

OPEN NATIONAL TENDER



**TENDER NAME: PROPOSED CONSTRUCTION AND EQUIPPING OF
INTERVENTIONAL RADIOLOGY (IR) SUITE AT KENYATTA NATIONAL
HOSPITAL**

TENDER NO: KNH/T/60/2022-2023

CLOSING DATE: 28.07.2022

TIME: 10.00 AM

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APPENDIX TO THE PREFACE

GUIDELINES FOR PREPARING TENDER DOCUMENTS

1. GENERAL

Page 1 (The Heading of the Document), the Preface and its Annexes (if any), this Guidance to the Procuring Entity in preparing tender document to be issued to the Tenderers, and the Invitation to Tender Notice

shall not be included in the Document to be issued to Tenderers. The Document to be issued to Tenderers shall start with the page titled "This Page, NAME, LOGO AND ADDRESS OF THE PROCURING ENTITY, NAME AND IDENTIFICATION OF TENDER", including all the other material on the page completed appropriately.

If in the course of preparing a Tender Document or evaluating a tender/tenders following the criteria in the standard tender document, a Procuring Entity finds a provision it does not understand or agree with, it shall contact PPRA for clarifications before it changes anything, otherwise it will be considered as violating procurement rules.

The Procuring Entity should confirm that the requirement to be procured is/are in its approved Procurement Plan and budgeted for. It should also confirm the estimated cost of the contract(s), including the estimated time for executing the contract. The cost estimate helps the Procuring Entity determine the applicable procurement method to be used and the determination if the lowest evaluated cost is unrealistically too low or too high. Prior to finalizing the Tender Document, it is advisable for the Procuring Entity to recheck these estimates

The estimates must be prepared by an expert in the field of the subject contract i.e. by Engineers, IT Specialists, or Procurement Specialists, or other experts depending on the item to be procured. The Estimates should be based on current market prices or on data collected by the Procuring Entity based on past (but not historic) contracts.

The purpose of the estimates is to enable the Procuring Entity determine amounts of money to be inserted in the Tender Document for:

- i) The Tender Security to be inserted in the Tender Documents *should be expressed in absolute value which should not be more than 2% of the tender as valued by the Procuring Entity. It is advisable that the larger the estimated contract value, the smaller the required percentage of the tender security.*
- ii) The minimum amount of money required for the tenderer to demonstrate that the tenderer has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the contract execution cash flow requirements, net of the Tenderer's other commitments. *Usually the assets should be about 2-3 months cash flow requirements based on the estimated completion time.*
- iii) The minimum amount of money required as an average annual turnover for the tenderer to demonstrate that the tenderer is a prime IT service provider. *Usually the minimum amount of money is about 2.50 times the estimated cost of the contract(s).*
- iv) The amount of money required to determine specific experience of the tenderer based on the minimum size of contract (s) substantially completed and that are similar to the proposed contract. *Normally the minimum amount of money required is about 80% of the estimated cost of the contract.*

2. PART 1-TENDERING PROCEDURES

i) Section I-Instruction to Tenderers (ITT)

This Section provides relevant information to help tenderers prepare their tenders. Information is also provided on the submission, opening, and evaluation of tenders and on the award of Contracts. Section I contains provisions that are to be used without modification by the Procuring Entity or by a Tenderer.

ii) Section II-Tender Data Sheet (TDS)

This Section includes provisions that are specific to each procurement and that supplement Section I, Instruction to Tenderers. This section shall be completed appropriately by the Procuring Entity and not by a Tenderer. In any case, the Procuring Entity shall not add any item in the TDS not included in the Standard

Tender Document.

iii) Section III-Evaluation and Qualification Criteria

This Section specifies the criteria to determine the Lowest Evaluated Tender that would be considered for contract award; that is the tenderer that meets the qualification criteria and whose tender has been determined to be:

- a) Substantially responsive to the bidding document, and
- b) The lowest evaluated cost.

No other criterion shall be added by the Procuring Entity. Some parts of this section may be omitted by the Procuring Entity (and not by a Tenderer) to suit the subject procurement. For example, in some cases evaluation may not include Margin of Preference, so any reference to considerations for Margin of Preference will be omitted. The Procuring Entity will complete the parts of the Criterion only as guided and allowed in this section. For example, if the criterion provides “Post qualification and Contract award” and lists an item that says “Other conditions.....”, the Entity shall only include the conditions that are allowed in the Standard Tender Document.

iv) Section IV-Tendering Forms

This Section includes the Form of Tender and other forms to be submitted; e.g. priced Schedules of Requirements, Bills of Quantities, Schedules of technical proposal, including technical and financial qualifications, personnel, financial resources, equipment, Tender Security and other to be completed and submitted by the Tenderer as part of its Tender.

3. PART 2-PROCUREMENT ENTITY'S REQUIREMENTS

This Section contains the Procuring Entity's Schedules of Requirements, Specifications, Drawings, and supplementary information that describe the items to be procured. The Requirements shall also include (if so required) the environmental, social, health and safety requirements to be satisfied by the Tenderer in executing the contract.

4. PART 3-CONDITIONS OF CONTRACT AND CONTRACT FORMS

i) Section VIII-General Conditions of Contract (GCC)

This Section contains the general clauses to be applied in all contracts. This Section contains provisions that are to be used without modification by the Procuring Entity or by a Tenderer.

iii) Section IX-Special Conditions of Contract (SCC)

The contents of this Section supplement the General Conditions of Contract and shall be prepared by the Procuring Entity.

iv) Section X-Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms, when required, shall only be completed by the successful Tender after Contract award.

