	Forms ELI – 1.1 and 1.2,with attachments
2	Tax Obligations forKenyan Tenderers	Has produced a current tax clearance certificate or taxexemption certificate issued by the Kenya Revenue Authority in accordancewith ITT 3.14.	Form of Tender
3	Conflict of Interest	No conflicts of interest in accordance with ITT 3.3	Form of Tender
4	PPRA Eligibility	Not having been declared ineligible by the PPRA asdescribedin ITT 3.8	Form of Tender
5	State-owned Enterprise	Meets conditions of ITT 3.7	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 notdetermined 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 aresult ofcontractor default since 1st January 2020	Form CON-2
8	Suspension Based on Execution of Tender/Proposal Securing Declaration bythe ProcuringEntity	Not under suspension based on-execution of a Tender/ProposalSecuring Declaration pursuant to ITT19.9	Form of Tender
9	Pending Litigation	Tender's financial position and prospective long-term profitability still sound according to criteria established in 3.1and assuming that all pending litigation will NOT be resolvedagainst the Tenderer.	Form CON – 2
10	Litigation History	No consistent history of court/arbitral award decisions againstthe Tenderer since 1st January *20202*	Form CON – 2

1	2	3	4
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be CompletedbyTenderer MUST MEET***
11	Financial Capabilities	) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered realassets, lines of credit,and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kenya Shillings three million equivalent for the subject contract(s) net of the Tenderer's other commitments.)The Tenderers shall also demonstrate, to the satisfaction ofthe Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progressand forfuture contract commitments. i) The audited balance sheets or, if not required by the laws ofthe Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last 2023/2024 years shall be submitted and must demonstrate the current soundness of the Tenderer'sfinancialposition and indicate its prospective long- term profitability.	Form FIN – 3.1, withattachments
12	Average Annual Construction Turnover	Minimum average annual construction turnover of Kenya Shillings , equivalent calculated as total certified payments received for contracts in progressand/or completed within thelast *2023,2024 AND* divided by *TWO* years	Form FIN – 3.2
13	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last THREE years, starting 1st January *2022*	Form EXP – 4.1

1	2	3	4
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be Completed by Tenderer MUST MEET***
	Specific Construction & Contract Management Experience	A minimum number of *Three* similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub- contractor between 1st January 2022 and tender submission deadline i.e. Three NUMBER OF contracts,(each of minimum value Kenya shillings equivalent.) NOT APPLICABLE [*In case the Works are to be tender as individual contracts under multiple contract procedure, the minimum number of contracts required for purposes of evaluating qualification shallbe selected from the options mentioned in ITT 35.4]* The similarity of the contracts shall be based on the following AS PER SECTION SIX OF THE TENDER DOCUMENT	Form EXP 4.2(a)

QUALIFICATION FORMS

1. FORM EQU: EQUIPMENT

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

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 theContract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Contractor' Representative and Key Personnel

1.	**Title of position: Contractor's Representative**	
	Name of candidate:	
	Duration of appointment:	
	Time commitment:forthis position:	
	Expected time schedule for thisposition:	
2.	**Title of position:_____**	
	Name of candidate:	
	Duration of appointment:	
	Time commitment:forthis position:	
	Expected time schedule for thisposition:	
3.	**Title of position: _____**	
	Name of candidate:	
	Duration of appointment:	
	Time commitment:forthis position:	

	Expected time schedule for thisposition:	
4.	**Title of position: _____**	
	Name of candidate:	
	Duration of appointmen t:	
	Time commitment:forthis position:	
	Expected time schedule for thisposition:	
5.	**Title of position:** *[insert title*	
	Name of candidate	
	Duration of appointmen t:	
	Time commitment:forthis position:	
	Expected time schedule for thisposition:	

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 tothe project.

Name of Tenderer

Position [#*1*]: [*title of position from Form PER-1*]		
Personnel informatio n	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	

	Language proficiency: *[language and levels of speaking, reading and writingskills]*	
Details		
	Address of Procuring Entity:	
	Telephone:	Contact (manager / personnelofficer):
	Fax:	
	Job title:	Years with present Procuring Entity:

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

Project	**Role**	**Duration of involvement**	**Relevant experience**
[main project details]	*[role and responsibilitieson theproject]*	*[time in role]*	*[describe the experience relevant to thisposition]*

Declaration

I, the undersigned *[insert either "Contractor's Representative" or "Key Personnel" as applicable]*, certify that to the best of my knowledgeand 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 inthe Tender:

Commitment	**Details**
Commitment to duration of contract:	
Time commitment:	

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

authorizedrepresentative of theTenderer:

Signature:_____Date: (day month year): _

_____

3. TENDERER'S QUALIFICATION WITHOUT PRE-QUALIFICATION

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

FORM ELI -1.1

Tenderer Information Form

Date: _____

ITT No. and title: _____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: *[indicate country of Constitution]*
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name:_____ Address_____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of Articles of Incorporation (or equivalent documents of constitution or association), and/ordocuments of registration of the legal entity named above, in accordance with ITT 3.6 ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5 In case of state-owned enterprise or institution, in accordance with ITT 3.8, documentsestablishing: • Legal and financial autonomy • Operation under commercial law

- Establishing that the Tenderer is not under the supervision of the Procuring Entity

2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership

Tenderer's JV Information Form

(to be completed for each member of Tenderer's JV)

Date _____

ITT No. and title _____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name:_ _____ Address:_____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/orregistrationdocuments of the legal entitynamed above, in accordance with ITT 3.6. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financialautonomy, operationin 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 beneficialownership.

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			
Contract non-performance did not occur since 1st January *[insert year]* specified in Section III, Evaluation andQualification Criteria, Sub-Factor 2.1. Contract(s) not performed since 1st January *[insert year]* specified in Section III, Evaluation and QualificationCriteria, requirement 2.1			
Year	**Non-performedportion of contract**	**Contract Identification**	**Total Contract Amount (current value, currency, exchange rate andKenya Shilling equivalent)**
[insert year]	*[insert amount andpercentage]*	Contract Identification: *[indicate complete contractname/number, and any other identification]* Name of Procuring Entity: *[insert full name]* Address of Procuring Entity: *[insert street/city/country]* Reason(s) for nonperformance: *[indicate mainreason(s)]*	*[insert amount]*
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
☐ No pending litigation in accordance with Section III, Evaluation and Qualification Criteria,Sub-Factor 2.3.			

☐ 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 ofProcuring 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 asindicated below.			

Year of award	Outcome as percentage of NetWorth	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchangerate)
[inser tyear]	*[insert percentage]*	Contract Identification: [indicate completecontract name, number, andany other identification] Name of Procuring Entity: *[insert fullname]* Address of Procuring Entity: *[insertstreet/city/country]* Matter in dispute: *[indicate main issuesindispute]* Party who initiated the dispute: *[indicate "Procuring Entity" or "Contractor"]* Reason(s) for Litigation and awarddecision *[indicate main reason(s)]*	*[insert amount]*

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,*** _____				
	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 contractcommitments.

