REPUBLIC OF KENYA

COUNTY ASSEMBLY OF TURKANA

STANDARD TENDER DOCUMENT

FOR

PROPOSED REHABILITATION AND EQUIPPING OF BOREHOLE AT THE NEW COUNTY ASSEMBLY CHAMBERS

TENDER NO: CAT/ONT/002/2026-2027

Negotiation No. 2677966

Issued By:-

Directorate of Public Works,
Turkana County Government,
P. O. Box 11, 30500
LODWAR

NOV, 2026

REPUBLIC OF KENYA

TURKANA COUNTY ASSEMBLY: BILLS OF QUANTITIES

SUPPLIED AS PART OF THE CONTRACT

FOR PROPOSED REHABILITATION AND EQUIPPING OF BOREHOLE AT THE NEW COUNTY ASSEMBLY CHAMBERS, TURKANA COUNTY

ISSUED BY: PUBLIC WORKS, TURKANA COUNTY
P. O. BOX 11, LODWAR.

The contract for the above mentioned works, entered into on the ..... day of ..... 2026, by the undersigned parties, refer to these Bills of Quantities consisting of pages numbers as shown on index page and the General Specification dated 1976, together with any amendments thereto issued since the date of publication, both of which shall be read and construed as part of the said contract.

....

CONTRACTOR CHIEF OFFICER, [MITPW]

Date ..... Date .....

SPECIAL NOTES

The contractor is required to check the numbers of the pages of the Bills of Quantities together with all collections and summaries and should be find any missing or in duplicate or the figures indistinct, he must inform the Project Manager, Turkana County Government, P. O. Box 11, LODWAR.

Should the contractor be in doubt about the precise meaning of any items or figure, for any reason whatsoever, he must inform the Project Manager, Turkana County Government, Lodwar in order that the correct meaning may be decided before the date for submission of Tenders.

No liability will be admitted, no claim allowed, in respect of errors in the contractor's Tender due to mistakes in the Bills of Quantities which should have been rectified in the manner described above.

STANDARD TENDER DOCUMENT FOR

PROCUREMENT OF WORKS

(BUILDING WORKS)

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SECTION I – INSTRUCTION TO TENDERERS

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

GENERAL

1. Definitions

(a) "Tenderer" means any persons, partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.

(b) "Approved tenderer" means the tenderer who is approved by the Employer

(c) Any noun or adjective derived from the word "tender" shall be read and construed to mean the corresponding form of the noun or adjective "bid". Any conjugation of the verb "tender" shall be read and construed to mean the corresponding form of the verb "bid."

(d) "Employer" means a Central Government Ministry, Local Authority, State Corporation or any other Public Institution.

2. Eligibility and Qualification Requirements

2.1 Eligibility requirements

This invitation to tender is open to all tenderers who are qualified as stated in the appendix.

2.2 Qualification Requirements

To be qualified for award of Contract, the tenderer shall provide evidence satisfactory to the Employer of their eligibility under Sub clause 2.1. above and of their capability and adequacy of resources to effectively carry out the subject Contract. To this end, the tenderer shall be required to update the following information already submitted during prequalification: -

(a) Details of experience and past performance of the tenderer on the works of a similar nature and details of current work on hand and other contractual commitments.

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

(c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plaint in good working order

and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plaint, equipment and material to be imported for the purpose of the Contract, giving details of make, type, origin and CIF value asappropriate.

(d) Details of sub-contractors to whom it is proposed to sublet any portion of the Contract and for whom authority will be requested for such subletting in accordance with clause 4 of the Condition of Contract.

(e) A draft Program of Works in the form of a bar chart and Schedule of Payment which shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Engineer.

(f) Details of any current litigation or arbitration proceedings in which the tenderer is involved as one of the parties.

2.3 JointVentures

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

(a) The tender, and in case of a successful tender, the Form of Agreement, shall be signed so as to be legally binding on all partners

(b) One of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners

(c) The partner in charge shall be authorized to incur liabilities and receive instructions for an on behalf of any and all partners of the joint venture and the entire execution of the Contract including payment shall be done exclusively with the partner in charge.

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

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

3. Cost ofTendering

3.1 The Tenderer shall bear all costs associated with the preparation and submission of his tender and the Employer will in no case be responsible or

liable for those costs, regardless of the conduct or outcome of the tendering process.

3.2 The price to be charged for the tender document shall not exceed Kshs. 1,000/=

3.3 The procuring entity shall allow the tenderer to view the tender document free of charge before purchase.

4. Site Visit

4.1. The tenderer is advised to visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own r e s p o n s i b i l i t y

4.2. The tenderer and any of his personnel or agents will be granted permission by the Employer to enter upon premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Employer from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.

4.3. The Employer shall organize a site visit at a date to be notified. A representative of the Employer will be available to meet the intending tenderers at the Site.
Tenderers must provide their own transport. The representative will not be available at any other time for site inspection visits.

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

5 Tender Documents

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

a. Form of Invitation for Tenders
b. Instructions to Tenderers
c. Form of Tender
d. Appendix to Form of Tender
e. Form of Tender Surety
f. Statement of Foreign Currency Requirements
g. Tender and Confidential Business Questionnaires
h. Details of Sub contractors
i. Schedules of Supplementary Information
j. General Conditions of Contract – Part I
k. Conditions of Particular Application – Part II
l. Specifications
m. Bills of Quantities
n. Drawings
o. Declaration Form

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

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

6 Inquiries by tenderers

6.1 A tenderer making an inquiry relating to the tender document may notify the Employer in writing or by telex, cable or facsimile at the Employer's mailing address indicated in the Invitation to Tender. The Employer will respond in writing to any request for clarification which he receives earlier than 7 days prior to the deadline for the submission of tenders. Written copies of the Employer's response (including the query but without identifying the source of the inquiry) will be sent to all prospective tenderers who have purchased the tender d o c u m e n t s .

6.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

7 Amendment of Tender Documents

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

7.2 Any Addendum will be notified in writing or by cable, telex or facsimile to all prospective tenderers who have purchased the tender documents and will be binding upon them.

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

PREPARATION OF TENDERS

8 Language of Tender

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

9 Documents Comprising the Tender

9.1 The tender to be prepared by the tenderer WILL BE SUBMITTED ONLINE and shall comprise:

i. the Form of Tender and Appendix thereto,
ii. a Tender Security
iii. the Priced Bills of Quantities and Schedules
iv. The information on eligibility and qualification
v. Any other materials required to be completed and submitted in accordance with the Instructions to Tenderers.

The Forms, Bills of Quantities and Schedules provided in the tender documents shall be used without exception (subject to extensions of the schedules in the same format and to the provisions of clause 13.2 regarding the alternative forms of Tender Surety].

10 Tender Prices

10.1 All the insertions made by the tenderer shall be made in INK and the tenderer shall clearly form the figures. The relevant space in the Form of Tender and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the tenderer in which case the erasures and interlineations shall be initialed by the person or persons signing the tender.

10.2 A price or rate shall be inserted by the tenderer for every item in the Bills of Quantities whether the quantities are stated or not. Items against which no rate or price is entered by the tenderer will not be paid for by the Employer when executed and shall be deemed covered by the rates for other items and prices in the Bills of Quantities.

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

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

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

10.3 Unless otherwise specified the tenderer must enter the amounts representing 10% of the sub-total of the summary of the Bills of Quantities for Contingencies and Variation of Prices[V.O.P.] payments in the summary sheet and add them to the sub-total to arrive at the tender amount.

10.4 The tenderer shall furnish with his tender written confirmation from his suppliers or manufacturers of basic unit rates for the supply of items listed in the Conditions of Contract clause 70 where appropriate. The Employer may require the tenderer to justify such rates so obtained from the suppliers or manufacturers.

10.5 The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract only in accordance with the Provisions of the Conditions of Contract. The tenderer shall complete the schedule of basic rates and shall submit with his tender such other supporting information as required under clause 70 of the Conditions of Contract Part II.

10.6 Contract price variations shall not be allowed within the first 12 months of the contract.

10.7 Where quantity contract variation is allowed, the variation shall not exceed 15% of the original contract quantity.

10.8 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

11 Currencies of Tender and Payment

11.1 Tenders shall be priced in Kenya Shillings and the tender sum shall be in Kenya Shillings.

11.2 Tenderers are required to indicate in the Statement of Foreign Currency Requirements, which forms part of the tender, the foreign currency required by them. Such currency should generally be the currency of the country of the tenderer's main office. However, if a substantial portion of the tenderer's expenditure under the Contract is expected to be in countries other than his country of origin, then he may state a corresponding portion of the contract price in the currency of those other countries. However, the foreign currency element is to be limited to two (2) different currencies and a maximum of 30% (thirty percent) of the Contract Price.

11.3 The rate or the rates of exchange used for pricing the tender shall be the selling rate or rates of the Central Bank ruling on the date thirty (30) days before the final date for the submission of tenders.

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

12 Tender Validity

12.1 The tender shall remain valid and open for acceptance for a period of sixty (60) days from the specified date of tender opening or from the extended date of tender opening (in accordance with clause 7.4 here above) whichever is the later.

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

13 TenderSecurity

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

13.2 The tender security shall not exceed 2 percent of the tender price.

13.3 The Tender Security shall be valid at least thirty (30) days beyond the tender validityperiod.

13.4 Any tender not accompanied by an acceptable Tender Surety will be rejected by the Employer as non-responsive.

13.5 The Tender Sureties of unsuccessful tenderers will be returned as promptly as possible as but not later than twenty eight (28) days after expiration of the tender validity period. The Tender Surety of the successful tenderer will be returned upon the tenderer executing the Contract and furnishing the required Performance Security.

13.6 The Tender Surety may be forfeited:

a) if a tenderer withdraws his tender during the period of tender validity: or
b) in the case of a successful tenderer, if he fails, within the specified timelimit
    i. to sign the Agreement, or
    ii. to furnish the necessary Performance Security
c) if a tenderer does not accept the correction of his tender price pursuant to clause 23.

14 No AlternativeOffers

14.1 The tenderer shall submit an offer which complies fully with the requirements of the tender documents unless otherwise provided for in the appendix.

Only one tender may be submitted by each tenderer either byhimself or as partner in a joint venture. A tenderer who submits or participates in more than one tender will be disqualified.

14.2 The tenderer shall not attach any conditions of his own to his tender. The tender price must be based on the tender documents. The tenderer is not required to present alternative construction options and he shall use without exception, the Bills of Quantities as provided, with the amendments as notified in tender notices, if any, for the calculation of his tender price. Any tenderer who fails to comply with this clause will be disqualified.

15 Pre-tender Meeting

15.1 If a pre-tender meeting is convened, the tenderer's designated representative is invited to attend at the venue and time in the Invitation to Tender. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

15.2 The tenderer is requested as far as possible to submit any questions in writing or by cable, to reach the Employer not later than seven (7) days before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following:

(a) Minutes of the meeting, including the text of the questions raised and the responses given together with any responses prepared after the meeting will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in – Clause 9 which may become necessary as a result of the pre-tender meeting shall be made by the Employer exclusively through the issue of a tender notice pursuant to Clause 7 and not through the minutes of the pre- tender meeting.

(b) Non-attendance at the pre-bid meeting will not be cause for disqualification of a bidder.

16 Format and Signing of Tenders

16.1 The tenderer shall prepare his tender as outlined in clause 9 above and submit online.

16.2 The copy of the tender and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer. All pages of the tender where amendments have been made shall be initialed by the person or persons signing the tender.

16.3 The complete tender shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person of persons signing the tender.

SUBMISSION OF TENDERS

17 Sealing and Marking of Tenders

17.1 The tenderer shall submit their bids online as described in clause 9 above

17.2 Appendix to Instructions to Tenderers and bear the name and identification of the Contract stated in the said Appendix with a warning not to open before the date and time for opening of tenders stated in the said Appendix.