INVITATION TO TENDER
TENDER NOTICE

Kenyatta National Hospital (KNH) invites interested and eligible bidders to participate in the following tender:-

NO	Tender Ref No.	Tender Name	Eligibility	Closing Date
1	KNH/T/60/2022-2023	PROPOSED CONSTRUCTION AND EQUIPPING OF INTERVENTIONAL RADIOLOGY (IR) SUITE AT KENYATTA NATIONAL HOSPITAL	OPEN NATIONAL TENDER	28.07.2022

Interested eligible candidates may obtain further information and inspect the Tender Documents at Kenyatta National Hospital (KNH), Administration Block Supply Chain Management Department offices, Room No.6, from Monday to Friday between 9:00am to 4:00pm. Tender documents with detailed Specifications and Conditions can be downloaded free of charge from the KNH Website (www.knh.or.ke) or www.tenders.go.ke PPIP Portal. Hard copies can be obtained from the office of the Director, Supply Chain Management located at the Hospital's Main Administration Block Room 6 from Monday to Friday between 9.00 a.m. to 4.00 p.m. upon payment of a non-refundable fee of Kshs.1,000.00 per tender document via Mpesa **pay bill No.626088**, Account Number – Name of Supplier and obtain an official receipt from Cash Office (Administration Block) or bankers Cheque made payable to Kenyatta National Hospital.

Bidders who choose to download the tender documents from the website free of charge should immediately email their name and contact details (cell phone number, email, and company name) to: procurement@knh.or.ke for records and communication of any tender clarifications and/or addenda. KNH will ONLY respond to queries or clarifications sought in writing by interested bidders, which will be received not later than **20th July, 2022**.

Completed tender documents must be returned as specified in the tender document and deposited in the Tender Box situated at the Kenyatta National Hospital Administration Block, ground floor Supply Chain Management entrance office **28th July, 2022, 10.00 am East African Time** and be addressed to:

The Chief Executive Officer
Kenyatta National Hospital
Hospital Rd. Along, Ngong Rd.
P.O. Box 20723,
NAIROBI

FOR: CHIEF EXECUTIVE OFFICER

PART1-TENDERINGP ROCEDURES

SECTION I- INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

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

2. Fraud and Corruption

The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 “Declaration not to engage in corruption”. The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the “Certificate of Independent Tender Determination” annexed to the Form of Tender.

Unfair Competitive Advantage- Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. The Procuring Entity shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm an unfair competitive advantage over competing firms.

Tenderers shall permit and shall cause their agents (whether declared or not), sub-contractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Procuring Entity.

3. Eligible Tenderers

A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.7 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS**.

A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:

- a. Directly or indirectly controls, is controlled by or is under common control with another tenderer; or
- b. Receives or has received any direct or indirect subsidy from another tenderer; or
- c. Has the same legal representative as another tenderer; or
- d. Has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process; or
- e. Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the work that are the subject of the tender; or
- f. Any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer for the Contract implementation; or

- h) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contracts specified in this Tender Document or
- i) Has a close business or family relationship with professional staff of the Procuring Entity who:
- i) Are directly or indirectly involved in the preparation of the Tender document or specification of the Contract, and/or the Tender evaluation process of such contract; or
 - ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.

Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

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

A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender.

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

A Tenderer that has been debarred by the PPRA from participating in public procurement shall be ineligible to be prequalified for a tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.

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

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

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

Pursuant to the eligibility requirements of ITT 3.10, a tenderer is considered a foreign tenderer, if it is registered in Kenya, has less than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price, excluding provisional sums. JVs are considered as foreign tenderers if the individual member firms are registered in Kenya have less than 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent

of the contract price, excluding provisional sums.

The National Construction Authority Act of Kenya requires that all local and foreign contractors be registered with the National Construction Authority and be issued with a Registration Certificate before they can undertake any construction works in Kenya. Registrations shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before such award and signature of contract. Application for registration with National Construction Authority may be accessed from the website www.nca.go.ke.

The Competition Act of Kenya requires that firms wishing to tender as Joint Venture under takings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. AJV tenderers shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke

4 Eligible Goods, Equipment, and Services

Goods, equipment and services to be supplied under the Contract may not have their origin in any country that is not eligible under ITT 3.9. At the Procuring Entity's request, Tenderers may be required to provide evidence of the origin of Goods, equipment and services.

Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5 Tenderer's Responsibilities

The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and the Procuring Entity will in no case be responsible or liable for those costs.

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

The Tenderer and any of its personnel or agents will be granted permission by the Procuring Entity to enter upon its premises and lands for the purpose of such visit. The Tenderer shall indemnify the Procuring Entity against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the inspection.

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

B. Contents of Tender Documents

6 Sections of Tender Document

The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITT 10.

PART 1 Tendering Procedures

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

PART 2 Works Requirements

- i) Section V-Specifications
- ii) Section VI-Drawings

PART 3 Conditions of Contract and Contract Forms

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

The Invitation to Tender Document Notice issued by the Procuring Entity is not part of the Tender document.

Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Tender document, responses to requests for clarification, the minutes of the pre-Tender meeting (if any), or Addendum to the Tender document in accordance with ITT 10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

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

7 Site Visit

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

8 Pre-Tender Meeting and a pre-arranged pre-tender visit of the site of the works

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

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

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

The Procuring Entity shall also promptly publish an anonymized (*nonames*) Minutes of the pre-Tender meeting and the pre-arranged pre-tender visit of the site of the works at the web page identified **in the TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meetings shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9 Clarification of Tender Documents

A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting and the pre-arranged pre-tender visit of the site of the works if provided for in accordance with ITT 8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders.

The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the webpage identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT 10.

10 Amendment of Tendering Document

At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.

Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's webpage in accordance with ITT 8.1.

To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 24.2 below.

C. Preparation of Tenders

11 Cost of Tendering

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

12 Language of Tender

The Tender, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring Entity, shall be written in the English Language. Supporting documents and printed literature that are part of the Tender may be in the same language.

13 Documents Comprising the Tender

The Tender shall comprise the following:

- a) Form of Tender prepared in accordance with ITT 14;
- b) Schedules of personnel, and work completed in accordance with ITT 14 and ITT 16;
- c) Tender Security or Tender-Securing Declaration, in accordance with ITT 21.1;
- d) Alternative Tender, if permissible, in accordance with ITT 15;
- e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
- f) Qualifications: documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
- g) Conformity: a technical proposal in accordance with ITT 18;
- h) Any other document required in the TDS.

In addition to the requirements under ITT 13.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall serialize pages of all tender documents submitted.

14 Form of Tender and Schedules

The Form of Tender and Schedules, shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alteration to the text, and no substitutes shall be

Accepted except as provided under ITT 22.3. All blank spaces shall be filled in with the information requested.