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:

reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company orgroup 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[1] for the_____years required above; and complying with therequirements

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

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** **Currenc** **y**	**Exchange rate**	**Kenya Shilling equivalent**
[indicate year]	*[insert amount and indicatecurrency]*		
Average Annual Constructio nTurnover *			

* 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 otherfinancial 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 Shillingequivalent)**
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 thathave been awarded, or forwhich 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

No.	Name of Contract	Procuring Entity's **Contact Address, Tel,**	**Value of Outstanding Work** **[Current Kenya Shilling /month Equivalent]**	**Estimated Completion Date**	**Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month)]**
1					
2					
3					
4					
5					

4.8 FORM EXP - 4.1

General Construction Experience

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

Page_____of_____pages

Starting	Ending Year	Contract Identification	Role of Tenderer
		Contractname: _____ Brief Description of the Works performed by theTenderer: 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: _____

Similar Contract No.	**Information**			
Contract Identification				
Awarddate				
Completion date				
Role in Contract	Prime Contractor ☐	Member inJV	Management Contractor	Sub-contractor
TotalContract Amount			**Kenya Shilling**	
If member in a JV or sub-contractor,specifyparticipation in total Contract amount				
Procuring Entity's Name:				
Address: Telephone/fax numberE-mail:				

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

Specific Construction and Contract Management Experience (cont.)

Similar Contract No.	**Information**
Description of the similarity in accordancewith Sub-Factor 4.2(a) of Section III:	

1. Amount	
2. Physical size of required worksites	
3. Complexity	
4. Methods/Technology	
5. Construction rate for keyactivities	
6. Other Characteristics	

4.11 FORM EXP - 4.2(b)

Construction Experience in Key Activities

Tenderer's Name: __
Date:_____

Tenderer's JV Member Name: _____
Sub-contractor's Name[2] (as per ITT 34): ITT No. and title _____

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

1. Key Activity No One: _

_____

	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor	Member inJV	Management Contractor	Sub-contractor
Total Contract Amount			**Kenya Shilling**	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part ofthe year	Total quantity inthecontract (i)	Percentage participation(ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
Procuring Entity's Name:				

[2] If applicable

	Information
Address: Telephone/fax number E-mail:	

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) ofSectionIII:	

2. Activity No. Two

3. ……

5. FORM OFTENDER

INSTRUCTIONS TO TENDERERS

i) *The Tenderer must prepare this Form of Tenderon stationery with its letterhead clearly showing theTenderer's completename andbusinessaddress.*
ii) *All italicized text is tohelp Tendererinpreparingthisform.*
iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELFDECLARATION OF THETENDERERattachedtothis Formof Tender.*
iv) *The Form of Tendershallincludethefollowing Formsdulycompletedand signedbythe Tenderer.*
- *Tenderer's Eligibility- Confidential Business Questionnaire*
- *Certificate of Independent Tender Determination*
- *Self-Declaration of the Tenderer*

Date of this Tendersubmission: .....

Request for Tender No......

Name and description of

TenderAlternative No.:

To:[.....] Dear Sirs,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the abovenamed Works, we, the undersigned offer to construct and complete the Works andremedy any defects therein for the sum of Kenya Shillings [*[Amount in figures]*_____Kenya Shillings*[amountinwords]*_____.

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 morethan two foreigncurrencies.

2. We undertake, if ourtender is accepted, tocommence the Worksas soon as is reasonably possible after the receipt of the ProjectManager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in theSpecial Conditions of Contract.
3. We agree to adhere by this tender until_____*[Insert date],* and it shall remain binding upon usand maybe accepted at anytime before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shallconstitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender youmayreceive.
5. We, theundersigned, further declarethat:
   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 withITT 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 Countryin 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 abrief description of the Works];*

v) *Tender Price:* The total price of our Tender, excluding anydiscounts offered in item 1 above is: *[Insert one of theoptionsbelowasappropriate]*

vi Option 1, in case of one lot: Total price is: [*insert the total price of the Tender in words and figures,indicating the variousamounts 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 variousamounts and therespective currencies*]; and
b) Total price of all lots (sum of all lots) [*insert the total price of all lots in words and figures, indicatingthevariousamountsandtherespectivecurrencies*];

vii) *Discounts:* Thediscountsoffered andthemethodology for their application are:

viii) The discounts offered are: [*Specify indetaileachdiscountoffered.*]

ix) The exact method of calculations to determine the net price after application of discounts is shown below: [*Specify indetail the method that shall be usedtoapplythediscounts*];

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, ifapplicable), and it shall remain binding upon us and may be accepted at any time before the expirationof that period;

xi) *Performance Security:* If our Tender is accepted, we commit to obtain a Performance Security in accordance withthe Tenderingdocument;

xii) *One Tender Per Tender:* We are not submitting any other Tender(s) as an individual Tender, and we are not participating in anyother Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternativeTenderssubmitted 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 controlledby 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 therequirements 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 eachcommission or gratuity was paid and the amount and currencyof each suchcommission orgratuity].*

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 ofAcceptance, 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 AdvantageousTenderor anyother Tenderthat you mayreceive;

xviii) Fraud and Corruption: We hereby certify that we have taken steps to ensure that no person acting for us or on our behalfengages in anytype of Fraud and Corruption;

xix) Collusive practices: We hereby certify and confirm that the tender is genuine, non-collusive and madewith 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, copyavailable from_____(*specify website*) during the procurement process and theexecution ofanyresulting contract.

xxi) We, theTenderer, have completed fully and signed the following Formsas part of our Tender:

a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.

b) Certificate of Independent Tender Determination – to declare that we completed the tenderwithout colludingwith other tenderers.

c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage inany form of fraudand corruption.

d) Declaration and commitment to the Code of Ethics for Persons Participating in PublicProcurement andAsset 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: …….

Name of the person duly authorized to sign the Tender on behalf of the Tenderer:
……

Title ofthepersonsigningtheTender:……

Signature of the person named above: [……] **Date signed** [……]

dayof[……], [……]

Date signed_____dayof_____, _____

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 withthe Tender.*

A. TENDERER'S ELIGIBILITY- CONFIDENTIALBUSINESS QUESTIONNAIRE

Instruction to Tenderer

Tender is instructedtocomplete the particularsrequired in this Form, *one form for eachentity if Tenderis 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 theTenderer.	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 (*postal andphysicaladdresses, email, and telephone number*) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which theTendererhandles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (*postal andphysical addresses, email, andtelephone number*)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.