17.3 Late submission will not be accepted.

17.4 A tender opened prematurely for this cause will be rejected by the Employer and returned to the tenderer.

18 Deadline for Submission of Tenders

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

Tenders delivered by hand must be placed in the "tender box" provided in the office of the Employer.

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

18.2 The Employer may, at his discretion, extend the deadline for the submission of tenders through the issue of an Addendum in accordance with clause 7, in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

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

19 Modification and Withdrawal of Tenders

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

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

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

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

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

TENDER OPENING AND EVALUATION

20 Tender Opening

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

20.2 Tenders for which an acceptable notice of withdrawal has been submitted, pursuant to clause 19, will not be opened. The Employer
will examine the tenders to determine whether they are complete, whether the requisite Tender Sureties have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.

20.3 At the tender opening, the Employer will announce the tenderer's names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Surety and such other details as the Employer, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.

20.4 The Employer shall prepare minutes of the tender opening including the information disclosed to those present.

20.5 Tenders not opened and read out at the tender opening shall not be considered further for evaluation, irrespective of the circumstances.

21 Process to be Confidential

21.1 After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.

21.2 Any effort by a tenderer to influence the Employer in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.

22 Clarification of Tenders

22.1 To assist in the examination, evaluation and comparison of tenders, the Employer may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered by the employer during the evaluation of the tenders in accordance with clause 24.

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

23 Determination of Responsiveness

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

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

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

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

24 Correction ofErrors

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

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

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

(c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bills of Quantities, the amount as stated in the Form of Tender shall prevail.

(d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the corrected builder's work (i.e. corrected tender sum less Prime Cost and Provisional Sums.

(e) The Error Correction Factor shall be applied to all builder's work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuations of variations.

(f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and, with concurrence of the tenderer, shall be considered as binding upon the tenderer. If the tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security may be forfeited in accordance with clause 13.

25 Conversion to Single Currency

25.1 For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya ruling on the date twenty one (21) days before the final date for the submission of tenders.

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

26 Evaluation and Comparison of Tenders

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

26.2 In evaluating tenders, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:

(a) Making any correction for errors pursuant to clause 24.

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

EVALUATION CRITERIA

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

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

Preliminary Evaluation

NO	MANDATORY REQUIREMENTS	YES/NO
1	UPLOAD TENDER DELARATION FORM AS PWD TENDERER.	
2	UPLOAD FORM OF TENDER DULY COMPLETED, SIGNED AND STAMPED.	
3	BUSINESS QUESTIONNAIRE DULY COMPLETED, SIGNED AND STAMPED.	
4	COPY OF CERTIFICATE OF INCORPORATION/REGISTRATION	
5	SUBMIT SELF WRITTEN SIGNED AND STAMPED DECLARATION THAT THEY WILL NOT ENGAGE IN CORRUPTION PRACTICE IN THE FORMAT PROVIDED	
6	SUBMIT SELF-WRITTEN, SIGNED AND STAMPED DECLARATION THAT THE BIDDER OR HIS/HER SUB-CONTRACTORS ARE NOT DEBARED FROM PARTICIPATING IN PUBLIC PROCUREMENT IN THE FORMAT PROVIDENT	
7	COPY OF KRA PIN CERTIFICATE	
8	COPY OF VALID TAX COMPLIANCE CERTIFICATE/EXEMPTION CERTIFICATE	
9	COPY OF CERTIFIED BANK STATEMENT FROM YOUR BANKER FOR THE LAST THREE YEARS. ANY STATEMENT INVOLVING GOVERNMENT STAFF WILL BE DISQUALIFIED.	
10	PRE-TENDER SITE MEETING ATTENDANCE CERTIFICATE	
11	SUBMIT CERTIFIED COPY OF NCA 8 FOR BOTH WATER AND BUILDING WORKS AND ATLEAST NCA 6 AND ABOVE FOR ELECTRICAL WORKS	

12	VALID SINGLE BUSINESS PERMIT FROM THE RELEVANT COUNTY GOVERNMENT	
13	COPY OF CURRENT CR12 CERTIFICATE	
14	UPLOAD DULLY FILLED TENDER DOCUMENT WHERE ALL PAGES MUST BE SEQUENTIALLY SERIALIZED	

EVALUATION AND COMPARISON OF TENDERS- DOCUMENTARY EVIDENCE IN FORM OF COPIES AT THIS STAGE, THE TENDERER'S SUBMISSION WILL E I T H E R BE RESPONSIVE OR NON-RESPONSIVE. FAILURE TO PROVIDE ANY OF THE ABOVE MANDATORY REQUIREMENTS WILL LEAD TO DISQUALIFICATION

NB: BIDDERS MUST MEET ALL THE MANDATORY REQUIREMENTS TO QUALIFY FOR TECHNICAL EVALUATION. CERTIFICATION BY COMMISSIONER OF OATH.

Technical Evaluation Criteria

No	Requirements	Evidence	Max. Score	Score Awarded
1	Experience	Previous experience detailing similar projects undertaken successfully as either main contractor or sub contractor evidenced by five letters of Awards/purchase orders from clients For the respective projects to the proposed works in terms of the physical size and complexity (five award leters/lpos -10 marks, each client 2 mark)	10	
		The general experience as a tenderer. Provide five award leters/pos as evidence as a main contractor or sub-contractor. Each is 2marks	10	
	Qualified Technical Staff	CVs, academic and professional certificates and evidence of working experience from a reputable organizations Must be a graduate of diploma in Water Drilling, and from A recognizes institution and or TVET and a	20	

		graduate in Bsc Geology engineer- 10 Mks Diploma in water Drilling and Diploma building and construction Project manager/supervisor- 10mks		

No	Requirements	Evidence	Max. Score	Score Awarded
	Equipment	Give a list and type of relevant equipment (related to this tender) owned by firm evidenced by ownership Documents. Where not owned by company, provide documentary evidence of leased equipment as required. Five equipment At 2 mks each.	10	
	Site Agent	Qualification = HND In Construction Engineering or Equivalent(5marks	20	
	Foreman	General Experience= 5 Yrs=(2mark) Specific Experience = 3Yrs (5mark) Qualification = Dip. Construction Engineering or Equivalent General Experience = 5 yrs(3marks) Specific Experience for water works (5marks		

Financial capacity

No	Requirements	Evidence	Max. Score	Score Awarded
	Audited	Audited Statements for	10	

	Statements	the last two years(5 marks for each year		
	Total Score	80 Marks		

Only bidders who score 60% and above will proceed to financial evaluation stage. Those who score below 60% will be eliminated at this stage from the entire evaluation process and will not be considered for further evaluation

Financial Evaluation

Only the tender that has conformed to the technical requirements and is the lowest bidder will be considered

To be considered successful, the candidates must score a minimum score is 60 points out of the maximum 100 points in order to qualify for financial evaluation.

26.3 The Employer reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in tender evaluation.

26.4 Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in tender evaluation.

26.5 If the lowest evaluated tender is seriously unbalanced or front loaded in relation to the Employer's estimate of the items of work to be performed under the Contract, the Employer may require the tenderer to produce detailed price analyses for any or all items of the Bills of Quantities, to demonstrate the relationship between those prices, proposed construction methods and schedules. After evaluation of the price analyses, the Employer may require that the amount of the Performance Security set forth in clause 29 be increased at the expense of the successful tenderer to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful tenderer under the Contract.

26.6 Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding provisional sums to a non-indigenous sub-contractor.

26.7 Preference where allowed in the evaluation of tenders shall not exceed 15%

26.8 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for thetermination.

26.9 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

26.10 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future publicprocurement.

26.11 Poor past performance shall not be used as an evaluation criterion unless specifically provided for in the appendix.

27 AWARD OFCONTRACT

Award Criteria

27.1 Subject to Sub-clause 27.2, the Employer will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works as required in Sub-clause 2.1 and 2.2here above.

27.2 The Employer reserves the right to accept or reject any tender, and to annual the tendering process and reject all tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for the Employer's action.

28 Notification ofAward

28.1 Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer will notify the successful tenderer by cable, telefax or telex and confirmed in writing by registered letter that his Tender has been accepted. This letter (hereinafter and in all Contract documents called "Letter of Acceptance") shall name the sum (hereinafter and in all Contract documents called "the Contract Price") which the Employer will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.

28.2 At the same time that the Employer notifies the successful tenderer that his tender has been accepted, the Employer shall notify the other tenderers that the tenders have been unsuccessful.

28.3 Within fourteen [14] days of receipt of the Form of Contract Agreement from the Employer, the successful tenderer shall sign the form and return it to the Employer together with the required Performance Security.

28.4 The parties to the contract shall have it signed within 30 days fromthe date of notification of contract award unless there is an administrative reviewrequest.

29 Performance Guarantee

29.1 Within twenty eight [28] days of receipt of the notification of award from the Employer, the successful tenderer shall furnish the Employer with a Performance Security in the amount stated in the Appendix to Instructions to Tenderers and in the format stipulated in the Conditions of Contract.

29.2 The Performance Security to be provided by the successful tenderer shall be an unconditional Bank Guarantee issued at the tenderer's option by a reputable Bank approved by the Employer and located in the Republic of Kenya and shall be divided into two
elements namely, a performance security payable in foreign currencies (based upon the exchange rates determined in accordance with clause 60(5) of the Conditions of Contract) and a performance
security payable in Kenya Shillings. The value of the two securities shall be in the same proportions of foreign and local currencies as requested in the form of foreign currency requirements.

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

30 Advance Payment

An advance payment, if approved by the Employer, shall be made under the Contract, if requested by the Contractor, in accordance with clause 60(1) of
the Conditions of Contract. The Advance Payment Guarantee shall be denominated in the proportion and currencies named in the form of foreign currency requirements. For each currency, a separate guarantee shall be issued. The guarantee shall be issued by a Bank located in the Republic of Kenya, or a foreign Bank through a correspondent Bank located in the Republic of Kenya, in either case subject to the approval of the Employer.

31 Corrupt or fraudulent practices

31.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulentpractices.

APPENDIX TO INSTRUCTIONS TO TENDERERS

Notes on the Appendix to Instructions to Tenderers

The following appendix to instructions to tenderers shall complement or amend the provisions of the instructions to tenderers (Section II). Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

CLAUSE

13 Tender Security

Amount of Tender Security is Kshs AS STATED IN TENDER NOTICE

16 (i) The name and address of the Employer for the purposes of submission of tenders is AS STATED IN TENDER NOTICE

(ii) The name of the proposed Works and where available the Contract Number is AS STATED IN TENDER NOTICE

(iii) The tender opening date and time AS STATED IN TENDER NOTICE

28 Performance Guarantee

The amount of Performance Security is 5% OF CONTRACT SUM

SECTION II

CONDITIONS OF CONTRACT, PART I – GENERAL CONDITIONS

The Conditions of Contract, Part I – General Conditions, shall be those forming Part I of the "Conditions of Contract for works of Civil Engineering Construction, Fourth Edition 1987, re-printed in 1992 with further amendments, prepared by the Federation Internationale des Ingenieurs – conseils (FIDIC). The Conditions are subject to variations and additions set out in Part II hereof entitled "Conditions of Contract, Part II - Conditions of Particular Application".

SECTION III CONDITIONS OF CONTRACT PART II
(CONDITIONS OF PARTICULAR APPLICATION) TABLE

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SECTION I11 *CONDITIONS OF CONTRACT PART II – CONDITIONS OF PARTICULAR APPLICATION*

GENERAL

The Conditions of Contract Part II – Conditions of Particular Application, modify and compliment like-numbered clauses in the Conditions of Contract Part I – General Conditions. Both Parts shall be read together, with the Conditions of Particular Application prevailing in case of conflict or discrepancy. Clauses of the General Conditions not specifically modified and supplemented shall remain in effect.