The Tenderer shall chronologically serialize all pages of the tender documents submitted.

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

15 Alternative Tenders

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

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

Except as provided under ITT 15.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts **will be identified in the TDS**, as will the method for their evaluation and described in Section VII, Works' Requirements.

16 Tender Prices and Discounts

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

The Tenderer shall price for all items of the Works, including design, management and quality control costs and shall be assumed to have included in the tender price all associated costs, including costs to meet Public Authorities' requirements.

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

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

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

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

All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

17 Currencies of Tender and Payment

The currency (ies) of the Tender and the currency (ies) of payments shall be the same.

Tenderers shall quote entirely in Kenya Shillings.

A Tenderer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside Kenya (referred to as “the foreign currency requirements”) shall indicate so in the Financial Proposal the percentage (s) of the Tender Price (excluding Provisional Sums), needed by the Tenderer for the payment of such foreign currency requirements, limited to no more than two foreign currencies.

The rates of exchange to be used by the Tenderer in arriving at the local currency equivalent and the percentage (s) mentioned in (a) above shall be specified by the Tenderer in the **TDS**, and shall apply for all payments under the Contract so that no exchange risk will be borne by the successful Tenderer.

Tenderers may be required by the Procuring Entity to justify, to the Procuring Entity's satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Adjustment Data in the Appendix to Tender are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Tenderers.

18 Documents Comprising the Technical Proposal

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

19 Documents Establishing the Eligibility and Qualifications of the Tenderer

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

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

If a margin of preference applies as specified in accordance with ITT 36.1, national tenderers, individually or in joint ventures, applying for eligibility for national preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 36.1.

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

The purpose of the information described in **ITT 19.2** above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 19.5. The obligation to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

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

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

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

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

If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 19.9 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

20 Period of Validity of Tenders

Tenders shall remain valid for the Tender Validity period specified **in the TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 24.1). A tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. A tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 26.3.

21 Tender Security

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

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

- i) cash;
- ii) A bank guarantee;
- iii) A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
- iv) A guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya, and from a reputable source, and an eligible country.

If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 24.2.

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

The Tender Security shall be returned/released as promptly as possible

- a. The procurement proceedings are terminated;
- b. The procuring entity determines that none of the submitted tenders is responsive;
- c. A bidder declines to extend the tender validity.
- d. Once the successful Tenderer has signed the Contract and furnished the required Performance Security.

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

- a) If a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender; or
- b) If the successful Tenderer fails to:
 - i) Sign the Contract in accordance with ITT 50; or
 - ii) Furnish a performance security in accordance with ITT 51.

Where the Tender-Securing Declaration is executed the Procuring Entity will recommend to the PPR that PPR A debar the Tenderer from participating in public procurement as provided in the law.

The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 13.2.

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

22 Format and Signing of Tender

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

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

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

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

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

D. Submission and Opening of Tenders

23 Sealing and Marking of tenders

The Tenderer shall deliver the Proposals (technical and Financial) in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender addressed to the Procuring Entity and a warning "DONOT OPEN BEFORE (the time and date for Tender opening date)". Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

In the single sealed envelope, or in a single sealed package, or in a single sealed container the following documents shall be enclosed and shall be addressed as follows:

- a. in an envelope or package or container marked "ORIGINAL", all documents comprising the Technical Proposal, and
- b. in an envelope or package or container marked "COPIES", all required copies of the Technical Proposal; and

- c. in an envelope marked "ORIGINAL" the Form of Tender; and The inner envelopes or packages or containers shall:
 - i. bear the name and address of the Procuring Entity.
 - ii. bear the name and address of the Tender; and
 - iii. bear the name and Reference number of the Contract.

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

The Proposal or its modifications must be sent to the address indicated in the **Data Sheet** and received by the Procuring Entity no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification received by the Procuring Entity after the deadline shall be declared late and rejected, and promptly returned unopened.

24 Deadline for Submission of Tenders

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

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

25 Late Tenders

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

26 Withdrawal, Substitution, and Modification of Tenders

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

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

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

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

27 Tender Opening

The Procuring Entity's opening committee shall conduct the opening of the Technical Proposals in the presence of the Tenders representatives who choose to attend. The opening date, time and the address are stated in the **TDS**. The envelopes with the Form of Tender (Financial Proposal) shall remain sealed and shall be securely stored by the Procuring Entity until they are opened.

At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Tenderer or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope of the Form of Tender (Financial Proposal); (iii) any modifications to the Proposal submitted prior to Tender submission deadline; and (iv) any other information deemed appropriate or as indicated in the TDS.

First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelopes with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

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

Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.

Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation.

At the Tender Opening, the Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 25.1).

The Procuring Entity shall prepare minutes of the opening of technical proposals that shall include, as a minimum:

- a. the name of the Tenderer and whether there is a withdrawal, substitution, or modification; and any discounts offered as a separate letter;
- b. presence of a sealed Form of Tender Price;
- c. any alternative technical proposals, if any;
- d. the presence or absence of a Tender Security, if one was required.

The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening registers shall be distributed to all Tenderers upon request.

After the technical evaluation is completed, the Procuring Entity shall notify those Tenderers whose Proposals were considered non-responsive to the Tender document for not meeting the minimum qualifying technical score, advising them the following: (i) their Proposal was not responsive to the Tender Document and did not meet the minimum qualifying technical score; (ii) provide information relating to the Tenderer's overall technical score, as well as scores obtained; (iii) their Forms of Tender will be returned unopened after completing the tender process and contract signing; and (iv) notify them of the date, time and location of the public opening of the Forms of Tender (Financial Proposals) and invite them to attend.

The opening date of the Forms of Tenders should allow the Tenderers sufficient time to decide for attending the opening and shall be not less than five (5) Business Days from the date of notification of the results of the technical evaluation. Tenderer's attendance at the opening of the Forms of Tender is optional and is at the Tenderer's choice. The Forms of Tenders shall be opened publicly by the Procuring Entity's opening committee in the presence of the representatives of the Tenderers who choose to attend.

At the opening, the names of the Tenders, and the overall technical scores, shall be read aloud. The Forms of Tender will then be inspected to confirm that they have remained sealed and unopened. These Forms of Tender shall be then opened, and the total prices read aloud and recorded. Upon request, copies of the records shall be sent to all Tenders who submitted Tenders.