	Names of Partners	Nationality	Citizenship	% Shares owned
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.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

(e) DISCLOSURE OFINTEREST- Interest of the Firmin the Procuring Entity.

i) Arethereanyperson/persons in .....(*Name of Procuring Entity)* whohas/have an interest or relationship in this firm?Yes/No……

If yes, provide details as follows.

	Names of Person	Designation in the Procuring Entity	Interest or Relationship with Tenderer
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		

	Type of Conflict	Disclosure YES OR NO	If YES provide details ofthe relationship with Tenderer
	would be involved in the implementation orsupervision of thesuch 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 throughoutthe tendering process and execution ofthe Contract.		

f) Certification

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

Designation_____

_____ _____

(Signature) *(Date)*

B. CERTIFICATEOFINDEPENDENTTENDERDETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the____[Name of Procuring Entity] for: _____[Name and number of tender] inresponse to the request for tenders made by:_____[Name of Tenderer] dohereby makethefollowing 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 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, andto 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, andreasons for, such consultations, communications, agreements orarrangements;
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 anycompetitorregarding:
   a) prices;
   b) methods, factors or formulasused tocalculate prices;
   c) theintention or decision tosubmit, or not tosubmit, a tender; or
   d) the submission of a tender which does not meet the specifications of the request for Tenders; exceptas specificallydisclosed pursuant toparagraph (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 toparagraph (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 toparagraph (5)(b) above.

Name_____Title_ Date _____

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

C. SELF - DECLARATION FORMS

FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLICPROCUREMENTAND ASSET DISPOSALACT 2015.

I, ……, of Post Office Box ..... being a resident of

…….. in the Republic of..... do hereby make a statement as follows: -

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ……...…….. who is a Bidder in respect of Tender No……

…….. for ……. ……..for . and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating inprocurementproceedingunder Part IV oftheAct.

3. THATwhat isdeponed toherein above is trueto the best ofmyknowledge, information and belief.

……. ……. …… (Title) (Signature) (Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPTOR FRAUDULENTPRACTICE

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 ……..... who is a Bidder in respect of Tender No. ….....…… for…… for ..... and duly authorized and competent tomakethisstatement.

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 which is the procuringentity.

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 biddersparticipating in thesubject tender
5. THATwhat is deponedtoherein above is trueto the best of myknowledge information andbelief.

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

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I …….....…… (person) on behalfof…….

declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015, Regulations and theCode of Ethics for persons participating in Public Procurement and Asset Disposal and my responsibilities under the Code.

I doherebycommit toabide 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- FRAUDAND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

2. The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act *(no. 33 of 2015)* and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governedbythe lawsof 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 andfullycomplywith Kenya's laws and Regulationsas 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. Afew of the provisions noted below highlight Kenya's policy of no tolerance for suchpractices and behavior: -

1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; orconflicts of interest in anyprocurement or asset disposal proceeding;
2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commitsan offence;
3) Without limitingthegenerality of the subsection (1) and (2), theperson shall be: -
   a) disqualified from enteringintoa contract for a procurement or asset disposal proceeding; or
   b) if a contract hasalreadybeen entered intowith theperson, the contract shall be voidable;
4) The voiding of a contract bythe procuring entity under subsection (7) does not limit any legal remedythe procuringentitymayhave;
5) An employee or agent of the procuring entity or a member of the Board or committee of the procuringentitywhohas a conflictof interest with respect toa procurement: -
   a) shallnot takepart in the procurement proceedings;
   b) shall not, after a procurement contract has been entered into, take part in any decision relating tothe procurement orcontract; 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 thisAct.
6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibitedunder that subsection,but for that subsection, would have been within his or her duties shall disclose the conflict of interest totheprocuring 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 hada direct or indirect pecuniary interest, thecontract shall be terminated and all costs incurred by the public entityshall be made good bythe awarding officer. Etc.

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

a) Definesbroadly, for the purposes of the above provisions, theterms set forth belowasfollows:

i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value toinfluence improperlythe actions of another party;

ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, orattempts to mislead, a party to obtain financial or other benefit or to avoidan obligation;

iii) "collusive practice" is an arrangement between two or more parties designed to achieve animproper purpose,includingtoinfluence improperlythe actions of another party;

iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly,anyparty ortheproperty of the partytoinfluence improperlytheactions 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 rightsprovided 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-competitivelevels and to deprive the procuring entity of the benefits of free andopen competition.

c) Rejects a proposal for award[1] of a contract if PPRAdetermines that the firm or individual recommended for award, any of itspersonnel, 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 contractin 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[2] 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 andall parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

[2] *Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific mattersrelated 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 orindividual's financial records and information, and making copies thereof as relevant;accessing and examining anyother 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_____(here in after called "the Applicant") has submitted or willsubmit tothe Beneficiary its Tender (here in after
2. called" the Tender") for the execution of_____under Request for Tenders No._____("the ITT").
3. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
4. 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 complyingdemand, 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 providedby the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.

5. 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 ofa 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.
6. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above onor 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 ……(Hereinafter called "the tenderer") has submitted its tender dated
…… …… the ……..] (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 .....
]
(hereinafter called "the Procuring Entity") in the sum of …… (Currency and guarantee amount) for whichpayment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors andassigns, 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 TenderValidity 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 agreementsigned 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-eightdays 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:.....

Tender No.:.....

To:..... I/We, the undersigned, declarethat:

1. I/Weunderstandthat, accordingtoyour conditions, bidsmust be supportedbya Tender-Securing Declaration.
2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract withthe 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 Bidbythe Purchaser duringtheperiod of bid validity, (i) fail orrefuse toexecutethe 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 acopyof your notification of thename of the successful Tenderer; or
   b) thirtydays 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 thatsubmits the bid, and the Joint Venture has not been legally constituted at the time ofbidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter ofintent.

Signed:……..……....….. Capacity / title

(director or partner or soleproprietor, etc.) …….....……. Name

.....Dul

y

authorizedtosign the bid for and on behalfof:

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

Appendix to Tender

Schedule of Currency requirements

Summary of currencies of the Tender for_____

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

_____

PART II - WORK REQUIREMENTS

SECTION V - DRAWINGS

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

SECTION VI - SPECIFICATIONS

SECTION VII- BILLS OF QUANTITIES

1. Objectives

The objectives of the Bill of Quantities are:

a) to provide sufficient information on the quantities of Works to be performed to enable tenders to beprepared efficientlyandaccurately; and
b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodicvaluation ofWorksexecuted.

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

2. Day work Schedule

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

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

3. Provisional Sums

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

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Procuring Entity to select such specialized contractors. To provide an element of competition among the

Tenderers in respect of any facilities, amenities, attendance, etc., to be provided by the successful Tendereras prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Tenderer to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing a Bill of Quantities are intended only as information for the Procuring Entity or the person draftingthetendering document. Theyshould not be included in thefinal tenderingdocument.