Clause No.

Definitions and Interpretation

1.1 (a)(i) The said "Employer" shall be COUNTY ASSEMBLY OF TURKANA represented by CHIEF OFFICER,MINISTRY OF PUBLIC WORKS

(iv) The said "Engineer" shall be CHIEF OFFICER, MINISTRY OF INFRASTRACTURE, TRANSPORT AND PUBLIC WORKS or any other competent person appointed by the Employer, and notified to the Contractor, to act in replacement of the Engineer.

(b)(i) Insert in line 2 after "the Bills of Quantities", the following, "the rates entered by the Contractor (whether or not such rate be employed in computation of the Contract Price)".

Add the following sub-clause; SECTION C – APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

Name: COUNTY ASSEMBLY OF TURKANA

Address: P.O.BOX 25-30500, LODWAR

Name of Authorised Representative: CHIEF OFFICER, PUBLIC WORKS
Addrees; P.O.BOX 25-30500, LODWAR

Telephone: _____

Facsimile: _____

The Project Manager is

Name: CHIEF OFFICER,
MINISTRY OF INFRASTRACTURE, TRANSPORT AND PUBLIC WORKS

Address: P.O.BOX 11-30500, LODWAR

Telephone: _____

Facsimile: _____

The name (and identification number) of the Contract is PROPOSED REHABILITATION AND EQUIPPING OF BORE AT NEW COUNTY ASSEMBLY CHAMBERS, TURKANA COUNTY

The Works consist of preliminary works, flushing, test pumping, equipping of the new assembly chambers.

The Start Date shall be SHALL BE AGREED WITH THE PROJECT MANAGER

The Intended Completion Date for the whole of the Works shall be
12 WEEKS FROM THE DATE OF POSSESSION

The following documents also form part of the Contract:
AS LISTED IN CLAUSE 2.3 OF THE CONDITION TO CONTRACT

The Contractor shall submit a revised program for the Works within [SEVEN] 7days of delivery of the Letter of Acceptance.

The Site Possession Date shall be AGREED WITH THE PROJECT MANAGER

The Site is located at TURKANA COUNTY and is defined in drawings nos._____

_____

The Defects Liability period is 180days.[SIX MONTH FROM THE DATE OF ISSUARANCE OF PRACTICAL COMPLETION CERTIFICATE TO THE CONTRACTOR]

Other Contractors, utilities etc., to be engaged by the Employer on the Site
Include those for the execution of;

1. as described

The minimum insurance covers shall be;

- CONTRACTORS ALL RISKS INSURANCE

The following events shall also be Compensation Events:

1. NONE [ONLY AS LISTED IN CLAUSE 24 OF THE CONDITIONS OF CONTRACT]

2. _____

3. _____

4. _____

The period between Program updates is 14 DAYS.

The amount to be withheld for late submission of an updated Program is 3% OF THE CONTRACT SUM

The proportion of payments retained for defect liability period is **10% OF THE CONTRACT SUM** percent.

The Price Adjustment Clause **SHALL NOT** apply

The liquidated damages for the whole of the Works is Kshs. **100,000** (per day)

The Performance Security shall be for the following minimum amounts equivalent as a percentage of the Contract Price **5 percent** (%)

The Completion Period for the Works is **12[Weeks]**

The rate of exchange for calculation of foreign currency payments is **NOT APPLICABLE**

The schedule of basic rates used in pricing by the Contractor is as attached *[Contractor to attach].*

Advance Payment **shall not be granted.**

The prices for VAT should be **included** in the unit's prices of billed items but should not be given as **a percentage at the grand summary page.**

The bidder should submit **ONLY ONE ORIGINAL COPY** of the bills of quantities and not two as indicated in clause 4.1 of the instruction to tender.

Withholding Tax of three percentages shall be deducted from the every payment due to the contractor

Engineer's Duties and Authority

2.1 (b) The Engineer shall obtain specific approval of the Employer before taking any of the following actions specified in Part I:

(i) Consenting to the sub-letting of any part of the Works under clause 4.

(ii) Certifying additional cost determined under Clause 12

(iii) Determining an extension of time under Clause 44

(iv) Issuing a variation under Clause 51 except in an emergency situation as reasonably determined by the Engineer.

(v) Fixing rates or prices under clause 52

4 AssignmentandSubcontracting

4.1 Delete the second and third sentence and substitute:

No single subcontract may be for more than 10 percent of the Contract Price nor shall the sum of all subcontracts exceed 25 percent of the Contract price. No one subcontractor may be awarded subcontracts to a total value greater than 10 percent of the Contract Price. All subcontracts greater than 2 percent of the Contract Price are to have the prior consent of the Engineer. The Contractor shall however, not required such consent for purchases of materials or to place contracts for minor details or for any part of the Works of which the manufacturer of supplier is named in the Contract. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants orworkmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

5 Contract Documents

5.1 (a) The language governing this Contract shall be English.

The "Ruling Language" which shall be used to interpret this Contract shall be English. Communication between the Contractor and Engineer or Engineer's representative shall be in English.

(b) The law applicable to this Contract shall be the laws of the Republic of Kenya. Except to the extent otherwise provided by the Contract, the Kenyan courts shall have exclusive jurisdiction to hear and to determine all actions and proceedings in connection with and arising out of the Contract, and the Contractor shall submit to the jurisdiction of Kenyan courts for the purpose of any such actions and proceedings.

5.2 Delete the documents listed 1-6 and substitute:

(1) The Contract Agreement;
(2) The Notification of Award;
(3) Tender and Appendix to Form of Tender;
(4) The Conditions of Contract Part II;
(5) The Conditions of Contract Part I (FIDIC);
(6) The Special Specifications;
(7) The Standard Specifications for Road and Bridge Construction, MOTC –1986;
(8) Clarifications and rectifications accepted by the Employer;and
(9) The Drawings;
(10) The priced Bills of Quantities; and

(11) Schedules and other documents forming part of the Contract.

8.1 Add to sub clause 8.1 the following:

(a) Within 28 days after receipt of the Engineer's order to commence the Works, the Contractor shall establish an office at the Site duly equipped for the Contractor's representative and his supervisory personnel.

The Contractor shall maintain this office throughout the Contract period. The said office shall be the legal domicile of the Contractor, and all correspondence sent to this office shall be deemed to have been sent to the Contractor's head office.

(b) A foreign Contractor or a Kenya-foreign joint venture, if not registered in Kenya under the applicable laws of Kenya, shall undertake registration upon receipt of the letter of acceptance and prior to signing of the Contract.

10.1 Performance Security

In lines 1,2 and 3 delete the words "If the Contract... within 28 days" and substitute "The Contractor shall obtain a Performance Security within 28 days ....."

Add the following at the end of this Sub-Clause:-

The Performance Security shall be issued by a Bank incorporated in Kenya. The amount of guarantee shall be as stated in the Appendix to Form of Tender.

The bank guarantee, shall be issued either (a) by an established and reputable bank approved by the Employer and located in Kenya or a foreign bank through a correspondent established and reputable bank located in Kenya and approved by the Employer or (b) directly by a foreign bank acceptable to the Employer. The performance security shall normally be in the currency or currencies requested for payment by the Contractor and in the same proportions as those requested for payment in the Contract.

The performance security may, subject to the approval of the Engineer, be adjusted at the end of each period of 12 months to reflect the residual value of the Contract Works.

10.2 The performance guarantee shall be valid until a date 28 days after the date of issue of the Taking-Over Certificate. The security shall be returned to the Contractor within 28

days of theexpiration.

10.3 Delete sub-clause10.3

11.1 Inspection of Site

Add the words "and the Contractor shall be deemed to have based his tender on all the aforementioned" after the words "affect his tender".

Delete the last paragraph completely and replace with the following:

"The Employer in no way guarantees completeness nor accuracy of the soil, materials, subsurface and hydrological information made available to the Contractor at the time of tendering or at any other time during the period of the Contract, and the Contractor shall be responsible for ascertaining for himself all information as aforesaid for the execution of Works and his tender shall be deemed to have been priced accordingly.

14.1 Programme to be Submitted

The time within which the Programme shall be submitted shall be twenty eight (28) days. This detailed Programme shall be based upon the programme submitted by the Contractor as part of his tender and shall, in no material manner, deviate from the saidprogramme.

The Contractor shall allow in his Programme for the following 11 public holidays per calendar year in Kenya upon which the Contractor shall not be permitted to work

New Year's Day	(1st January)
Good Friday	
Easter Monday	
Labour Day	(1st May)
Madaraka Day	(1st June)
Idd-Ul-Fitr	

Moi Day	(10th October)
Kenyatta Day	(20th October)
Jamhuri Day	(12th December)
Christmas Day	(25th December)
Boxing Day	(26th December)

The Contractor should also allow per calendar year for a further 2 unspecified public holidays which may be announced by the Government of Kenya with no prior notification, and upon which he shall not be permitted to work.

14.2 Add the following at the end of this sub clause:-

The Employer shall have the right to withhold payment at any time if the Contractor fails to submit the contractual construction programmes in accordance with sub clause 14.1 above or revise construction programmes due to his negligence, failure oromission.

14.3 Cash Flow Estimate to be Submitted

The time limit within which a detailed cash flow estimate is to be submitted shall be twenty eight (28) days.

In preparing the estimates, the Contractor shall make provision for Advance payment, repayment of advance, retention, payment for services provided by the Employer and timing implications of sub clause 60 – Certificates and Payments.

15 Contractor's Superintendence

Add the following at the end of the first paragraph of sub-clause 15.1:

15.1 The Contractor shall, within seven (7) days of receipt of the Engineer's order to commence the Works, inform the Engineer in writing, the name of the Contractor's representative and the anticipated date of his arrival on Site.

Add the following sub-clause 15.2:

15.2 The Contractor's agent or representative on the Site shall be an Engineer registered by the Engineer's Registration Board of Kenya in accordance with the Laws of Kenya cap. 530 or have equivalent status approved by the Engineer and shall be able to read, write and speak English fluently.

16.2 Engineer at Liberty to object

At the end of this clause add "by a competent substitute approved by the Engineer at the Contractor's own expense".

The Contractor is encouraged to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications who are Kenyan citizens.

Safety, Security and Protection of the Environment

19.1 Add at the end of sub clause 19.1 the following: -

The formulation and enforcement of an adequate safety program shall be the obligation of the Contractor with respect to all the Works under this Contract, regardless of whether performed by the Contractor or his subcontractors. The Contractor shall, within 14 days after commencement of the Works, meet the Engineer to present and discuss his plan for the establishment of such safety measures as may be necessary to provide against accidents, unsafe acts and so forth. Within 28 days after commencement of the Works, the Contractor shall submit a written safety program to the Engineer covering the overall Works and based on the laws and regulations of Kenya. In addition, he shall prepare special safety programs for blasting and handling of explosives as stipulated in the General and Special Specifications.

Notwithstanding the foregoing, the Contractor shall observe the following measures with a view to reducing or eliminating adverse environmental effects by the Site Works:

(i) All queries and borrow pits shall be filled and landscaped to their original state after extraction of construction material

(ii) Soil erosion due to surface runoff or water from culverts or other drainage structures should be avoided by putting in place proper erosion control measures that shall include, but not limited to grassing , planting of trees, gabions etc.

(iii) Long traffic diversion roads shall be avoided so as to minimize the effect of dust on the surrounding environment. In any case all diversions shall be kept damp and dust free at the Contractor's expense.

(iv) Spillage of oils, fuels and lubricants shall be avoided and if spilt, shall be collected and disposed off in such a way as not to adversely affect the environment.

(v) Rock blasting near settlement areas shall be properly coordinated with the relevant officers of the Government so as to minimize noise pollution and community interference.

(vi) Dumping shall be done only at designated dumping areas and not haphazardly on surroundings.