E. Evaluation and Comparison of Tenders

28 Confidentiality

Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with the Tender process until information on Intent to Award the Contract is transmitted to all Tenderers in accordance with ITT 44.

Any effort by a Tenderer to influence the Procuring Entity in the evaluation of the Tender or Contract award decisions may result in the rejection of its tender.

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

29 Clarification of Tenders

To assist in the examination, evaluation, and comparison of the tenders, and qualification of the tenderers, the Procuring Entity may, at its discretion, ask any tenderer for a clarification of its tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the tenders, in accordance with ITT 33.

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

30 Deviations, Reservations, and Omissions

During the evaluation of tenders, the following definitions apply:

“Deviation” is a departure from the requirements specified in the tender document;

“Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document; and “Omission” is the failure to submit part or all of the information or documentation required in the Tender document.

31 Determination of Responsiveness

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

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

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

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

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

32 Non-material Non-conformities

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

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

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

Provided that the tender is substantially responsive, no correction of errors is expected in this tender.

33 Correction of Arithmetical Errors

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

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

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

34 Breakdown of the Tender Price

The completed Form of Tenders shall have a table indicating the detailed of the Tender Price which must include:

- a. Preliminary items such as insurance for works, notice boards, statutory payments, site office costs, etc.,
- b. Monthly cost of design/supervisory staff and site agents (upto contract completion);
- c. Monthly cost of major items of equipment (upto contract completion);
- d. Cost of the works (a lump sum figure).
- e. Any items specified in the TDS.

The Breakdown of the Tender Price will form the basis of the Bills of Quantities and Payment Schedule and will be agreed with the Procuring Entity prior to signing of the contract and it will be part of the Contract Agreement. In addition, the Contractor shall be required to submit non-binding quarterly estimates of the payments which he expects to become due during the execution of the works.

In preparing the Schedule of Payments, every effort must be taken to ensure that the schedule is not seriously unbalanced and/or front loaded. If in the Procuring Entity's opinion, the schedule is seriously unbalanced and/or front loaded, the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the schedule of prices with the scope of works, proposed methodology, schedule and any other requirements of the Contract.

On award of Contract, within the period specified in the TDS, the tenderer will prepare a complete Bills of Quantities for the works in conformity with ITT 31.1 (d) which will form the basis of preparing payment certificates. If in the Procuring Entity's opinion, the pricing in the Bills of Quantities is seriously unbalanced and/or front loaded, the Procuring Entity may require the Tenderer to provide written clarifications.

Clarifications may include detailed price analyses to demonstrate the consistency of the schedule of prices with the scope of works, proposed methodology, schedule and any other requirements of the Contract.

35 Conversion to Single Currency

For evaluation and comparison purposes, the currency (ies) of the Tender shall be converted into a single currency as specified in the TDS.

36 Margin of Preference and Reservations

A margin of preference may be allowed only when the contract is open to international competitive tendering where foreign contractors are expected to participate in the tendering process and where the contract exceeds the value/thresholds specified in the Regulations.

A margin of preference shall not be allowed unless it is specified in the TDS.

Contracts procured on basis of international competitive tendering shall not be subject to reservation exclusively to specific groups as provided in ITT 36.1.

37 Nominated Subcontractors

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

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

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

38 Evaluation of Tenders

To assist in the examination, and evaluation of Technical Proposals, and qualification of the tenderers, the Procuring Entity may, at its discretion, ask any tenderer for a clarification of its Tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the responses shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the tender shall be sought, offered, or permitted, except to confirm the correction of any errors discovered by the Procuring Entity in the evaluation of the tenders, in accordance with ITT 33.

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

The Procuring Entity's evaluation committee shall evaluate the Technical Proposals that have passed the eligibility and mandatory criteria, on the basis of their responsiveness to the Tender Documents. The eligibility and mandatory criteria shall include the following and any other that may include in the **Datasheet**.

- a) Firm has submitted the required number of copies of the Technical Proposals.
- b) Firm has submitted a sealed form of Tender (Financial proposal).
- c) The Proposal is valid for the required number of days.
- d) The Technical Proposal is signed by the person with power of attorney, without material deviation, reservation, or omission.
- e) The Technical Proposal is complete with all the forms and required documentary evidence submitted.
- f) Valid Tax Compliance Certificate for Kenyan firms.
- g) Key Experts are from eligible countries.
- h) A tenderer has not participated in more than one tender, except for alternative tenders if so allowed.

- i) The tender is not insolvent, in receivership, bankrupt or in the process of being wound up.
- j) The Tenderer, its sub-consultants and expertshavenotengagedinorbeenconvictedofcorruptorfraudulentpractices.
- k) The Tenderer is neither precluded from entering into a Contract nor debarred by PPRA.
- l) The Tenderer has not proposed employing public officials, civil servants and employees of public institutions.
- m) The Tenderer, its sub-consultants and experts have no conflicts of interest.
- n) Any other material requirement in the ITT.

Only Technical proposals of tenderers that pass the preliminary examination will be evaluated. A Proposal shall be rejected at this stage if it does not respond to important aspects of the tender document if it fails to achieve the minimum technical score indicated in the **TDS**.

39 Comparison of Tender Prices

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

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

- a) The Tender price, including Provisional Sums, if any;
- b) Price adjustment due to unconditional discounts offered in accordance with ITT 16.4;
- c) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITT 35;
- d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

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

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

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

40 Abnormally Low Tenders

An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regard to the Tenderer's ability to perform the Contract for the offered Tender Price.

In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.

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

41 Abnormally High Tenders

An abnormally high tender price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition

betweenTenderersiscompromised.

In case of an abnormally high price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:

- i) If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.
- ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

42 Qualifications of the Tenderer

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

The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 19. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.

An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similar determination of that Tenderer's qualification to perform satisfactorily.

43 Lowest Evaluated Tender

Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Lowest Evaluated Tender. The Lowest Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:

- a) Substantially responsive to the Tender document; and
- b) The lowest evaluated price.