4. The Bills of Quantities

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

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

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

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

PART III - CONDITIONS OF CONTRACT AND CONTRACTFORMS

SECTION VIII - GENERAL CONDITIONS OF CONTRACT

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

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

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

contracts.General Conditions of Contract

A. General

1. Definitions

Bold face type is usedtoidentifydefined terms.

a) **The Accepted Contract** Amount means the amount accepted in the Letter ofAcceptance for the execution and completion of the Worksandtheremedying of anydefects.

b) **The Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, whichis used for valuations and for assessing theeffects of Variationsand Compensation Events.

c) **The Adjudicator** is the person appointed jointly by the Procuring Entity and the Contractor to resolvedisputes in the firstinstance, as provided for in GCC 23.

d) **Bill of Quantities** meansthe priced andcompleted Bill of Quantitiesforming part of the Bid.

e) **Compensation Events** arethose defined in GCCClause 42 hereunder.

f) **The Completion Date** is the date of completion of the Works as certified by the Project Manager, inaccordance withGCC Sub-Clause 53.1.

g) **The Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete,and maintaintheWorks. It consists of thedocumentslisted in GCC Sub-Clause 2.3 below.

h) **The Contractor** is thepartywhose Bidtocarryout the Workshas been accepted bythe Procuring Entity.

i) **The Contractor's Bid** is the completed bidding document submitted by the Contractor to the Procuring Entity.

j) **The Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafteras adjusted inaccordance with the Contract.

k) **Days** are calendar days; months are calendar months.

l) **Day work**s are varied work inputs subject to payment on a time basis for the Contractor's employeesand Equipment, inaddition topayments for associated Materialsand Plant.

m) **ADefect** is anypart of the Worksnot completed in accordancewith the Contract.

n) **The Defects** Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Contractor.

o) **The Defects Liability Period** is the period **named inthe SCC** pursuant to Sub-Clause 34.1 and calculatedfrom theCompletion Date.

p) **Drawings** means the drawings of the Works, as included in the Contract, and anyadditional and modifieddrawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

q) **The Procuring Entity** is the party who employs the Contractor to carry out the Works, **as specified in theSCC,** who is also theProcuring Entity.

r) **Equipmen**t is the Contractor's machinery and vehicles brought temporarily to the Site to constructthe Works

s) **"In writing" or "written"** means hand-written, type-written, printed or electronically made, and resulting in apermanent record;

t) The Initial Contract Price is the Contract Price listed in the Procuring Entity's Letter ofAcceptance.

u) **The Intended Completion Date** is the date on which it is intended that the Contractor shall complete theWorks. The Intended Completion Date is **specified in the SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time oran acceleration order.

v) **Materials** areall supplies, including consumables, used by the Contractor for incorporation in the Works.

w) **Plant i**s any integral part of the Works that shall have a mechanical, electrical, chemical, or biologicalfunction.

x) **The Project Manager** is the person **named in the SCC** (or any other competent person appointed by theProcuring Entity andnotified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Worksandadministering the Contract.

y) **SCC** means Special Conditions of Contract.

z) **The Site** is thearea of theworksas **defined as such in the SCC**.

aa) **Site Investigation Reports** are those that were included in the bidding document and are factual andinterpretativereportsabout the surface and subsurface conditions at the Site.

bb) **Specification** means the Specification of the Works included in the Contract and any modification oraddition made orapproved bythe Project Manager.

cc) **The Start Date** is **given in the SCC**. It is the latest date when the Contractor shall commenceexecution of theWorks. It doesnot necessarilycoincide with anyofthe Site Possession Dates.

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

ee) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that areneeded forconstruction or installation of the Works.

ff) **A Variation** is an instruction given bythe Project Manager which varies theWorks.

gg) **The Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, **asdefined inthe SCC**.

2. Interpretation

In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
If sectional completion is specified in the SCC, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

The documents forming the Contract shall be interpreted in the following order of priority:

a) Agreement,
b) Letter ofAcceptance,
c) Contractor's Bid,
d) Special Conditions of Contract,
e) General Conditions of Contract, includingAppendices,
f) Specifications,
g) Drawings,
h) Bill of Quantities[6], and

i) any otherdocument **listed in the SCC** as forming part of the Contract.

[6] *In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."*

3. *Language andLaw*

The language of the Contract is English Language and the law governing the Contract are the Laws of Kenya.

Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in theProcuring Entity's Country when

a) asa 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 ofthe Charter of theUnited Nations, Kenyaprohibits any import ofgoodsfrom that country oranypayments to any country, person, orentity in thatcountry.

4. *Project Manager's Decisions*

Except where otherwise specifically stated, the Project Manager shall decide contractual matters betweenthe Procuring Entityand the Contractor in therolerepresentingthe Procuring Entity.

5. *Delegation*

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

6. *Communications*

Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall beeffective onlywhen it is delivered.

7. *Subcontracting*

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

8. *OtherContractors*

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

9. *Personnel andEquipment*

The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.
If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

If the Procuring Entity, Project Manager or Contractor determines, that any employee of the Contractor be determined to have engaged in Fraud and Corruption during the execution of the Works, then that employee shall be removed in accordance with Clause 9.2 above.

10. Procuring Entity's and Contractor's Risks

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

11. Procuring Entity'sRisks

From the Start Date until the Defects Liability Certificate has been issued, the following are Procuring Entity's risks:

a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
   i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable resultof the Works or
   ii) negligence, breach of statutory duty, or interference with any legal right by the Procuring Entityor by anypersonemployed by or contracted tohim exceptthe Contractor.

b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due toa fault of the Procuring Entity orin the Procuring Entity's design, or due to war or radioactive contamination directly affecting the countrywherethe Worksare tobe executed.

From the Completion Date until the Defects Liability Certificate has been issued, therisk of loss of or damage to the Works, Plant,and Materials is a Procuring Entity's riskexcept loss ordamage due to

aa) a Defect which existed on the Completion Date,

bb) an event occurring before the Completion Date, which was not itself a Procuring Entity's risk, or cc)

theactivities of the Contractor on the Site after the Completion Date.

Contractor's Risks

From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Procuring Entity'srisks are Contractor'srisks.

Insurance

The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in theSCC** for the following events which aredue tothe Contractor'srisks:

c) loss of ordamage to the Works, Plant, and Materials;
d) loss of ordamage to Equipment;
e) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection withthe Contract; and
f) personal injury or death.

Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to bepayable in the types and proportions of currenciesrequiredtorectifythe loss or damage incurred.

If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the ProcuringEntity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

Alterations to the terms of an insurance shall not be made without the approval of the Project Manager. Both parties shall comply with any conditions of the insurance policies.

Site Data

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

Contractor to Construct the Works

12. The Worksto Be Completed by the Intended Completion Date

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

Approval by the Project Manager

The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to theProject Manager, forhis approval.