Insurance of Works & Contractor's Equipment

21.1 (a) Delete the first sentence of this clause and replace with the following:

"Prior to commencement of the Works the Contractor shall, without limiting his or the Employer's obligations and responsibilities under Clause 20, insure to the satisfaction of the Employer."

(b) Add the following words at the end of sub - paragraph (a) and immediately before the last word in (b)

"it being understood the insurance shall provide for compensation to be payable in the types and proportions of the currencies required to rectify the loss or damage incurred."

In sub clause 21.1(b), delete the words "or as may be specified in Part II of these Conditions".

21.2 (a) Delete the words "from the start of Work at the Site" and substitute with the words "from the first working day after the commencement date"

(c) Add the following sub-clause: "It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract".

23.1 Third PartyInsurance

Add the following at the beginning of this sub-clause:- "Prior to

commencement of the Works ……."

23.2 Minimum Amount of Insurance

Add the following at the end of this sub-clause:-
" ……. with no limits to the number of occurrences."

25.1 Insert the words "as soon as practicable after the respective insurances have been taken out but in any case" before the words "Prior to the start of Work at the Site"

Add the following sub-clauses 25.5 to 25.7

25.5 InsuranceNotices

Each policy of insurance effected by the Contractor for the purpose of the Contract shall include a provision to the effect that the Insurer shall have a duty to give notice in writing to the Contractor and Employer of the date when a premium becomes payable not more than thirty (30) days after the giving of suchnotice.

25.6 Re-insurance inKenya

The risks against which the Contractor is obliged to insure under the Contract shall be insured through established and reputable companies approved by the Employer and located in Kenya and any cover against risks which the Contractor

may enjoy shall be reinsured in Kenya by an approved Kenyan Insurance Company In respect of the Contractor's obligations under the Contract.

It shall be the responsibility of the Contractor to notify the insurers under any of the insurances referred or event which by the terms of such insurances are required to be so notified and the Contractor shall indemnify and keep indemnified the Employer against all losses, claims, demands, proceedings, costs, charges and expenses whatsoever arising out of or in consequence of any default by the Contractor in complying with the requirements of this sub clause whether as a result of avoidance of such insurance orotherwise.

26. **Compliance with Statutes, Regulations**

Add the following sub-clause 26.2;-

The Employer will repay or allow to the Contractor all such sums as the Engineer shall certify to have been properly payable and paid by the Contractor in respect of such fees. Provided always that, without prejudice to sub clause, nothing contained in this clause shall be deemed to render the Employer liable to all claims which may be considered to fall within the provisions of clause 22.1.

Royalties

28.2 Add the following at the end of this sub-clause;

"The Contractor shall also be liable for all payments or compensation, if any, that are levied in connection with the dumping of part or all of any such material."

Interference with Traffic and Adjoining Properties

29.2 Add new sub-clause 29.2;

The Contractor shall reinstate all properties whether public or private which are damaged in consequence of the construction and maintenance of the Works to a condition at least equal to that prevailing before his first entry on them.

If in the opinion of the Engineer the Contractor shall have failed to take reasonable and prompt action to discharge his obligations in the matter of reinstatement, the Engineer will inform the Contractor in writing of his opinion, in which circumstances the Employer reserves the right to employ

others to do the necessary work of reinstatement and to deduct the cost thereof from any money due or to become due to the Contractor.

The Contractor shall promptly refer to the Employer all claims, which may be considered to fall within the provisions of Clause 22.1.

LABOUR

34.2 Conditions of Employment of Labour

The Contractor shall be responsible for making all arrangements for and shall bear all costs relating to recruitment, obtaining of all necessary visas, permits or other official permission for movements of staff and labour.

34.3 Fair Wages

The Contractor shall, in respect of all persons employed anywhere by him in the execution of the Contract, observe and fulfill the following conditions:

(a) The Contractor shall pay the rates of wages, observe hours of labour and provide conditions, housing amenities and facilities not less favorable than those required by the Regulation of wages (Building and Construction Industry) Order 1998, and any subsequent amendments thereto, or in any ministry of labour or other government department in consultation with the district whose general circumstances in the trade or industry in which the Contractor is engaged are similar. The Contractor shall at all times during the continuation of the Contract display, for the information of his employees, a notice setting out the general rates of wages, hours and conditions of labour of his employees and a copy of this clause.

(b) In the absence of any rates for wages, hours or conditions of labour so established, the Contractor shall pay rates or wages and observe hours and conditions for labour which are not less favourable than the general circumstances in the trade or industry in which the Contractor isengaged.

(c) Where the absence of established rates of wages, hours and conditions of labour or the dissimilarity of the general circumstances in the trade or industry in which the Contractor is engaged prevent the Contractor from observing rates of wages, hours and conditions of labour ascertained under sub-paragraph (a) or (b) above, the Contractor in fixing the rates of wages, hours and conditions of labour of his employees shall be guided by the advise of the labour department.

(d) The Contractor shall recognize the freedom of his employees to be members of trade unions.

(e) The Contractor shall maintain records of the times worked by, and the wages paid to his employees. The Contractor shall furnish to the

Employer, if called upon so to do, particulars of the rates of wages, hours and conditions of labour as the employer may direct.

(f) The Contractor shall be responsible for observance by his sub- Contractors of the foregoing provisions.

34.4 Breach of Fair Wages Clause

Should a claim be made to the Employer alleging the Contractor's default in payment of fair wages to any workman employed on the Contract and if proof thereof satisfactory to the Employer is furnished by the labour department, the Employer may, failing payment by the Contractor, pay the claims out of any monies due or which may become due to the Contractor under the Contract.

34.5 Recruitment of Unskilled Labour

Any additional unskilled labour which may be required by the Contractor for the Works and which is not in his employ at the time of the acceptance of the tender shall be recruited by the Contractor from the labour office nearest to the Site of the Works.

34.6 Compensationfor injury

The Contractor shall, in accordance with the Workman's Compensation Act Chapter 236 of the laws of Kenya and any other regulations in force from time to time in Kenya ,pay compensation for loss or damage suffered in consequence of any accident or injury or disease resulting from his work to any workman or other person in the employment of the Contractor or any sub-contractor.

34.7 LabourStandards

a) The Contractor shall comply with the existing local labour laws, regulations and labour standards.

b) The Contractor shall formulate and enforce an adequate safety program with respect to all Work under this Contract, whether

performed by the Contractor or his sub-contractors. The Contractor has assurance from the Employer of cooperation where the implementation of these safety measures requires joint cooperation.

c) Upon written request of the Employer the Contractor will remove or replace any of his employees employed under this Contract.

34.8 Recruitment

The Contractor shall not induce personnel of the employer or the Engineer to leave their regular employment and shall not, without the prior consent in writing of the Employer, employ personnel who have resigned from such service within the preceding twelve months.

35 Add the following subclauses 35.2 and 35.3:-

35.2 The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

35.3 The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means. The Contractor shall also notify the relevant authority(s) whenever such report is required by the law.

41.1 Commencement and Delays

Insert immediately after the word Works------ "on Site within 28 days" and before the word ----------after

41.2 Definition of Commencement

For the purposes of this clause, the Works shall be deemed to have commenced when all of the following conditions are satisfied;

a) The approved competent and authorized agent or representative of the Contractor is resident in the project area and is giving his whole time to the superintendence of the Works.

b) The provision by the Contractor of evidence that all insurances required by the Contract are in force.

c) The Contractor has an established office in the project area with postal address for receipt of correspondence.

d) The principal items of constructional plant have been brought to Site and put to work in the execution of the permanent Works.

42.4 Possession of Site and Access Thereto

Add the following to this clause 42.4;

The Contractor shall not enter any part of the Site until he has requested and received permission to do so from the Employer or the Engineer.

The Contractor shall not use any portion of the Site for any purpose not connected

with the Works.

44.1 Add at the end of sub-clause 44.1 the following:

Neither rains falling between 1st November and 31st December (inclusive) and between 1st February and 31st May (inclusive) nor floods caused by such rains shall be deemed exceptional weather conditions such as may fairly entitle the Contractor to an extension of time for the completion of the Work.

45 Working Hours

Delete sub-clause 45.1 and substitute:

"subject to any provision to the contrary contained in the Contract, the Contractor shall have the option to work continuously by day and by night and on locally recognized days of rest.

If the Contractor requests for permission to work by day and night and if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment for so doing. All such work at night shall be carried out without unreasonable noise or other disturbance and the Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out night work and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability. In addition, the Contractor shall be required to provide, for any work carried out by night or recognized days of rest, adequate lighting and other facilities so that the Work is carried out safely and properly. In the event of the Engineer granting permission to the Contractor to work double or rotary shifts or on Sundays, the Contractor shall be required to meet any additional costs to the Employer in the administration and supervision of the Contract arising from the granting of this permission.

47.2 Reduction of Liquidated Damages

There shall be no reduction in the amount of liquidated damages in the event that a part or a section of the Works within the Contract is certified as completed before the whole of the Works comprising that Contract.
No bonus for early completion of the Works shall be paid to the Contractor by the Employer.

The sum stated in the Appendix to Form of Tender as liquidated damages shall be increased by a sum equivalent to any amount payable by the Employer to the Contractor under clause 70.1 in respect of an increase in costs in such period that would not have been incurred by the Contractor if the Works had been completed by the due date for completion prescribed by clause 43.

Defects Liability

49.3 Add at the end of this sub-clause the following sentence:-

Any work ordered to be executed under this clause shall be done at a time and in a manner as directed by the Engineer so as to interfere as little as possible with the operations of the Employer or of other contractors and no extension(s) of the defects liability period will be allowed for the execution of this Work.

Add the following sub-clause 49.5 to this Clause:-

52 Variations

52.1 Add the following final sentence to this subclause:-

The agreement, fixing or determination of any rates or prices as aforesaid shall include any foreign currency and the proportion thereof.

52.2 Daywork

Add the following at the end of this sub-clause:

The Work so ordered shall immediately become part of the Works under the Contract. The Contractor shall, as soon as practicable after receiving the Daywork Order from the Engineer undertake the necessary steps for due execution of such Work. Prior to commencement of any work to be done on a Daywork basis, the Contractor shall give a notice to the Engineer stating the exact time of such commencement.

54 Plant, Temporary Works and Materials

Delete Sub-Clauses 54.3 to 54.4 entirely.

For the purpose of these Clauses, the term "Equipment" shall be read as "Contractor's Equipment" where the context so requires.

54.1 Line 5: - Add "written" between "the" and "consent".

Quantities

55.1 Delete sub-clause 55.1 and substitute with the following;

The quality and quantity of the Work included in the Contract Price shall be deemed to be that which is set out in the Contract Bills. The Bills, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement.

Any error in description or in quantity or any omission of items from the Contract Bills or Specifications shall not vitiate this Contract but shall be corrected and deemed to be a variation required by the Engineer. Subject to the foregoing, any error whether arithmetical or not in the computation of

the Contract Price shall be deemed to have been accepted by the parties hereto.

The Contract Price shall not be adjusted or altered in any way whatsoever otherwise than in accordance with the express provisions of these Conditions.

55.2 Add as a new sub-clause:

"Items of Work described in the Bills of Quantities for which no rate or price has been entered in the Contract shall be considered as included in other rates and prices in the Contract and will not be paid for separately by the Employer.

Measurement

56.1 Delete sub clause 56.1 and replace with the following:-

The Contractor shall prepare and submit to the Engineer all necessary field notes and other records taken and computations made for the purpose of quantity measurements, of which the forms shall be approved by the Engineer, for the monthly progress payment under clause 60. The measurement of work quantities made by the Contractor shall be verified and certified by the Engineer based on the above-mentioned documents.