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

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

F. AWARD OF CONTRACT

45 Award Criteria

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

46 Notice of Intention to Enter into a Contract/Notification of award

Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity shall issue a Notification of Intention to Enter into a Contract/Notification of award to all tenderers which shall contain, at a minimum, the following information:

- a. The name and address of the Tenderer submitting the successful tender;

- b. The Contract price of the successful tenderer;
- c. a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
- d. the expiry date of the Standstill Period; and
- e. instructions on how to request a debriefing and/or submit a complaint during the standstill period;

47 Standstill Period

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

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

48 Debriefing by the Procuring Entity

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

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

49 Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 44.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

50 Signing of Contract

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

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

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

Notwithstanding ITT 50.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Procuring Entity, to Kenya, or to the use of the Information System to be supplied,

Where such export restrictions arise from trade regulations from a country supplying those Information System, the Tenderer shall not be bound by its Tender, provided that the Tenderer can demonstrate that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Tenderer in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the Information System under the terms of the Contract.

51 Performance Security

Within twenty-one (21) days of the receipt of the Letter of Acceptance from the Procuring Entity, the successful Tenderer shall furnish the Performance Security and, any other documents required in the **TDS**, in accordance with the General Conditions of Contract, subject to ITT 38.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent bank is not required.

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

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

52 Publication of Procurement Contract

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

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

53 Procurement Related Complaint and Administrative Review

The procedures for making Procurement-related Complaints or a request for review shall be specified in the **TDS**.

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

SECTION II - TENDER DATA SHEET (TDS)

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

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
A. General	
ITT 1.1	<p>The name of the contract is PROPOSED CONSTRUCTION AND EQUIPPING OF INTERVENTIONAL RADIOLOGY (IR) SUITE AT KENYATTA NATIONAL HOSPITAL</p> <p>The reference number of the Contract is KNH/T/60/2022-2023</p> <p>The number and identification of lots (contracts) comprising this Tender are <i>[insert number and identification of lots (contracts)]</i></p> <p>Lot 1- Name Construction of Interventional Radiology Suite</p> <p>Lot 2- Name Supply, Installation, Testing and Commissioning of Biplane DSA System</p> <p>Lot 3 Name-Supply, Deliver, Install, Test and Commission the Dual-inverter Split Air Conditioners</p>
ITT 2.3	Firms that provided consulting services for the contract being tendered for are: Kenyatta National Hospital
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: <i>Not Applicable</i>
B. Contents of Tender Document	
ITT 8.1	<p>For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the Procuring Entity's address is:</p> <p>(1) Name of Procuring Entity Kenyatta National Hospital</p> <p>(2) Physical address for hand Courier Delivery to an office or Tender Box (City, Street, Building, Floor Number and Room) Administration Block</p> <p>(3) Postal Address 20723-00202</p> <p>(4) Insert name, telephone number and e-mail address of the officer to be contacted.</p> <p>The Chief Executive Officer Kenyatta National Hospital Hospital Road, Along Ngong Road P.OBox20723-00202 Nairobi</p>
ITT 8.2	<p>(A) Pre-Tender conference "<i>shall not</i>" take place at the following date, time and place:</p> <p>(B) A site visit conducted by the Procuring Entity <i>shall</i> take place at the following date, time and place: Date: 19th July, 2022 Time: 10:00am Place: Kenyatta National Hospital</p>
ITT 8.4	<p>(1) Minutes of the pre-tender conference will not be published on Website.</p> <p>Name of Website www.knh.or.ke <i>[in case used, identify the website for publishing Minutes of Pre-Tender Meeting]:</i> _____]</p>
ITT 9.1	The Procuring Entity shall publish its responses at the website www.knh.or.ke
13.1(h)	The Tenderer shall submit the following additional documents in its Tender: <i>[list any additional</i>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<i>document not already listed in ITT 11.1 that must be submitted with the Tender. The list of additional documents should include the following:]N/A</i>
ITT 15.1	Alternative Tenders “ shall not be ” considered. <i>[If alternatives shall be considered, the methodology shall be defined in Section III, Evaluation and Qualification Criteria.]</i>
ITT 15.2	Alternative times for completion “ shall not be ” permitted. <i>[If alternative times for completion are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]</i>
ITT 15.4	Alternative technical solutions shall be permitted for the following parts of the Works: _____N/A_____ <i>[insert parts of the Works]:</i> <i>[If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]</i>
ITT 16.5	The prices quoted by the Tenderer shall be: Fixed
ITT 17.2.2	The rates of exchange shall be those published by Central Bank of Kenya as on the date Tender Opening
ITT 20.1	The Tender validity period shall be 120 days.
ITT 21.1	<i>[If a Tender Security shall be required, a Tender-Securing Declaration shall not be required, and vice versa.]</i> A Tender Security “ shall be ” required. A Tender-Securing Declaration “ shall not be ” required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be Kshs1,000,000.00 <i>[If a Tender Security is required, insert amount and currency of the Tender Security. Otherwise insert “Not Applicable”.] [In case of lots, please insert amount and currency of the Tender Security for each lot]</i> <i>Note: Tender Security is required for each lot as per amounts indicated against each lot. Tenderers have the option of submitting one Tender Security for all lots (for the combined total amount of all lots) for which Tenders have been submitted, however if the amount of Tender Security is less than the total required amount, the Procuring Entity will determine for which lot or lots the Tender Security amount shall be applied.]</i>
ITT 22.1	In addition to the original of the Technical Proposal, the number of copies is: 1 <i>[insert number of copies].</i> No copies will be required for the Form of Tender.]
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: [PowerofAttorney].
D. Submission and Opening of Tenders	
ITT 24.1	(A) For <u>Tender submission purposes</u> only, the Procuring Entity’s address is: TheChiefExecutiveOfficer Kenyatta National Hospital Hospital Road, Along Ngong Road P.OBox20723-00202 Nairobi Date and time for submission of Tenders 28.07.2022 AT 10:00am EAT
ITT 24.1	Tenderers not allowed to submit Tenders electronically. If allowed, they shall follow the electronic tender submission procedures specified below <i>[insert a description of the electronic</i>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p><i>Tender opening procedures</i>]:N/A</p> <hr/>
ITT 27.1	<p>The Tender opening shall take place at the time and the address for Opening of Tenders provided below:</p> <p>TheChiefExecutiveOfficer Kenyatta National Hospital Hospital Road, Along Ngong Road P.OBox20723-00202 Nairobi</p> <p>(3) State date and time of tender opening 28.07.2022 AT 10:00am EAT</p>
E. Evaluation, and Comparison of Tenders	
ITT 32.3	<p>The Procuring Entity shall rectify quantifiable nonmaterial nonconformities related to the Tender Price in the following manner:</p> <hr/>
ITT 34.1 (e)	<p>Any items specified in the Breakdown of the Tender Price (specify and list)</p> <p style="text-align: right;">N/A</p> <hr/>
ITT 34.4	<p>The Contractor will prepare a complete Bills of Quantities for the work withinN/Adays after award of Contract.</p>
ITT 35.1	<p>The currency that shall be used for Tender evaluation and comparison purposes to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is: Kenya Shillings</p> <p>The source of exchange rate shall be: The Central bank of Kenya</p> <p>The date for the exchange rate shall be: the deadline date for Submission of the Tenders.</p> <p><i>For comparison of Tenders, the Tender Price, corrected pursuant to ITT 31, shall first be broken down into the respective amounts payable in various currencies by using the selling exchange rates specified by the Tenderer in accordance with ITT 15.1.</i></p> <p><i>In the second step, the Procuring Entity will convert the amounts in various currencies in which the Tender Price is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and, on the date, stipulated above.</i></p>
ITT 36.2	<p>A margin of preference “shall not” apply. <i>[If a margin of preference applies, the application methodology shall be defined in <u>Section III – Evaluation and Qualification Criteria.</u>]</i></p>
ITT 37.1	<p>At this time, the Procuring Entity “does not intend” to execute certain specific parts of the Works by subcontractors selected in advance.</p>
ITT 37.1	<p>Contractor’s may propose subcontracting: Maximum percentage of subcontracting permitted is: <i>10% of the total contract amount.</i> Tenderers planning to subcontract more than 10% of total volume of work shall specify, in the Form of Tender, the activity (ies) or parts of the Works to be subcontracted along with complete details of the subcontractors and their qualification and experience.</p>
ITT 37.1	<p><i>[Indicate N/A if not applicable]</i></p> <p>The parts of the Works for which the Procuring Entity permits Tenderers to propose Specialized Subcontractors are designated as follows:</p> <p style="text-align: center;">N/A</p> <hr/> <hr/>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	For the above-designated parts of the Works that may require Specialized Subcontractors, the relevant qualifications of the proposed Specialized Subcontractors will be added to the qualifications of the Tenderer for the purpose of evaluation.
ITT 37.2	The qualifications of the Specialized Subcontractors proposed by the Tenderer may be added to the qualifications of the Tenderer.
ITT 38.4	A Proposal shall be rejected if it fails to achieve the minimum technical score of ____ 80 ____ out of 100.
ITT 34.3	<p><i>[Indicate N/A if not applicable]</i></p> <p>The parts of the Works for which the Procuring Entity permits Tenderers to propose Specialized Subcontractors are designated as follows: N/A</p> <p>For the above-designated parts of the Works that may require Specialized Subcontractors, the relevant qualifications of the proposed Specialized Subcontractors will be added to the qualifications of the Tenderer for the purpose of evaluation.</p>
ITT 39.2(d)	Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT 39.4	Tenderers shall not be allowed to quote separate prices for different lots (contracts) and the methodology to determine the lowest tenderer is specified in Section III, Evaluation and Qualification Criteria.
ITT 51.2	<p>Performance Security; other documents required are, list: N/A</p> <hr/> <hr/>
ITT 53.1	<p>The procedures for making a Procurement-related Complaint are detailed in the “Notice of Intention to Award the Contract” herein and are also available from the PPRA website www.ppra.go.ke.</p> <p>If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p>For the attention: Title/position: <i>Chief Executive Officer</i></p> <p>Procuring Entity: <i>Kenyatta National Hospital</i></p> <p>Email address: knhadmin@knh.or.ke</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <p>(i) the terms of the Tender Documents; and</p> <p>(ii) the Procuring Entity’s decision to award the contract.</p>