The Contractor shall be responsible for design of Temporary Works.

The Project Manager's approval shall not alter the Contractor's responsibility for design of the TemporaryWorks. The Contractor shall obtain approval of third parties to the design of the Temporary Works, whererequired.

All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, aresubject to priorapproval by the Project Manager before this use.

Safety

The Contractor shall be responsible for thesafetyofall activities on the Site.

Discoveries

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

Possession of the Site

The Procuring Entity shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date**stated in the SCC,** the Procuring Entity shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

Accesstothe Site

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

Instructions, Inspections andAudits

The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.

The Contractor shall keep, and shall make all reasonable efforts to cause its Subcontractors and sub-consultants to keep, accurate and systematic accounts and records in respect of the Works in such form and details as will clearly identify relevant time changes and costs.

The Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Procuring Entity and/or personsappointed by the Public Procurement Regulatory Authority to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Public Procurement Regulatory Authority. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn toSub-Clause 25.1 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Public Procurement Regulatory Authority's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Public Procurement Regulatory Authority's prevailing sanctions procedures).

Appointment of theAdjudicator

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

Settlement of Claimsand Disputes

Contractor's Claims
If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give Notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 30 days afterthe Contractor became aware, or shouldhave become aware, of the event or circumstance.

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.

The Contractor shall also submit any other notices which are required by the Contract, and supportingparticulars for the claim, allas relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shallsend to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has acontinuing 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 amountclaimed, andsuch further particularsas the Project Manager may reasonably require;and
c) the Contractor shall send a final claim within 30 days after the end of the effects resulting from the event orcircumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim,or within such other periodas may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within theabove defined time period.

Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause

[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.

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.

If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 24.4 [Arbitration].

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, anyextension of time and/or additional payment shall takeaccount of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded underthe second paragraph of this Sub-Clause 24.3.

Amicable Settlement

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

Mattersthat may be referred toarbitration

Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of theWorks or abandonment of the Works or termination of the Contract byeither party:

a) Theappointment of a replacement Project Manager upon the said person ceasingtoact.
b) Whether or not theissue of an instruction bythe Project Manager is empowered bythese Conditions.
c) Whether or not a certificatehasbeen improperlywithheld or is not in accordance with these Conditions.
e) Anydisputearising 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 theWorks or terminationor alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

Arbitration

Any claimordisputebetweenthe Parties arising out of orinconnection withthe Contractnot settled amicably in accordance with Sub-Clause
24.3 shall be finallysettled byarbitration.

No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or disputehas not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

Notwithstanding the issue of a notice as stated above, the arbitration of such a 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.

The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests orvaluations 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.

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 nosuch certificate, opinion, decision requirement or notice had been given.

The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidencebefore the arbitrators on any matter whatsoever relevant to the dispute.

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.

Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the Works.

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

Arbitration with National Contractors

If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of anyclaimor 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 ofan Arbitrator within thirty days of the notice. The dispute shall be referred to thearbitration and final decision of a person to be agreed between the parties. Failing agreement toconcur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or ViceChairman of any of the followingprofessional institutions;

i) ArchitecturalAssociation of Kenya
ii) Institute of Quantity Surveyors of Kenya
iii) Association of Consulting Engineers of Kenya
iv) Chartered Institute ofArbitrators(Kenya Branch)
v) Institution of Engineers of Kenya

Theinstitution written to first by theaggrieved partyshall take precedence over all other institutions.

AlternativeArbitration Proceedings

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

Failureto Comply withArbitrator's Decision

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

In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Partymay, without prejudice toany otherrights it mayhave, refer the mattertoacompetent court of law.

Contract operations tocontinue

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 Entityshall paythe Contractor anymoniesduethe Contractor.

25. Fraud andCorruption

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

B. Time Control

26. Program

Within the time stated in the SCC, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Managerfor approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.
An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amountstated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated ActivitySchedule within 14 days of being instructed to by the Project Manager.
The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

27. Extensionofthe Intended Completion Date

The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failureshall not be considered in assessing the new Intended Completion Date.

28. Acceleration

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

29. Delays Orderedby the Project Manager

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

30. Management Meetings

Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
The Project Manager shall record the business of management meetings and provide copies of the recordto those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meetingand stated in writingtoall whoattended themeeting.

31. *Early Warning*

The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction ofthe Project Manager.

C. Quality Control

32. *Identifying Defects*

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

33. *Tests*

If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect andthe test shows that it does, the Contractor shall payfor the test and anysamples. If thereisno Defect, thetest shall bea Compensation Event.

34. *Correctionof Defects*

The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall beextended for as long as Defects remain tobe corrected.
Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified bythe Project Manager'snotice.

35. *Uncorrected Defects*

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

D. Cost Control

36. *Contract Price*[7]

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

37. Changesinthe Contract Price[8]

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

If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed costbreakdown of anyrate inthe Bill of Quantities.

38. *Variations*

All Variations shall be included in updated Programs9 produced by the Contractor.

The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by theProject Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

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

If the Project Manager decides that the urgency of varying the work would prevent a quotation being givenand considered withoutdelaying the work, no quotation shall be given and the Variation shall be treatedas a Compensation Event.

---

[7] *In lump sum contracts, replace GCC Sub-Clauses 36.1 as follows:*

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

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

The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made atthe Contractor's own discretion. Prices in the Activity Schedule shall not bealtered when the Contractor makes such changesto the Activity Schedule.

[9] *In lump sumcontracts, add "and Activity Schedules" after "Programs."* [10] *In lump sumcontracts, delete this paragraph.*

The Contractor shall not be entitled to additional payment for costs that could have been avoided by givingearly warning
If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 39.1 or the timing of itsexecution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotationby the Contractor shall be in the form of new rates for the relevant items of work
Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

a) theproposed change(s), and adescription of thedifference tothe existing contract requirements;
b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs)the Procuring Entity mayincur in implementing the value engineering proposal; and
c) a description of anyeffect(s) of the change on performance/functionality.

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

a) accelerateth e contract completion period; or
b) reduce the Contract Price or thelife cycle costs tothe Procuring Entity; or
c) improvethequality, efficiency, safety or sustainability of the Facilities; or
d) yield anyother benefitstothe Procuring Entity, without compromisingthefunctionalityofthe Works.

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

a) a reduction of the Contract Price; the amount to be paid to the Contractor shall be the **percentagespecified in the SCC**
of the reduction in the Contract Price; or
b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit describedin (a) to(d) above, the amount to bepaidtothe Contractor shall be thefull increase in the Contract Price.