The Contractor shall furnish all personnel, equipment and materials to make such surveys and computations as necessary to determine the quantities of work performed. Unless otherwise prescribed in the specifications or the drawings, all measurements for payment shall be made by the dimensions, lines and grades as shown on the drawings or by direct survey of which the methods shall be approved by the Engineer.

The documents submitted for measurement and payment shall become the property of the Employer and shall be used to the extent necessary to determine the monthly progress payment to be made to the Contractor under the Contract. Direct survey, if done, shall be subject to checking and verification by the Engineer and all errors in the said survey work and related computations as found during such checking shall be immediately corrected by the Contractor.

57.1 Delete sub clause 57.1 and substitute with the following:-

The Works shall be measured net with deductions made in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement. All measurements shall be given in metric (SI) units.

Provisional Sums

58.4 Prime Cost sum

Wherever an item in the Bills of Quantities has been referred to as a "P.C. Sum" (Prime Cost Sum), that item shall be construed as a Provisional sum and the provisions of Sub-clauses 58.1 to 58.3 will apply.

59.5 Add the following paragraph at the end of sub clause 59.5:-

If the Engineer desires to secure final payment to any nominated sub- contractor before final payment is due to the Contractor and if such sub- contractor has satisfactorily indemnified the Contractor against any latent defects, the Engineer may, in an interim certificate, include an amount to cover the said final payment, and thereupon the Contractor shall pay to such nominated sub-contractor the amount so certified. Upon such final payment, the amount named in the Appendix to Form of Tender as Limit of Retention Money shall be reduced by the sum which bears the same ratio to the amount as does the subcontract and sub-contractor shall be discharged from all liability for the Work, materials or goods executed or supplied by such subcontractor under the Contract to which the payment relates.

Certificates and Payment

Delete Sub-clauses 60.1 to 60.10 entirely and substitute with the following:-

60.1 AdvancePayment

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

a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of 10% (ten percent) of the original amount of the Contract. The advance shall not be subject to retention money.

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

c) Reimbursement of the advance shall be effected by deductions from monthly interim payments.

d) Reimbursement of the lump sum advance shall be made by deductions from the Interim payments and where applicable fromthe balance owing to the Contractor. Reimbursement shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

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

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

80 – 20

Where:

R = the amount to be reimbursed

A = the amount of the advance which has been granted

X^1 = the amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will exceed 20% but not exceed 80%.

X^{11} = The amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

(e) with each reimbursement the counterpart of the directly liable guarantee may be reduced accordingly.

60.2 Interim Payment Certificate

The Contractor shall submit to the Engineer, in the manner required by the Engineer after the end of each month a statement showing the estimated total value of permanent Work properly executed and materials or goods for permanent works brought to Site up to the end of the previous month (if the value shall justify the issue of an interim certificate) together with any adjustments under clause 70 and any outstanding claims and sums the Contractor considers may be due to him. The Contractor shall amend or correct his estimate as directed by the Engineer and the latter shall not accept it until he is satisfied that it is fair and reasonable. With respect to the said materials and goods, no payment for them shall be made unless ;-

(i) The materials are in accordance with the specifications for the Works;

(ii) The materials have been delivered to Site and are properly stored and protected against loss, damage or deterioration;

(iii) The Contractor's record of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records are available for inspection by the Engineer;

(iv) The Contractor has submitted a statement of his cost of acquiring and delivering the materials and goods to the Site, together with such documents as may be required for the purpose of evidencing such cost;

(v) The materials are to be used within a reasonable time.

The Contractor will be paid on the certificate of the Engineer the amount due to him on account of the estimated total value of the permanent Work executed up to the end of the previous month together with such amount (not exceeding 75% of the value) as the Engineer may consider proper on account of materials and goods for permanent Work delivered by the Contractor on Site and in addition, such amount as the Engineer

may consider fair and reasonable for any Temporary Works for which separate amounts are provided in the Bill of Quantities, all of which shall be subject to a retention of the percentage named in the Appendix to Form of Tender until the amount retained (hereinafter and in all Contract documents called the "Retention Money") shall reach the "Limit of Retention Money" named in the said Appendix. Provided always that no interim certificate shall be issued for a sum [such sum always being the net amount thereof after all deductions for retention etc) less than that named in the Appendix to Form of Tender as "Minimum Amount of Interim Certificate" at one time.

Within 14 days after receiving a statement from the Contractor as aforesaid, and subject to the Contractor having made such further amendments and corrections as the Engineer may require, the Engineer shall issue a Certificate of Payment to the Employer showing the amount due, with a copy to the Contractor.

The Engineer shall not unreasonably withhold certifying an Interim Payment Certificate and where there is a dispute regarding an item for payment, the Engineer may delete this disputed item from the Interim Payment Certificate and certify the remainder for payment provided the said payment is in accordance with the preceding paragraph. In cases of difference in opinion as to the value of any item, the Engineer's view shall prevail.

60.3 Final Account and Final Payment Certificate

As soon as possible after the issue of Taking - Over Certificate or the termination of the Contract and not later than the time of issue of Defects Liability Certificate, the Contractor shall prepare and submit to the Engineer (with a copy to the Employer), a Statement of Final Account showing in detail the total value of work done in accordance with the Contract together with all sums paid in previous payments. Within thirty (30) after receipt of such further information as may be reasonably required from the Contractor for its verification, the Engineer shall check the said statement, prepare and submit a Final Payment Certificate to the Employer (with a copy to the Contractor).

The Final Payment Certificate shall state;

(a) The (final) total value of all Work done in accordance with the Contract;

(b) After giving credit to the Employer for all amounts previously paid to the Contractor, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer, as the case may be.

Unless the Contractor notifies the Engineer of his objection to the Final Payment Certificate within twenty eight [28] days of delivery thereof , he shall be deemed to have agreed that he accepts the total Contract Price as

set out in the Final Payment Certificate as full settlement for all work done under the Contract including any claims, variations and omissions thereof.

However, a Final Certificate of Payment shall not be conclusive:

a) to the extent that fraud or dishonesty relates to or affects any matter dealt with in the Certificate, or

b) if any arbitration or court proceedings under the Contract have been commenced by either party before the expiry of 84 days after the issue of the Final Certificate of Payment.

60.4 Payment ofCertificates

Payment upon each of the Engineer's Certificates for Interim Payments shall be made by the Employer within the time stated in the Appendix to Form of Tender from the date of issue of each Certificate of Payment.

Payment upon the Engineer's Final Payment Certificate shall be made by the Employer within the time stated in the Appendix to Form of Tender from the date of issue of the Final Certificate of Payment signed by the Engineer and countersigned by the Contractor or his authorised agent or representative.

Making of a payment by the Employer shall be considered to have been duly executed on the day that the Employer has issued a cheque.

60.5 Payment of Retention Money

One half of the retention money shall become due upon the issue of a Taking – Over Certificate and shall be paid to the Contractor when the Engineer shall certify in writing that the last section of the whole of the Works has been substantially completed and the other half shall be paid to the Contractor after the expiration of the Defects Liability Period and the issue of a Certificate under Clause 62. Provided always that if such time there shall remain to be executed by the Contractor any Works ordered duringsuchperiodpursuanttoClauses49 and50thereof,theEmployer

shall be entitled to withhold payment [until the completion of such Works] of so much of the second half of the Retention Money as shall in the opinion of the Engineer represent the Costs of the Works so remaining to be executed. Provided further that in the event of different Defects Liability Periods having become applicable to different parts of the Works pursuant to clause 48 hereof the expression "expiration of the Defect Liability Period" shall for the purpose of this Sub-clause be deemed to mean the expiration of the latest of such periods.

60.6 Currency ofPayment

The Contract price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya shillings and foreign currency(s) in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate[s] of exchange for the calculation of the amount of foreign currency payment[s] shall be the rate of exchange indicated in the Tender. If the Contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services, the Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services. The Employer and the Engineer shall be notified promptly by the Contractor of any changes in the expected foreign currency requirements of the Contractor during the execution of the Works as indicated in the Statement of Foreign Currency Requirements and the foreign and local currency portions of the balance of the Contract Price shall then be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.

60.7 Overdue Payments

Unless otherwise stated in the appendix interest shall be paid on the overdue amounts and the interest to be paid shall be in accordance with prevailing commercial bank rates.

60.8 Correcting and With-holding

The Engineer may by any interim certificate or through the final account make any correction or modification to any previous certified sum and shall have authority, if any work or part thereof is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

60.9 Completion by Sections.

If a Taking-Over Certificate shall be issued for any section or part of the Works separately, the payments herein provided for on or after issue of such a Certificate shall be made in respect of such section or part and references to the Contract Price shall mean such part of the Contract Price as shall in the absence of agreement be apportioned thereto by the Engineer.

60.10 Proportion of Foreign Currency

Subject to the provision of sub clause 60.5 the proportion of foreign currency in any amount due to the Contractor or Employer shall be determined in the following manner:-

a) For all measured Work, the percentages of foreign currency for the appropriate section of the Bill of Quantities as stated in the schedule of foreign currency requirements shall be applied.

b) Variations in the cost of imported materials shall be paid in foreign currency.

c) Variations in the cost of locally purchased materials and those due to changes of legislation shall be paid in local currency.

d) For Day works labour and plant, the respective percentages of foreign currency stated in the schedule shall be applied.

e) For Day works materials and materials on site, payment in foreign currency will only be made for imported materials.

f) The provisions for the deduction and release of Retention Money and the payment of interest shall be applied similarly to both the local and foreign portions.

g) The advance mobilization loan, its repayment thereof and liquidated damages shall all be apportioned on the basis of the ration between local and foreign currency indicated in the Contract Price.

h) In the event that the payment is for an item not covered in the foregoing paragraphs, the Engineer shall determine the proportion of foreign and local currency based on the information given in the Schedule of Foreign Currency Requirements, together with any additional information he may request the Contractor to provide.

60.11 Statement at Completion

Not later than 14 days after the issue of the Taking-Over Certificate in respect of the whole of the works, the Contractor shall submit to the Engineer a statement at completion showing in detail, in a form approved by the Engineer;

(a) The final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate.

(b) Any further sums which the Contractor considers to be due; and

(c) An estimate of amounts, which the Contractor considers, will become due to him under the Contract.

Estimate amounts shall be shown separately in the Statement at Completion. The Contractor shall amend and correct the Statement as directed by the Engineer who shall issue a Certificate at Completion to be processed in accordance with sub-clause 60.4.

60.12 Final Statement

Not later than 56 days after the issue of the Defects Liability Certificate, the Contractor shall submit to the Engineer for consideration a draft final

statement with supporting documents showing in detail, in the form approved by the Engineer;

(a) The final value of all work done in accordance with the Contract;

(b) Any further sums which the Contractor considers to be due to him.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonable require and shall make such changes in the draft as may be required.

60.13 Discharge

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment under the Final Payment Certificate issued pursuant to Sub-clause 60.14 has been made and the Performance Security referred to in Sub-clause 10.1 has been returned to the Contractor.

60.14 Final Payment Certificate

Upon acceptance of the Final Statement as given in Sub-clause 60.12, the Engineer shall prepare a Final Payment Certificate which shall be delivered to the Contractor's authorized agent or representative for his signature. The Final Payment Certificate shall state:

(a) The final value of all work done in accordance with the Contract;

(b) After giving credit to the Employer for all amounts previously paid by the Employer, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer as the case may be

Final Certificate shall be issued for any sum due to the Contractor even if such is less than the sum said named in the Appendix to the Form of Tender.

60.15 Cessation of Employer's Liability

Unless the Contractor notifies the Engineer of his objection to the Final Certificate within fourteen days of delivery thereof he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Certificate as full settlement for all work done under the Contract including any variations and omissions thereof.

62.1 Defects Liability Certificate

Delete the last sentence of this Sub-Clause beginning "Provided that the issue……in Sub-Clause 60.3".