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. General Provisions

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

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

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

Evaluation and contract award Criteria

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

2 Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and requirements in the ITT 35.3, and that the tender is complete in all aspects in meeting the requirements of "Part 2 – Procuring Entity's Works Requirements". Tenders that do not submit a Financial offer will also be rejected at this stage. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered irresponsive and will not be considered further.

	MANDATORY REQUIREMENT FOR DETERMINATION OF RESPONSIVENESS.
MR 1	Valid Copy of certificate of incorporation/Registration.
MR 2	Valid Current Tax Compliance Certificate issued by Kenya Revenue Authority.
MR 3	Duly completed and signed Tenderer's Eligibility-Confidential Business Questionnaire.
MR 4	Valid Copy of Current Single Business License or evidence of renewal
MR 5	Submission of valid CR12 or CR13 form showing the list of directors/shareholding (issued within the last 12 months)
MR6	Submission of original tender document (including attachments) properly bound in book and paginated in the correct sequence of 1, 2, 3, 4...sequentially and chronologically
MR7	Provide proof of Power of attorney to the Authorized person to sign the tender document.
MR8	Submit certified copies of Audited accounts (Signed by Auditors and directors) for the last three (3) years (2019, 2020 and 2021) (Certified by an advocate). Provide the certified accountants practicing number.
MR9	Provide a Tender Security. The type of Tender security shall be Bank guarantee in the amount of Kenya shillings One Million (Ksh 1,000,000.00) in form of bank guarantee issued by a reputable bank located in Kenya or Insurance bond from the firms approved by PPRA valid for 150 days from the date of tender opening.