39. *Cash FlowForecasts*

When the Program[11], is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cashflow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

40. *Payment Certificates*

The Contractor shall submit to the Project Manager monthly statements of the estimated value of thework executed less thecumulative amount certified previously.
The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.The value of work executed shall be determined by the Project Manager.
The value of work executed shall comprise the value of the quantities of work in the Bill of Quantities thathave been completed12.
The value of work executed shall include the valuation of Variations and Compensation Events.
The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
Where the contract price is different from the corrected tender price, in order to ensure the contractor isnot paid less or more relative to the contract price (which would be the tender price), payment valuationcertificates and variation orders on omissions and additions valued based on rates in the Bill of Quantitiesor schedule of rates in the Tender, will be adjusted by a plus or minuspercentage. The percentage already worked out during tender evaluation is worked out asfollows: *(corrected tenderprice–tenderprice)/tender price X 100.*

41. Payments

Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor theamounts certified by the Project Manager within 30 days of the date of each certificate. If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the dateby which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

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

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

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

42. Compensation Events

The following shall be Compensation Events:

d) The Procuring Entitydoes not give access toa part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.

e) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of theContractor under theContract.

f) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructionsrequired forexecution of the Workson time.

g) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then foundtohave no Defects.

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

i) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.

j) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, oradditional work required for safety or other reasons.

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

l) The advance payment is delayed.

m) The effects on the Contractor of any of the Procuring Entity's Risks.

n) The Project Manager unreasonably delays issuing a Certificate of Completion.

If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.

---

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

[12] *In lump sum contracts, replace this paragraph with the following: "The value of work executed shall comprisethe value ofcompleted activities in the Activity Schedule."*

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

43. *Tax*

The Project Manager shall adjust the Contract Priceif taxes, duties, and other leviesarechanged betweenthe date 30 days before thesubmission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Priceor are a result of GCC Clause 44.

44. *Currencyyof Payment*

All paymentsunderthe contract shall be made in Kenya Shillings

45. *PriceAdjustment*

Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC.** If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency.Aseparate formula of thetype specified belowapplies:

P = A + B Im/Io

where: P is theadjustment factor for theportion of the Contract Price payable.

A and B are coefficients[13] **specified in the SCC,** representing the non-adjustable and adjustable portions, respectively, of the Contract Price payable and Im is the index prevailing at the end of the month being invoiced and IOC is the index prevailing 30 days before Bid opening for inputspayable.

If the value of the index is changed after it has been used in a calculation, the calculation shall be correctedand an adjustment madein the next payment certificate. The index value shall be deemed to take accountof all changes in cost due tofluctuations in costs.

46. *Retention*

The Procuring Entity shall retain from each payment due to the Contractor the proportion stated in the **SCC** until Completion of the whole of the Works.
Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 53.1, half the totalamount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an "on demand" Bankguarantee.

47. *Liquidated Damages*

The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day stated in the **SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affectthe Contractor's liabilities.
If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC Sub- Clause 41.1.

48. Bonus

48.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** for each day(less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although theymay not be due tobe complete.

49. *Advance Payment*

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

The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has beenused in thisway by supplying copiesof invoicesor other documentstothe Project Manager.

The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. Noaccount shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or
Liquidated Damages. c c

50. *Securities*

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

51. *Dayworks*

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

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

The Contractor shall bepaid for Day works subject toobtaining signed Day works forms.

52. *Cost of Repairs*

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

E. Finishing theContract

53. *Completion*

The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon decidingthat the whole of the Worksis completed.

54. *Taking Over*

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

55. *FinalAccount*

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

---

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

56. *Operatingand Maintenance Manuals*

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

57. *Termination*

The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.Fundamental breaches of Contract shallinclude, but shall not be limited to, the following:

a) the Contractor stops work for 30 days when no stoppage of work is shown on the current Program and the stoppage has not
been authorized bythe Project Manager;
b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 30 days;
c) the Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstructionoramalgamation;
d) a payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days ofthedate ofthe Project Manager's certificate;
e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and theContractor fails to correct it within a reasonable period of time determined by the Project Manager;
f) the Contractor doesnot maintain a Security, which is required;
g) the Contractor has delayed the completion of the Works by the number of days for which the maximumamount of liquidateddamages can bepaid, as **defined in the SCC**; or
h) if the Contractor, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2 a ofthe Appendix A to the GCC, in competing for or in executing the Contract, then the

Procuring Entity may, after giving fourteen (14) days written notice to the Contractor, terminate the Contract and expel himfrom the Site.

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

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

When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listedunder GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental ornot.

58. *Payment upon Termination*

If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as specified in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor,the difference shall be a debt payable to the Procuring Entity.

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

59. *Property*

All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the propertyof the Procuring Entityif the Contract is terminated because of the Contractor'sdefault.

60. *Releasefrom Performance*

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

SECTION IX - SPECIAL CONDITIONS OF CONTRACT

Except where otherwise specified, all Special *Conditions of Contract should be filled in by the Procuring Entity prior toissuance ofthebiddingdocument. Schedulesandreportstobeprovided by the Procuring Entity shouldbe annexed.*

Number ofGC Clause	**Amendments of, and Supplements to, Clauses in the General Conditions of Contract**
	A. General
GCC 1.1 (q)	The Procuring Entity is LUNGALUNGA NG-CDF
GCC 1.1 (u)	The Intended Completion Date for the whole of the Works shall be SIX *MONTHSFROM THEDATE OF COMENCEMENT* *[If different dates are specified for completion of the Works by section ("sectional completion" ormilestones), these dates should be listed here]*
GCC 1.1 (x)	The Project Manager is *PUBLIC WORKS LUNGALUNGA CONTITUENCY*
GCC 1.1 (z)	The Site is located at *LUNGALUNGA* and is defined in drawings No. *NOTAPPLICABLE*
GCC 1.1 (cc)	The Start Date shall be *AS ISSUED BY THE PROJECT MANAGER*
GCC 1.1 (gg)	The Works consist of *AS PER DRAWINGS,BILLS OF QUANTITIES AND SPECIFICATIONS*
GCC 2.2	Sectional Completions are: NOT APPLICABLE
GCC 5.1	The Project manager MAY delegate any of his duties and responsibilities.
GCC 8.1	Schedule of other contractors: NOT APPLICABLE
GCC 9.1	**Key Personnel** GCC 9.1 is replaced with the following: NOT APPLICABLE 9.1 Key Personnel are the Contractor's personnel named in this GCC 9.1 of the Special Conditionsof Contract. The Contractor shall employ the Key Personneland use the equipment identified inits Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of Key Personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.