Remedies

63.4 Assignment of Benefit of Agreement

Add the following at the end of this sub-clause:-

"But on the terms that a supplier or sub-contractor shall be entitled to make any reasonable objection to any further assignment thereof by the Employer and the Employer may pay the supplier or sub-contractor for any such materials supplied or Works executed under such agreement, whether the same be assigned as aforesaid or not, before or after the said determination, the amount due by such arrangement in so far as it has not already been paid by the Contractor".

65 Special Risks

Add sub clause 65.9 as follows:

(a) In the event of the Employer unilaterally ordering the final cessation of performance of the Contract for reasons not specified elsewhere in the Conditions of Contract the Contract shall be considered to be frustrated and the Contractor shall be indemnified as provided for under clause 65.1.

(b) In the event of the Employer ordering the adjournment of the Contract before or after commencement of the Works for reasons not specified elsewhere in the Conditions of Contract, the Contractor shall be entitled to indemnity for any injury which he may have suffered as a consequence of such adjournment. The Engineer shall award the Contractor payment of such sum as in his opinion shall be reasonable giving regard to all material and relevant factors including the Contractor's on costs and overheads, and the nature of the instruction to adjourn the Contract.

Settlement of Disputes

67.3 Arbitration

For the purposes of this Clause, the Arbitrator shall be a person to be agreed between the parties or failing agreement, the Arbitrator shall

be appointed by the appointer designated in the Appendix to the Form of Tender.

Add the following paragraph after the last paragraph of sub-clause 67.3:

Arbitration shall take place in Nairobi, Kenya. The language of all arbitration proceedings shall be in English. The cost of arbitration shall be apportioned by the Arbitrator according to his findings.

Notices

68.1 Add the following at the end of this subclause:-

Notwithstanding the foregoing, the Contractor shall either maintain an address close to the Works or appoint an agent residing close to the Works for the purpose of receiving notices to be given to the Contractor under the terms of the Contract. This obligation shall be terminated upon the issue of the Certificate of Completion.

68.2 Delete the words "nominated for that purpose in Part II of these Conditions" in this sub-clause.

Default ofEmployer

69.1 Default ofEmployer

In paragraph (a) of this Sub-Clause, delete the words "within 28 days of expiry of the time stated in Sub-clause 60.10" and insert "within 56 days after the expiry of the time stated in Sub-Clause 60.4".

69.4 Contractor's Entitlement to Suspend Work

Delete the first four lines of this Sub-Clause and replace with the following:-

"Without prejudice to the Contractor's entitlement to interest under Sub-clause 60.7 and to terminate his employment under Sub-Clause 69.1, the Contractor may, if the Employer fails to pay the Contractor the amount due under any certificate of the Engineer within 56 days after the expiry of the time stated in Sub-Clause 60.4....."

Delete sub-clause 69.4 (b) and substitute with the following----"the amount of such cost, which shall be added to the Contract Price. However, the costs due to idle time for plant, equipment and labour shall not be included in the said costs and shall be borne by the Contractor.

69.5 Resumption ofWork

In line 3 of this Sub-Clause delete the Words "Sub-Clause 60.10" and replace with "Sub-Clause 60.7"

Changes in Cost and Legislation

70.1 Delete the sub-clause 70.1 in its entirety and substitute with the following:-

"The Contract Price shall be deemed to have been calculated in the matter set below and shall be subject to the adjustment in the event specified hereunder:

(a) The rates contained in the priced Bill of Quantities are based upon the rates of wages and other emoluments and expenses applicable at the site and the date of tender pricing (as defined in sub-clause 70.4 hereinafter);

(b) If the said rates of wages and other emoluments and expenses shall be increased or decreased by act, statue, decree, regulation and the like after the said date of tender pricing then the net amount of increase the emoluments and expenses shall, as the case may be, paid to or allowed by Contractor;

(c) The rates contained in the price Bill of Quantities are based upon the rates of the Contractor's compulsory contributions payable at the date of tender under or by virtue of any Act, Statue, Regulations and the like applicable at the site;

(d) If any of the said rates of contribution becomes payable after that date then the net amount of new statutory contribution becomes payable after that date then the net amount of increase or decrease of the emoluments and expenses shall, as the case may be, be paid to or allowed by the Contractor. Difference between what the Contractor actually pays in respect of work people engaged upon or in connection with the works and what he would have paid in respect of such person had any of the said rates not been increased or decreased or had a new contribution not become payable as aforesaid, shall asthe case may be, be paid to or allowed by the Contractor. Provided always that the Engineer and the Contractor may agree a sum, which shall be deemed to be the net amount of the aforesaid difference, and such sum shall be deemed for the purpose of this Contract to be, that which is to be paid to or allowed by the Contractor by the virtue of this sub-paragraph;

(e) If the market price or any materials or goods specified as aforesaid shall be increased or decreased after the said Date of Tender Pricing, then the net amount of difference between the basic price and the market price payable by the Contractor and current when any such goods and materials are bought shall, as the case may be, be paid to

or allowed by the Contractor. Orders for materials and goods listed as aforesaid shall have been placed within a reasonable time after the date at which sufficient information is available for the placing of such orders, and the placing of orders at that time shall be a condition precedent to any payments being made to the Contractor in respect of increased market prices."

Substitute and add the following sub-clauses:

70.2 (a) If the Contractor shall decide subject to Clause 4 thereof to sub-let any portion of the work he shall incorporate in the sub-contract provisions to the like effect as those contained in sub-clause (1) of this Clause;

(c) If the price payable under a sub-contract as aforesaid is increased above or decreased below the price in such sub-contract by reason of the operation of the incorporated provisions of sub-clause (1) of this clause then the net amount of such increase or decrease shall as the case may be, be paid to or allowed by the Contractor under this Contract.

70.3 The expression "the date of tender pricing" as used in this Clause means the date 28 days prior to the final date for submission of Tenders as determined by the Employer in the Tender documents.

70.4 For imported materials, the supplier's/manufacturer's Prime costs shall be C.I.F. cost at point of entry by the same means of transport as determined by the Contractor's Basic Rate.

For locally produced materials, the supplier's or manufacturer's prime costs shall be at their nearest depot or the nearest railway station relevant to the works.

For materials, which are subject to Government Price Control, payments for price variations will be determined from the difference between the control price in force at a date 28 days prior to date for submission of Tenders and the price in force on the date of purchase.

70.5 The materials to which this Variation Clause applies are:

- All bitumen material
- Fuels, oils and lubricant
- Cement
- Lime
- Flex beamguardrail
- Explosives
- Gabion mesh
- Reinforcing steel

70.6 The Contractor shall not change the supplier or manufacturer during the Contract without the approval of the Engineer.

70.7 No payments will be made for price variation related to expenses incurred by the Contractor in his Head Office in Kenya, or overseas.

70.8 All payments made pursuant to Clause 70 shall be in Kenya Shillings.

70.9 No payments will be made for the cost of preparing V.O.P. claims.

70.10 Add the following at the end of this clause.

"Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited as aforesaid if the same shall already have been taken into account in accordance with the provisions of sub-clause 70.1".

ADDITIONAL CLAUSES

Clause 73 Declaration Against Waiver

The condoning by the Employer of any breach or breaches by the Contractor or any authorized sub-contractor of any of the stipulations and Conditions contained in the Contract shall in no way prejudice or affect or be construed as a waiver of the Employer's rights, powers and remedies under the Contract in respect of any breach or breaches as aforesaid.

Clause 74 Bribery and Collusion

The Employer shall be entitled to determine the Contract and recover from the Contractor the amount of any loss resulting from such determination if the Contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement of regard for doing or fore bearing to do or for having done or fore borne to do any action in relation to obtaining or the execution of the Contract or any other contract with the Employer or if any of the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the

knowledge of the Contractor) or if the Contractor shall have come to any agreement with another contractor or number of contractors whereby an agreed quotation or estimate shall be tendered to the Employer by one or more contractors.

Clause 75 Contract Confidential

The Contractor shall treat the Contract and everything in connection therewith as private and confidential. In particular, the Contractor shall not publish any information, drawings or photographs concerning the Works in any trade or technical paper etc, and shall not use the Site for the purpose of

advertising except with the written consent of the Engineer and subject to such conditions as the Engineer may prescribe.

Clause 76 Employer's Officials etc., Not Personally Liable

No official of the Employer or the Engineer or the Engineer's Representative or anyone of their respective staffs or their employees shall be in any way personally bound or liable for the acts or obligations of the Employer under the Contract or answerable for default or omission in the observance or performance of any of the acts, matters or things which are herein contained.

Clause 77 Taxes and Duties

(1) The Contractor shall list in his tender the plant and vehicles which he intends to import for the execution of the Works. The Engineer will consider the list in the context of the program of the Works and will give his approval subject to any modifications that he may see fit to make. No appeal against the Engineer's decision shall be permitted.

The Contractor will be permitted to import approved plant and vehicles required for the execution of the Works on the basis of temporary admission into Kenya and re-export thereafter upon completion of the Contract without payment of customs duties and Value Added Tax for them. If the plant and equipment shall not be re-exported, duties and taxes shall then be paid based upon their residual value at the date of completion of the Contract, or the date of withdrawal from the Works, if earlier. Plant and vehicles so imported shall not be utilized on other works not associated with the Contract unless specifically authorized by the Engineer.

(2) The Contractor will be permitted to import approved spare parts, tires and tubes without payment of customs duty and Value Added Tax for maintenance of any imported vehicles and plant as provided in sub-clause 77.1 above, within a financial limit indicated by himself. However, this limit will not exceed 15% of the Contract Price excluding Contingencies.

(3) All materials approved by the Engineer to be incorporated into the Works or temporary works, and whose importation into Kenya is agreed to be essential shall be free of customs duties and Value Added Tax. The Contractor shall submit a list of such materials required with the tender. The Contractor shall be required to satisfy the Engineer that such materials have actually been incorporated into the Works.

Items produced in Kenya will not be permitted to be imported without payment of customs duty and Value Added Tax.

Items produced in Kenya shall mean commercially recognized goods or products that are either mined, grown, manufactured, processed or assembled (whether the components are imported or not) in Kenya.

Clause 78 Joint Ventures

78.1 If the Contractor is a joint venture, all partners of the joint venture shall be jointly and severally liable to the Employer for the execution of the entire Contract in accordance with its terms and Conditions.