MR 10	<p>Provide Proof of Registration with the National Construction Authority (NCA) category 4 (Four) and above under building works category with current annual contractors practicing license, EPRA CLASS A2 and above for Electrical works and NCA category 5 and above for Mechanical works and HVAC9.</p> <p>In addition, the Bidder must attach the Profiles and Registration Certificates for the relevant Sub-Contractors for the Works where applicable. Namely.</p> <p>a) Electrical works Sub-Contractor must be registered with EPRA CLASS A2 and above; and</p> <p>b) Mechanical works Sub-Contractor must be registered with NCA category 5 and HVAC9 and above.</p>
MR 11	Duly Completed and Signed Self Declaration That The Person/Tenderer Is Not Debarred In The Matter Of The Public Procurement And Asset Disposal Act 2015.
MR 12	Duly completed and signed Declaration and Commitment of Code Ethics
MR 13	Duly Completed and Signed Self Declaration that the Person/Tenderer Will Not Engage In Any Corrupt Or Fraudulent Practice.
MR 14	Attendance of a mandatory Site Visit and issuance of Attendance Certificate on 19th July 2022 duly signed and stamped by the Authorized KNH Technical Representative.
MR 15	Form of tender in the prescribed format duly filled signed and stamped
MR 16	Must submit duly filled Certificate of Independent Tender Determination, signed and stamped

3. Evaluation of the Technical Proposal

Technical Proposal shall be comprised of the Design Proposals for the Works and other forms as called for in Section IV, Tendering Forms. The Procuring Entity shall then consider the Technical Proposal of the Tenders who have been found responsive. The Procuring Entity shall allocate scores for each criterion on the Table of Scores below. The Procuring Entity will evaluate the Technical Proposals of all tenders that pass Preliminary examination for Determination of Responsiveness using the following criteria and scoring system as indicated below. This is to ensure that the Procuring Entity opens and considers and opens Financial Proposal of proposals that the threshold score of the Technical Proposal.

- i) **TABLES OF SCORES** The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance

TABLES OF SCORES FOR THE TECHNICAL EVALUATION

S/No	Description of items as they relate to whole of works	Maximum scores (out of 100) /1	Scores (to be allocated by the Procuring Entity)
1	Design Methodology to meet with Procuring Requirements.	(0-5)	5
2	Construction methodology and management.	(0-3)	3
3	Work Program and Schedule.	(0-5)	5
4	Cash flow projections. The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment sufficient to meet the construction cash flow (Has financial resources equal or above the cost of the project)	(0-5)	5
5	Construction equipment.	15	15 Marks (See Table Below)
6	Environmental & Social Impact requirements.	(0-5)	5
7	Health & Safety Plan of the infrastructure.	(0-5)	5
8	Financial Capacity	15	15 Marks (See Table Below)
9	Key Experts (both design and site agents)	(5-20)	20 Marks (see table below)
10	Participation by Kenya citizens among proposed Key Experts	(0-5)	5
11	At least Three (3) of contract(s) of a similar nature executed within Kenya, or the East African Community or a broad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings Thirty Million (30,000,000.00) Only	(0-15)	Each Contract 5 Marks Total 15 marks
12	Proposal on Quality Assurance System – 2 marks	2	2
	TOTAL SCORES	100	100

Key Experts on Item 9 above will be evaluated as follows.

Design Team

No.	Position	Minimum academic and professional qualifications or provide equivalent	General work experience (years)	Specific work experience (years)	Evaluation Marks Awarded
1	Project Manager	Project Manager Qualifications – Minimum of a Bachelor’s Degree in either Architecture, Quantity Surveying, Construction Management or Equivalent with relevant experience not less than ten (10) years.	10	10	With over 10 years relevant experience ---7 With over 5 years relevant experience --5 With under 5 years relevant experience --2
2	Mechanical / Plants / Industrial Engineer	Must possess at least Bachelor Degree in Mechanical / Plants / Industrial Engineering from a recognized university	5	5	With over 5 years relevant experience ---5 With over 3 years relevant experience --3 With under 3 years relevant experience --1
3	Site Agent	Site Agent Qualification – Minimum of a Higher Diploma / Diploma in Building Construction or Equivalent with experience of five (5) years.	5	5	With over 5 years relevant experience ---5 With over 3 years relevant experience --3 With under 3 years relevant experience --1
4	Artisans	Artisans Qualifications – At least 3 No artisan (Diploma / Certificate / Grade Test in relevant Engineering field) Minimum of Trade test certificate in relevant field with experience of five (5) years.	3	3	Three Artisans with relevant experience ---3 Two Artisans with relevant experience ---2 One Artisan with relevant experience ---1

Construction Equipment on Item 5 above will be evaluated as follows.

1	Construction Equipment	Schedule of contractor equipment relevant for the project (proof of evidence of ownership required)		15 MKS	Heavy commercial equipment (Min. of 4) -- 8 Site vehicles: Trucks, pickups and the like (Min. of 4) -- 4 - Other site equipment: concrete mixers, vibrators and the like (Min. of 6) -- 3
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Financial Capacity on Item 8 above will be evaluated as follows.

1	Audited financial report	Audited financial report (last three (3) years)		10 MKS	Turn over greater or equal to 5 times the cost of the project -- 10 Turn over greater or equal to 3 times the cost of the project -- 6 Turn over greater or equal to the cost of the project -- 4 Turn over below the cost of the project -- 2
2	Financial Resources	Evidence of Financial Resources (cash in hand / bank, lines of credit, over draft facility etc)		5 MKS	Has financial resources equal or above the cost of the project -- 5 Has financial resources equal to half the cost of the project -- 3 Has financial resources less than half the cost of the project -- 1

Qualification criteria

The number of points to be assigned to each of the above Key Experts positions shall be determined considering the following three sub-criteria and relevant percentage weights:

- (1) General qualifications (general education, training, and experience): *[insert weight between 10 and 30%]*
- (2) Adequacy for the Assignment (relevant education, training, experience in the sector or similar assignments): *[insert weight between 60 and 70%]*
- (3) Relevant experience in the Kenya (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): *[insert weight between 0 and 10%]*

Total weight: 100%

EXAMPLE ON HOW TO SCORE KEY EXPERTS for a Tenderer					
Key Experts (both design and site agents)				Max Score (20-40)	** 36
Points for Qualification criteria for Key					
(a) Position 1: ENGINEER-Team Leader				14 points	
(b) Position 2: ARCHITECT				12 points	
(c) Position 3: QUANTITY SURVEYOR				10 points	
PERSONNEL	(max allocated score)	ENGINEER-Team Leader	ARCHITECT	QUANTITY SURVEYOR	TOTAL
SCORES (average scores by each evaluator)					
General qualifications	20	15	16	18	
Adequacy for the Assignment	70	60	60	68	
Relevant experience in the Kenya	10	4	6	7	
TOTAL	100	79	82	83	
Scores out of		14	12	10	
Formula		$79/100 \times 14$	$82/100 \times 12$	$83/100 \times 10$	
Scores		11.06	9.84	8.3	29.2 out of 36

For Key Experts this tenderer will score 29 out of 36

A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score of _____ (insert a figure 70 to 80 scores)

4 Tender Evaluation (ITT 35)

Price evaluation: in addition to the criteria listed in ITT 36.2(a)–(d) the following criteria shall apply:

- (i) **Alternative Completion Times**, if permitted under ITT 13.2, will be evaluated as follows:
.....
- (ii) **Alternative Technical Solutions** for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows:
- (iv) **Other Criteria**, if permitted under ITT 36.2(e):
.....