Number ofGC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	[insert the name/s of each Key Personnel agreed by the Procuring Entity prior toContractsignature.]
GCC 13.1	The minimum insurance amounts and deductibles shall be: *(a)* for loss or damage to the Works, Plant and Materials: *2%* *(b)* For loss or damage to Equipment:*AS PER INSURANCE COVER* *(c)* for loss or damage to property (except the Works, Plant, Materials, andEquipment) inconnection with Contract 2% *(d)* for personal injury or death: *(i)* of the Contractor's employees: *2%* *(ii)* of other people: *2%*
GCC 14.1	Site Data are: AS PER BILLS OF QUANTITY AND DRAWINGS
GCC 20.1	The Site Possession Date TO BE COMMUNICATED BY THE PROJECT MANAGER
GCC 23.1 &	Appointing Authority for the Adjudicator: FUND MANAGER
GCC 23.2	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator :TO BE DETERMINED
B. Time Control	
GCC 26.1	The Contractor shall submit for approval a Program for the Works within 14 days from the date ofthe Letter of Acceptance.
GCC 26.3	The period between Program updates is 7 days. The amount to be withheld for late submission of an updated Program is *ONEPERCENT*
C. Quality Control	
GCC 34.1	The Defects Liability Period is SIX MONTHS
D. Cost Control	
GCC 38.9	If the value engineering proposal is approved by the Procuring Entity the amount tobe paid to the Contractor shall be___% *(insert appropriate percentage. The percentage isnormally up to 50%)* of the reduction in the Contract Price. NOT APPLICABLE

Number ofGC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 44.1	The currency of the Procuring Entity's Country Is KENYA SHILLINGS
GCC 45.1	The Contract IS NOT subject to price adjustment in accordance with GCC Clause 45,and thefollowing information regarding coefficients DOES NOT apply. *[Price adjustment is mandatory for contracts which provide for time of completionexceeding 18months]* The coefficients for adjustment of prices are: (a) percent nonadjustable element (coefficient A).(ib)percent adjustable element (coefficient B). (c) The Index I for shall be
GCC 46.1	The proportion of payments retained is:10 PERCENT
GCC 47.1	The liquidated damages for the whole of the Works are ONE THOUSAND per day. Themaximumamount of liquidated damages for the whole of the Works Is 0.5% of the final Contract Price.
GCC 48.1	The Bonus for the whole of the Works is *[insert percentage of final Contract Price]* per day. The maximum amount of Bonus for the whole of the Works is *[insert percentage]*of the final Contract Price.NOT APPLICABLE *[If early completion would provide benefits to the* Procuring Entity*, this clause shouldremain;otherwise delete. The Bonus is usually numerically equal to the liquidated damages.]*
GCC 49.1	The Advance Payments shall be: *[insert amount(s)]* and shall be paid to the Contractorno later than *[insert date(s)]*. NOT APPLICABLE
GCC 50.1	The Performance Security amount is TWO PERCENT Procuring Entity*]* (a) Performance Security – Bank Guarantee: in the amount(s) of *TWO PERCENT OFCONTRACTSUM* percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount. (b) Performance Security – Performance Bond: in the amount(s) of *[insert relatedfigure(s)]*percent of the Accepted Contract Amount and in the same currency(ies) of the AcceptedContract Amount. NOT APPLICABLE
E. Finishing the Contract	

GCC 56.1	The date by which operating and maintenance manuals are required is 6 MONTHSThe date by which “as built” drawings are required is ONE MONTH

Number ofGC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 56.2	The amount to be withheld for failing to produce "as built" drawings and/or operatingand maintenancemanuals by the date required in GCC 58.1 is 0.5
GCC 57.2 (g)	The maximum number of days is: SIX MONTHS.
GCC 58.1	The percentage to apply to the value of the work not completed, representing theProcuring Entity's additional cost for completing the Works, is 20%

ALL PERCENTAGES CAN BE AMENDED

FORM No 1: NOTIFICATION OF INTENTION TO AWARD(SENT ONLY TO UNSUCCESSFUL BIDDERS)

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to theTenderer'sAuthorized Representativenamed in theTender Information Form on theformat below.

FORMAT

1. For the attention of Tenderer's Authorized Representative
   i) Name:
   ii) Address:
   iii) Telephone:
   iv) Email Address:

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

2. Date of transmission:

   This Notification is sent by_____

3. Notification of Intention to Award
   i) Procuring Entity:
   ii) Project:
   iii) Contract title:
   iv) Country:
   v) ITT No:

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

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

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

   a) The successful tenderer
      i) Name of successful Tender_____

      ii) Address of the successful Tender _____

iii) Contract price of the successful Tender Kenya Shillings_____
(inwords _____)

b) Other Tenderers

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

SNo	Name of Tender	Tender Priceas read out	Tender's evaluatedprice (Note a)	One Reason Why notEvaluated
1				
2				
3				
4				
5				

(Note a) State NE if not evaluated

5. How torequest a debriefing

a) DEADLINE: Thedeadlinetorequest adebriefing expires at midnight on [*insert date*](*localtime*).

b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefingyour written request must be made within three (5) Business Days of receipt of thisNotification of Intention toAward.

c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing asfollows:

i) Attention: [*insert fullnameof person, if applicable*]

ii) Title/position: [*insert title/position*]

ii) Agency: [*insert name of Procuring Entity*]

iii) Email address: [*insert emailaddress*]

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 beextended by five (3) Days after thedate that the debriefing is provided. If thishappens, we will notify you and confirm the date thatthe 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 writinghow thedebriefing will take place and confirm thedate andtime.

f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, wewillprovide the debriefingas soon as practicable, and normally no later than fifteen (15) Days from the dateof publication of the Contract Award Notice.

6. How to makea complaint

a) Period: Procurement-related Complaint challengingthe decision toaward shall be submitted by midnight,[*insert date*] (localtime).

b) Provide the contract name, reference number, name of the Tenderer, contact details; and address theProcurement-relatedComplaint as follows:

   i) Attention:

   ii) Title/position:

   iii) Agency:

   iv) Email address:

c) At this point in the procurement process, you may submit a Procurement-related Complaint challengingthe decision to award the contract. You do not need to have requested, or received, a debriefing beforemaking this complaint. Your complaint must be submitted within the Standstill Period and received by usbefore 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 Websiteinfo@ppra.go.ke or complaints@ppra.go.ke.

You should read these documents before preparing and submitting your complaint.

e) Thereare four essential requirements:

   i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender inthis tenderingprocess,andistherecipient of a Notification of Intention toAward.

   ii) The complaint can onlychallengethedecision toaward the contract.

   iii) Youmust 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 Periodisduetoend 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 Periodmay be extended as stated in paragraph Section 5 (d) above.

If you have anyquestionsregardingthis Notification please donot hesitate to contact us. On behalf of

the Procuring Entity: Signature:_____Name:

_____Title/position:

_____Telephone:___Email: _____

FORM FOR REVIEW (r.203 (1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO…….OF…….20……..

BETWEEN

…….APPLICANTAND

……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 NoTel. 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/orders that:1.2.