SECTION IV

DRAWINGS

TO BE PROVIDED WHEN NEEDED

SECTION V – BILLS OF QUANTITIES

BILL NO.1: PRELIMINARIES

ITEM	DESCRIPTION	AMOUNT
1	**HOARDING** The Contractor is required to take all precautions necessary for the safe custody of the works,materials, plant, public and Employer's property on the site.The hoarding should be 3 m high with fortune green sheet guage 30 IT5 made round post frame properly braced WITH A GATE FOR ACCESS CONTROL. Warning stickers to be placed as ddirected by the project manager. The contractor should allow in his rates for this item.	
2	**PLANT, TOOLS AND VEHICLES** The contractor shall allow in his rates for providing all scaffolding, plant, tools and vehicles required for the works except in so far as may be stated otherwise herein and except for such items specifically and only required for the use of nominated Sub-Contractors as described herein. No timber used for scaffolding, formwork or temporary works of any kind shall be used afterwards in the permanent work.	
3	**TRANSPORT** Allow for transport of workmen, to and from the site at such hours and by such routes as may be permitted by the competent authorities.	
4	**STORAGE OF MATERIALS** The Contractor shall provide at his own risk and cost where directed on the site weather proof lock-up sheds and make good damaged or disturbed surfaces upon completion to the satisfaction of the PROJECT MANAGER.	
5	**WATER AND ELECTRICITY SUPPLY FOR THE WORKS** The Contractor shall provide at his own risk and cost all necessary water, electric light and power required for use in the works. The Contractor shall pay all charges in connection herewith. No guarantee is given or implied that sufficient water will be available from mains and the Contractor must make his own arrangements for augmenting this supply at his own cost.	
6	**CONTRACTOR'S SUPERINTENDENCE/SITE AGENT** The Contractor shall constantly keep on the works a literate English speaking Agent or Representative, competent and experienced in the kind of work involved who shall give his whole experience in the kind of work involved and shall give his whole time to the superintendence of the works. Such Agent or Representative shall receive on behalf of the Contractor all directions and instructions from the Project Manager and such directions shall be deemed to have been given to the	
	Subtotal carried to collection	

ITEM	DESCRIPTION	AMOUNT
7	**SIGNBOARD** Allow for providing, erecting, maintaining throughout the course of the Contract and afterwards clearing away the signboard as designed, specified and approved by the Project Manager	
8	**EXISTING SERVICES** Prior to the commencement of any work, the Contractor is to ascertain from the relevant authority the exact position, depth and level of all existing services in the area and he/she shall make whatever provisions which may be required by the authorities concerned for the support, maintenance and protection of such services.	
	Total carried forward to collection page	
	COLLECTION	
	Sub-total brought forward from page 1	
	Sub-total brought forward from above	
	Total PRELIMINARIES carried forward to grand summary page	

BILL NO.2: BOREHOLE FLUSHING

Item	Description	Unit	Qty	Rate	Amount
i.	Mobilisation and demobilisation of flushing/test-pumping equipment	Item	1		
ii.	Borehole airlifting/flushing and removal of drilling debris	Hr	8		
iii.	Borehole development by airlifting/surging until clear water is obtained	Hr	12		
iv.	Discharge hose and temporary drainage arrangement	Item	1		
v	Measurement and recording of static water level	Item	1		
	Total for borehole flushing carried to grand summary				

BILL NO.3: TEST PUMPING

Item	Description	Unit	Qty	Rate	Amount
i.	Installation of temporary test pump, rising main and accessories	Item	1.00		
ii.	Step-drawdown test – including measurements and recording	Hr	6.00		
iii.	Constant-rate pumping test	Hr	24.00		
iv.	Recovery test and monitoring	Hr	4.00		
v.	Flow measurement using calibrated flow meter/V-notch arrangement	Item	1.00		
vi.	Water-level monitoring during pumping and recovery	Item	1.00		
vii.	Analysis of pumping-test data and determination of sustainable yield	Item	1.00		
viii.	Test-pumping report	Item	1.00		
	Total Test pumping carried forward to summary page				

BILL NO.4: WATER QUALITY ANALYSIS

Item	Description	Unit	Qty	Rate	Amount
i.	Collection of representative borehole water samples	Item	1		
ii.	Physical parameters – colour, odour, turbidity, temperature, conductivity, TDS	Test	1		
iii.	pH analysis	Test	1		
iv.	Total hardness, calcium and magnesium	Test	1		
v.	Chloride, sulphate, nitrate/nitrite	Test	1		
vi.	Iron and manganese	Test	1		
vii.	Fluoride	Test	1		
viii.	Sodium and potassium	Test	1		
ix.	Total dissolved solids	Test	1		
x.	Total coliforms and E. coli	Test	1		
xi.	Heavy metals – selected parameters	Test	1		
xii	Water quality laboratory report and interpretation	Item	1		
	Total water quality analysis carried forward to summary				

BILL NO.5: EQUIPPING

Item	Description	Unit	Qty	Rate	Amount
	All provisional; actual ratings depend on test pumping reports to be determined upon completion of test pumping				
i.	5kW submersible pump, motor, cables and complete control panel	No.	1		
ii.	2"–3" HDPE/uPVC rising main, PN16	m	100		
iii.	Stainless-steel/HDG safety rope	m	100		
iv.	Submersible pump power cable, 4-core suitable size	m	120		
v.	Borehole cable jointing kit	No.	1		
vi.	Dry-run/low-water-level protection	No.	1		
vii.	Water-level sensor/probe and control accessories	Set	1		
viii.	Non-return/check valve	No.	2		
ix.	Borehole headworks, sanitary seal and well-head assembly	Set	1		
x.	Surface delivery pipe and fittings	Item	1		
xi.	Pressure gauge and isolation valve	Set	1		
xii.	Pump installation, lowering, connection and commissioning	Item	1		
	SOLAR INSTALLATION				
xiii.	10 No. 650 W mono-crystalline PV modules, Tier-1 equivalent, Hot-dipped galvanized ground mount PV structure, DC PV cables, MC4 Connectros, DC combiner with protection and isolators, controller and all accessories	Item	1		
	Total Equipping carried forward to summary page				

BILL NO.6: WATER DISTRIBUTION NETWORK

Item	Description	Unit	Qty	Rate	Amount
1.00	**Distribution Network along the perimeter walling, to the chamber, cafeteria, conference and annexed blocks** **The contractor shall include in his rates; prices for excavation, carting away debris to spoils, backfilling and site clearance for the pipework** ***The following HDPE pipework complete with connectors,elbows, tees, adapters, thread seals and all accessories required for proper execution of the works***				
1.10	32 mm diameter,PN 16 bar, HDPE Pipe	Roll	7		
1.20	40 mm diameter,PN 16 bar, HDPE Pipe	Roll	7		
1.30	24 mm diameter,PN 16 bar, HDPE Pipe	Roll	7		
	The following GI pipework complete with unions,elbows, nipples, tees, tangits and all accessories required for proper execution of the works ***The contractor shall include in his rates; prices for excavation, carting away debris to spoils, backfilling and site clearance for the pipework***				
1.40	6 m long, 20 mm diameter GI Class B	NO	20		
1.50	6 m long, 38 mm diameter GI Class B	NO	4		
1.60	Gate Valve 1½"	NO	4		
1.70	Pegler Tap ¾"	NO	40		
1.80	Gate Valve ¾"	NO	40		
2.00	***steel fabricated support/ Mounting structure- 8M excavation, cutting, welding, erection, foundation concrete and bolting as directed on site***				
2.10	100mm dia x 2mm thick CHS (4.25Kg/m) steel columns	LM	154		
	sub-total carried forward to collection				

Item	Description	Unit	Qty	Rate	Amount
	DISTRIBUTION NETWORK CONT'D				
2.20	76mm dia x 2mm thick CHS (3.75Kg/m) bases	LM	98		
2.30	50mm dia x 2mm thick CHS (2.45Kg/m) steel bracings	LM	154		
2.40	32mm dia x 2mm thick CHS (1.55Kg/m) steel ties	LM	106		
2.50	3.5mm thick mild steel plate	SM	38		
3.00	PUMP AND STORAGE SUPPLIES				
3.10	Booster pumps	NO	2		
3.20	Roto Tank 5,000 litres	NO	3		
	Sub-total carried forward to collection				
	COLLECTION				
	Subtotal brought forward from page 1				
	Subtotal brought forward from above				
	Total distribution network carried forward to summary				

BILL NO.7: FENCING

Item	Description	Unit	Qty	Rate	Amount
	FENCING	**100 Metres chainlink fence with Precast concrete poles at 3 metres intervals**			
A	Clear site of grass, bushes, shrubs and small trees not exceeding 300mm girth including grubbing up roots,burn or cart away arisings	625	SM		
B	Excavate hole size 400mm by 400mm by 300mm deep to receive precast concrete posts	4	CM		
C	Excavate trench 400mm wide, 300mm deep.	12	CM		
D	Return, fill and ram selected materials	12	CM		
E	Cart away surplus materials or spread on site as directed by the engineer	4	CM		
F	125x125mmx2400mm high precast concrete	33	NO		
	Formwork				
G	Sawn cypress formwork to sides of strip	10	SM		
	Mass concrete (1:4:8) wheeled and placed in holes and strip as described in:-				
H	precast concrete	2	CM		
I	Ditto to 200mmx200mm high concrete strip along the fence	2	CM		
J	100x125mm Precast concrete struts; 2600mm long to corners of the fence and the main gate and centres of sides at 30m span.	6	NO		
K	2.4m high by 14 gauge chainlink tied to 6No.line wire through the post	240	SM		
	Total CARRIED FORWARD TO COLLECTION PAGE				

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	FENCING CONT'D				
L	Supply and fix 6 strand galvanised barbed wire(As wire products Ltd) 180x25kgx12 1/2G fencing with utility posts at 3.0M centres mortised in mass concrete surround	600	LM		
M	1500x2100mm high double leaf mild steel Pedestrian entrance	1	No.		
N	3000x2100mm high double leaf mild steel Vehiculas gate	1	No.		
	total carried forward to collection				
	COLLECTION				
	Total brought forward from page 1				
	Total brought forward from above				
	Total for fencing works carried forward to grand summary				

PROVISIONAL SUMS

Item	Description	Qty	Unit	Rate	Amount
	PROVISIONAL SUMS				
	The contractor shall include in his tender the following to be deducted in whole or in parts as directed by the project manager				
A	Allow a sum of Kenya shillings Four hundred and eighty thousand (Kshs. 480,000.00) only for project management expenses and documentation	1	sum		
B	Allow a provisional sum of Kenya shillings three hundred and sixty thousand(Kshs. 360,000.00) only for contigencies	1	sum		
C	Allow a sum of Kenya shillings six hundred and sixty thousand (Kshs. 300,000.00) only for project client's **stationery**	1	sum		
	TOTAL PROVISIONAL SUMS CARRIED TO GRAND SUMMARY				

GRAND SUMMARY

ITEM	DESCRIPTION	For Official Use only	For Tenderer's use only
A	**Bill No. 1 PRELIMINARIES**		
B	**Bills No. 2 Measured Works:**		
1	Borehole flushing and cleaning		
2	Test pumping		
3	Water quality analysis		
4	Equipping		
5	Water distribution networks		
6	Fencing		
C	**PC. Sums**		
TOTAL CARRIED TO FORM OF TENDER:			

Amount in words: Kenya Shillings .....
.....

Tenderer's Signature .....
Address .....
.....
Date .....

Witness Signature .....

Address .....
.....
Date .....

SECTION VI – STANDARDFORMS

LIST OF STANDARD FORMS

i. Form of Tender
ii. Appendix to Form of Tender
iii. Letter of Acceptance
iv. Form of Agreement
v. Form of Tender Security
vi. Performance Bank
1. Guarantee(unconditional)
vii. Bank Guarantee for Advance Payment
viii. Tender Questionnaire
xi Confidential Business Questionnaire
ix. Schedule of Materials;- Basic Prices
x. Schedule of Labour;- Basic Prices
xi. Schedule of Plant and Equipment xv
Details of Sub-Contractors
xvi Certificate of Tenderer's Site visit
xii. Form of Written Power of Attorney
xiii. Key Personnel
xiv. Completed Civil Works
xv. Schedule of Ongoing Projects
xvi. Other Supplementary Information
xvii. Declaration Form

FORM OF TENDER

TO---------- *[Name of Employer)* ----------*[Date]*

---------- *[Name of Contract]*

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs.....*[Amount in figures]*Kenya Shillings_____
_____
_____*[Amount inwords]*

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

3. We agree to abide by this tender until _ _ _ _ _ *[Insert date],* and it shall remain binding upon us and may be accepted at any time before that date.

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

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

Dated this _____day of _____20_____

Signature _____ in the capacity of_____

duly authorized to sign tenders for and on behalf of
_____
_____*[Name ofEmployer]*
Of_____[*Address of Employer]*

Witness; Name_____

Address_____Signature_____Date

_____

APPENDIX TO FORM OF TENDER

(This appendix forms part of the tender)

CONDITIONS OF CONTRACT	CLAUSE	AMOUNT
Tender Security (Bank Guarantee only)		Kshs
Amount of Performance Security (Unconditional Bank Guarantee)	10.1	_ percent of Tender Sum in the form of Unconditional Bank Guarantee
Program to be submitted	14.1	Not later than ___ days after issuance of Order to Commence
Cash flow estimate to be submitted	14.3	Not later than ___ days after issuance of Order to Commence
Minimum amount of Third Party Insurance	23.2	Kshs.
Period for commencement, from the Engineer's order to commence	41.1	_ ___ days
Time for completion	43.1	……
Amount of liquidated damages	47.1	Kshs. per day
Limit of liquidated damages	47.1	_ % of Contract Value
Defect Liability period	49.1	Months
Percentage of Retention	60.5	_ of Interim Payment Certificate
Limit of Retention Money	60.5	_ % of Contract Price
Minimum amount of interim certificates	60.2	Contract value/Time for completion in months
Time within which payment to be made after Interim Payment Certificate signed by Engineer	60.8	_ __ days
Time within which payment to be made after Final Payment Certificate signed by Engineer	60.8	_ __ __ days
Appointer of Arbitrator	67(3)	Chief Justice of The Republic of Kenya
Notice to Employer and Engineer	68.2	The Employers address is: Permanent Secretary, Ministry of……, P.O.Box …… NAIROBI The Engineer's address is: Chief Engineer(……), Ministry of……, P.O.Box…… NAIROBI

Signature of Tender…… Date……

FORM OF AGREEMENT

THIS AGREEMENT, made the _____ day of _ _____ 20 _ _

between_____ _____ _____of[or whose registered office is situated at]_____ _____ _____ (hereinafter called "the Employer") of the one part AND

_____ _____ _____ _____of[or whose registered office is situated at]_____ _____ _ (hereinafter called "the Contractor") of the other part.

WHEREAS THE Employer is desirous that the Contractor executes

_____ _____ _____ _____ _____ _____ _____ *(name and identification number of Contract)* (hereinafter called "the Works") located at_ _ _ _

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 thereto have caused this Agreement to be executed the day and year first before written.

The common Seal of _____ Was

hereunto affixed in the presence of _____ _____ Signed

Sealed, and Delivered by the said_____ Binding

Signature ofEmployer _____

Binding Signature of Contractor_____ In the

presence of (i) Name_____

Address_ _____

Signature _____

[ii] Name _ _ _ _ _ _ _ _ _ _ Address_ _ _

_ _ _ _ _ _ Signature _ _ _ _ _ _

_ _

FORM OF TENDER SECURITY

WHEREAS ……(hereinafter called "the Tenderer") has submitted his tender dated …… for the construction of ……
…… *(name of Contract)*

KNOW ALL PEOPLE by these presents that WE …… having our registered office at ……(hereinafter called "the Bank"), are bound unto ……(hereinafter called "the Employer") in the sum of Kshs…… for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this ……. Day of ……20……

THE CONDITIONS of this obligation are:

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

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

   (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
   (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;
   (c) Rejects a correction or an arithmetic error in the tender.

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

   This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the said date.

   _ _ _

PERFORMANCEBANK GUARANTEE (UNCONDITIONAL)

To: _ _ _ _ _ _ _(*Name of Employer*) _ _ _ _ *(Date)*
----------(*Address of Employer)*

Dear Sir,

WHEREAS _ _ _ _ _ _(hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. _ _ _ dated _ __ to execute _ _ _ __ (hereinafter called "the Works");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognised bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of Kshs. __ _ _ __ (*amount of Guarantee in figures*) Kenya Shillings _ _ _ _ _ _ _ _ _ _ _ (*amount of Guarantee in words*), and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of Kenya Shillings__ _____(*amount of Guarantee in words*) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

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

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

This guarantee shall be valid until the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____ _ _ ____

Name of Bank_____ _____ _____ _____

Address _ _ _____ _____ _____

Date _____ _____ _____ _____

(*Amend accordingly if provided by Insurance Company)*

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _ _ _ _ _ _ *[name of Employer]* _ _ _ *(Date)*
_____ _____ _____*[address of Employer]*
Gentlemen,

Ref: _ _ _ _ _ _ _ _ _ _ _*[name of Contract]*

In accordance with the provisions of the Conditions of Contract of the above- mentioned Contract, We,__ _ _ _ _ _ _ _ __*[name and Address of Contractor]* (hereinafter called "the Contractor") shall deposit with _ _ _ _ _ _ _ *[name of Employer]* a bank guarantee to guarantee his proper and faithful performance under the said Contract in an amount of Kshs.__ _ _ _*[amount of Guarantee in figurers]* Kenya Shillings_ _ _ _ _ _ _ _ _*[amount of Guarantee in words].*

We, _ _ _ _ _ [*bank or financial institution*], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _ _ _ _ _ _ _[*name of Employer*] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Kshs__ _ __ _ _ _[*amount of Guarantee in figures*] Kenya Shillings _ _ _ _ _ _ _ _ _ _ _ _ _ _ __ [*amount of Guarantee in words*], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

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

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

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ _____ _____ _____ _____ _____ _____(*name of Employer*) receives full payment of the same amount from the Contract.

Yours faithfully,

Signature and Seal _ _ _ _ _ _ _ _ _ _ _

Name of the Bank or financial institution _____ _____ Address _

_ _____ _____ _____ _____ _____ _____ __

Date _____ _____ _____ _____ _____ _

Witness: Name:_____ _____ _____ _____ _

Address:_____ _____ _____ _____

Signature:_____ _____ _____ _____ _

Date:_____ _____ _____ _____ _____

1. TENDER QUESTIONNAIRE

Please fill in block letters.

1. Full names of tenderer

……

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

……

3. Telephone number (s) of tenderer

……

4. Telex address of tenderer

……

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

……

6. Details of tenderer's nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, telephone, telex)

…… Signature ofTenderer

Make copy and deliverto :_____ _____(*Name of Employer*)

CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

Part 1 – General

Business Name …… Locationof

businesspremises; Country/Town…… Plot

No…… Street/Road …… Postal

Address…… Tel No…… Nature of

Business…… CurrentTradeLicence

No……Expiringdate……

Maximum value of business which you can handle at any time: K. pound……..

Name of your bankers……

Branch…… *Part 2 (a) – Sole*

Proprietor

Your name in full…… Age……

Nationality…… Country of Origin……

*Citizenship details ……

Part 2 (b) – Partnership

Give details of partners as follows:

Name in full Nationality Citizenship Details Shares

1……

2……

3……

Part 2(c) – Registered Company:

Private or public…… Statethe

nominalandissuedcapitaloftheCompany-

Nominal Kshs…… Issued

Kshs…… Givedetailsofalldirectors

as follows:

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

1.
…… 2.
…… 3.
…… 4.
……

Part 2(d) – Interest in the Firm:

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

I certify that the information given above is correct.

…… …… ……
(Title) *(Signature)* *(Date)*

* Attach proof of citizenship

SCHEDULE OF MATERIALS;- BASIC PRICES
(Ref: Clause 70 of Conditions of Contract)

MATERIAL	UNIT	ORIGIN AND PRICE			TRANSPORT ATION COST FROM SOURCE OF ORIGIN	
		COUNTRY OF ORIGIN	SUPPLIER	PRICE	MODE	PRICE (KSHS)
Cement	Mg					
Lime	Mg					
Sand	Mg					
Aggregate	Mg					
Diesel	L					
Regular Petrol	L					
Super Petrol	L					
Kerosene	L					
Structural steel	Mg					
Gabion Mesh	M2					
Reinforcement Steel	Mg					
Explosives	Kg					
Oil and Lubricants	L					
Bitumen Emulsion A3	L					
Bitumen Emulsion A4	L					
Bitumen Emulsion K1	L					
Bitumen Emulsion K3	L					
Bitumen 80/100	Kg					
Bitumen MC 30	ML					
Bitumen MC 70	L					
Bitumen MC 3000	L					
Ammonium nitrate for blasting	Kg					

I certify that the above information is correct.

…… …… ……

(Title) *(Signature)* *(Date)*

The prices inserted above shall be those prevailing 30 days before the submission of Tenders and shall be quoted in Kenya Shillings using the exchange rates specified in the

Appendix to Form of Tender.

Prices of imported materials to be quoted CIF Mombasa or Nairobi as appropriate depending on whether materials are imported by the tenderer directly or through a local agent.

Transportation costs for imported materials to be quoted from Mombasa or Nairobi as appropriate to _____ (Contract Site) depending on whether materials are imported directly by the tenderer or through a local agent.

SCHEDULE OF LABOUR:- BASIC RATES
(Reference: Clause 70 of Conditions of Contract)

LABOUR CATEGORY	UNIT (MONTH/SHIFT/HOUR)	RATES

Categories to be generally in accordance with those used by the Kenya Building Construction and Engineering and Allied Trades Workers' Union.

DETAILS OF SUB-CONTRACTORS

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

Failure to comply with this requirement may invalidate the tender.

(1) Portion of Works to be sublet:
……

[i) Full name of Sub-contractor and address of head office: ……

……

(ii) Sub-contractor's experience of similar works carried out in the last 3 years with Contract value: ……

……

……

(2) Portion of Works to sublet:
……

(i) Full name of sub-contractor and address of head office:
……

……

……

(ii) Sub-contractor's experience of similar works carried out in the last 3 years with contract value: ……

……

_____ _____ _____

[Signature of Tenderer) Date

CERTIFICATE OF TENDERER'S VISIT TO SITE

This is to certify that [*Name/s*]……

……

Being the authorized representative/Agent of *[Name of Tenderer]*
……

……

participated in the organized inspection visit of the site of the works for the **(Name of Contract:** ……**)**

…… day of …… 20……

Signed…… (Employer's Representative)

……

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

FORM OF WRITTEN POWER-OF-ATTORNEY

The Tenderer consisting of a joint venture shall state here below the name and address of his representative who is authorised to receive on his behalf correspondence in connection with the Tender.

……
(Name of Tenderer's Representative in block letters)

…… *(Address of Tenderer's Representative)*

…… *(Signature of Tenderer's Representative)*

KEY PERSONNEL

DESIGNATION	NAME	NATIONALITY	SUMMARY OF QUALIFICATIONS AND EXPERIENCE
Headquarters: 1. Director 2. 3. 4. 5. etc.			
Site Office: 1. Site Superintendent 2. 3. 4. 5. etc.			

I certify that the above information is correct.

…… …… ……

(Title) *(Signature)* *(Date)*

SCHEDULE OF COMPLETED BUILDING WORKS CARRIED OUT BY THE TENDERER IN THE LAST EIGHT YEARS

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

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

…… …… ……

(Title) *(Signature)* *(Date)*

*Value in Kshs using Central Bank of Kenya mean exchange rate at a reference date 30 days before date of tender opening.

SCHEDULE OF ONGOING PROJECTS

DESCRIPTION OF WORK AND CLIENT	CONTRACT PERIOD	DATE OF COMMEN-CEMENT	DATE OF COMPLETION	TOTAL VALUE OF WORKS (KSHS.)	PERCENTAGE COMPLETED TO DATE

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

…… …… ……

(Title) *(Signature)* *(Date)*

OTHERSUPPLEMENTARYINFORMATION

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

2. Evidence of access to financial resources to meet the qualification requirements. Cash in hand, lines of credit etc. List below and attach copies of supporting documents
   ……
   ……
   ……

3. Name, address, telephone, telex, fax numbers of the Tenderer's Bankers who may provide reference if contacted by the Employer.
   ……
   ……
   ……

4. Information on current litigation in which the Tenderer is involved.

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

I certify that the above information is correct.

…… ……

……

Title *Signature* *Date*

DECLARATION FORM

Date _____

To _____

_____

_____

The tenderer i.e. (name and address)_____

_____declare thefollowing:

a) Has not been debarred from participating in public procurement.

b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

_____ _____ _____

Title Signature Date

(To be signed by authorized representative and officially stamped)