SIGNED …….(Applicant) Dated on…….day of ……/…20……

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on .. day of ……....20……

SIGNED

Board Secretary

FORM NO 3: LETTER OF AWARD

To:

This is to notify you that your Tender dated ..... 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 andmodified in accordance with the Instructions to Tenderers, is hereby accepted by ..... (*name of Procuring Entity)*.

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

Authorized Signature:.....

Name and Title of Signatory:.....

Name of Procuring Entity.....

Attachment: *Contract Agreement*.....

FORM NO 4: **CONTRACT AGREEMENT**

THIS AGREEMENT made day of _____, 2024___, between

MWERENI DIGITAL HUB of **336-80400 LUNGALUNGA** (hereinafter "the Procuring

Entity"), of the one part, and_____of **P.O BOX**
(hereinafter "theContractor"), of the other part:

WHEREAS the Procuring Entity desires that the Works known as **PROPOSED CONSTRUCTION TO COMPLETION OF OPTION 1 BASIC MODEL DIGITAL HUB AT MWERENI** should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and there medying of any defects therein, at a contract sum of Kshs. …….

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 Letter of Acceptance
   b) the Letter of Tender
   c) the addenda Nos_____(if any)
   d) the Special Conditions of Contract
   e) the General Conditions of Contract;
   f) the Specifications
   g) the Drawings; 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 hereby 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 hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the Laws of Kenya on the day,month and year specified above.

SIGNED FOR AND ON BEHALF OF THE MWERENI DIGITAL HUB

_____)
PMC CHAIRMAN)
)
In the presence of:
)
)
)
_____)
SECRETARY)

SIGNED FOR AND ON BEHALF OF

_____

_____

DIRECTOR)
)
In the presence of:

)
_____)

WITNESS

FORM NO. 5 - PERFORMANCE SECURITY

[Option 1 - Unconditional Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary:_____ **Date:**_____

Guarantor:

1. We have been informed that_____(hereinafter called "theContractor")has entered into Contract No._____dated____with (*name of Procuring Entity*)_____(the Procuring Entityas 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 therequest of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sumor sums not exceedingin total an amount of_____(*in words*),[1] 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 Beneficiaryneedingto prove or to show grounds for your demand orthe sum specified therein
4. This guarantee shall expire, no later than the …. Day of ……, 2., and any demand for payment under it must bereceived byus at the office indicated above on orbefore that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [oneyear],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before theexpiry 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 finalproduct*[1]*The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified inthe 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.*

[2]*Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The ProcuringEntity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entitywould need to request an extension of this guarantee from the Guarantor. Such request must be in writing and mustbe 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 insteadof Performance Bonddue todifficulties involvedincalling Bondholdertoaction]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary:_____/ Date:_____

PERFORMANCE BONDNo.:_____

Guarantor:

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 ofwhich sum well and truly to be made in the types and proportions of currencies in which the ContractPrice is payable, the Contractor and the Suretybind themselves, their heirs, executors, administrators, successors and assigns, jointlyandseverally, firmlybythesepresents.
2. WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the _____dayof_____, 20 , for_____in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred toas 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 thereunder, the Suretymaypromptly remedythedefault, or shall promptly:
   1) completethe Contract in accordance with its termsandconditions; or
   2) 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 byProcuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
   3) pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions uptoa total not exceedingtheamount of this Bond.
4. The Suretyshallnot be liable for a greater sum than the specified penaltyofthis Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or

corporation other than the Procuring Entity named herein or the heirs, executors, administrators, successors, and assigns of theProcuring Entity.

6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal,and the Surety hascaused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day_____of _____20

-

SIGNED ON_____on behalfof By__in the capacity of In the presence

of SIGNED ON_____on behalf of By__in the capacity of In the presence

FORM NO. 7 - ADVANCE PAYMENT SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary:_____

Date:_____

ADVANCE PAYMENTGUARANTEE No.:_____**Guarantor:**_____

1. We have beeninformed that_____(hereinafter called "the Contractor") has entered into ContractNo._____*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 thesum_____(*inwords*) isto be made against an advance payment guarantee.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums notexceeding in total an amount of_____(*inwords*_____)[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in aseparate signed document accompanying or identifying the demand, stating eitherthat the Applicant:
   a) has used theadvancepayment for purposes other than the costs of mobilization in respectof the Works;or
   b) has failed to repaytheadvance payment in accordance with the Contract conditions, specifying theamount whichtheApplicant has failed to repay.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificatefrom 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___, , whichever is earlier. Consequently,ydemand for payment under this guarantee must bereceived 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][oneyear],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before theexpiryofthe 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 thefinal product.

---

[1]*The Guarantor shall insert an amount representing the amount of the advance payment and denominated eitherin the currency of the advance payment as specified*

in the Contract.

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

FORM NO. 8 - RETENTION MONEY SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____

Date:_____

Advance payment

guarantee no.Guarantor:

1. We have beeninformed that_____(hereinafter called "the Contractor") hasentered 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, 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 halfof the Retention Money has been certified for payment, andpayment of *[*insert the second half of the Retention Money] isto be madeagainsta Retention Moneyguarantee.
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 *[……* *]*_____*])*[1] upon receipt by usof the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.
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_____

5. This guarantee shall expire no later than the …..... Day of ….....……, 2..... , and anydemand for payment underitmust be receivedbyusatthe office indicated above onorbeforethat date.

6. The Guarantor agrees to a one-time extension of thisguarantee for aperiod not toexceed *[six months] [oneyear],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before theexpiry 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 fromthe final product.

---

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

[2]*Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of thecontract. 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 establishedin the guarantee.

FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM

Tender Reference No.: [Name of the Assignment:_____to:_____

In response to your notification of award dated_____*[insert date of notification of award]* to furnish additionalinformationon beneficial ownership:_____*[select one option as applicable and delete the optionsthat are notapplicable]*

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

Details of beneficial ownership

Identity of Beneficial Owner	**Directly or indirectly holding 25% ormore of the shares** **(Yes / No)**	**Directly or indirectly holding25 % or more of theVoting Rights** **(Yes / No)**	**Directly or indirectly having the rightto appoint a majority of theboard of the directors or an equivalent governing body of the Tenderer** **(Yes / No)**
[include full name (last, middle, first), nationality, countryof residence]			

OR

ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint amajority of the board of directors or equivalent governing bodyof the Tenderer.

OR

We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If thisoption is selected, theTenderer shall provide explanation on why it is unable to identify any Beneficial Owner]

Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding25% or more of the voting rights.

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

*Name of the Tenderer ..... *[insert complete name of the Tenderer]_____*

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

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

PROPOSED BILL OF QUANTITIES FOR PROPOSED CONSTRUCTION TO COMPLETION OF OPTIONAL 1 BASIC MODEL DIGITAL HUB AT MWERENI.

FIND THE BILL OF QUANTITIES AND DRAWINGS IN THE PPIP PORTAL