5 Multiple Contracts

Multiple contracts will be permitted in accordance with ITT 36.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION 1

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

OPTION 2

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

6 Alternative Tenders (ITT 13.1)

An alternative if permitted under ITT 13.1, will be evaluated as follows:

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

7 MARGIN OF PREFERENCE

Apply Margin of Preference, if so allowed to all evaluated and accepted tender as follows.

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

Contractors applying for such preference shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference.

After Tenders have been received and reviewed by the Procuring Entity, responsive Tenders shall be assessed to ascertain their percentage of shareholding of Kenyan citizens. Responsive tenders shall be classified into

the following groups:

- i) Group A: tenders offered by Kenyan Contractors and other Tenderers where percentage of shareholding by Kenyan citizens on the entire consortium team is less than fifty-one percent (51%), where Kenyan citizens hold shares of over fifty-one percent (51%).
- ii) Group B: tenders offered by foreign Contractors and other Tenderers where percentage of shareholding by Kenyan citizens on the entire consortium team is less than fifty-one percent (51%).

All evaluated tenders in each group shall, as a first evaluation step, be compared to determine the lowest tender, and the lowest evaluated tender in each group shall be further compared with each other. If, as a result of this comparison, a tender from Group A is the lowest, it shall be selected for the award. If a tender from Group B is the lowest, an amount equal to the percentage indicated in Item 3.1 of the respective tender price, including unconditional discounts and excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each tender from Group B. All tenders shall then be compared using new prices with added prices to Group B and the lowest evaluated tender from Group A. If the tender from Group A is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group B based on the first evaluation price shall be selected.

8. Postqualification and Contract award (ITT39), more specifically,

- b) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of prequalification data, if so required.
- c) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.
 - i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of Kenya Shillings **see Technical Evaluation**
Minimum average annual construction turnover of Kenya Shillings _____ [insert amount], equivalent calculated as total certified payments received for contracts in progress and/or completed within the last ____ [insert of year] years. **see Technical Evaluation**
 - ii)
 - iii) At least _____ (insert number) of contract(s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings equivalent. **see Technical Evaluation**

iv) Contractor's Representative and Key Experts which are specified as _____

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

iv) Other conditions depending on their seriousness.

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

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

b) **Pending Litigation**

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial

Capability under Paragraph(i) above if all pending litigation will be resolved against the

Tenderer. Tenderers shall provide information on pending litigations in the appropriate form.

c) Litigation History

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

QUALIFICATION FORM SUMMARY

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
1	Nationality	Nationality in accordance with ITT 3.6	Forms ELI- 1.1 and 1.2, with attachments	
2	Conflict of Interest	No conflicts of interest in accordance with ITT 3.2	Form of Tender	
3	PPRA Eligibility	Not having been declared ineligible by the PPRA as described in ITT 3.7	Form of Tender	
4	State-owned Enterprise	Meets conditions of ITT 3.8	Forms ELI – 1.1 and 1.2, with attachments	
5	Goods, equipment and services to be supplied under the contract	To have their origin in any country that is not determined ineligible under ITT 4.1	Forms ELI – 1.1 and 1.2, with attachments	
6	History of Non-Performing Contracts	Non-performance of a contract did not occur as a result of contractor default since 1 st January [.....].	Form CON-2	
7	Not debarred Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	Not debarred based on execution of a Tender/Proposal Securing Declaration pursuant to ITT 19.9	Form of Tender	
8	Pending Litigation	Tender's financial position and prospective long-term profitability still sound according to criteria established in 3.1 and assuming that all pending litigation will NOT be resolved against the Tenderer.	Form CON- 2	
9	Litigation History	No consistent history of court/arbitral award decisions against the Tenderer since 1 st January [insert year]	Form CON- 2	

10	Financial Capabilities	<p>(i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kenya Shillings <i>[insert amount]</i> equivalent for the subject contract(s) net of the Tenderer's other commitments.</p> <p>(ii) The Tenderers shall also demonstrate, to the satisfaction of the Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments .</p> <p>(iii) The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last <i>[insert</i></p>	Form FIN – 3.1, with attachments	
----	------------------------	---	----------------------------------	--

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
		<p><i>number of years</i>] years shall be submitted and must demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long-term profitability.</p>		
11	Average Annual Construction Turnover	<p>Minimum average annual construction turnover of Kenya Shillings [<i>insert amount</i>], equivalent calculated as total certified payments received for contracts in progress and/or completed within the last [<i>insert of year</i>] years, divided by [<i>insert number of years</i>] years</p>	Form FIN- 3.2	
12	General Construction Experience	<p>Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last [<i>insert number of years</i>] years, starting 1st January [<i>insert year</i>].</p>	4. Form EXP-4.1 Experience	
13	Specific Construction & Contract Management Experience	<p>A minimum number of [<i>state the number</i>] similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub-contractor between 1st January [<i>insert year</i>] and tender submission deadline i.e.(number) contracts, each of minimum value Kenya shillings...equivalent. <i>[In case the Works are to be tender as individual contracts under multiple contract procedure, the minimum number of contracts required for purposes of evaluating qualifications shall be selected from the options mentioned in ITT 35.4]</i></p> <p>The similarity of the contracts shall be based on the following: <i>[Based on Section VII, Scope of Works, specify the minimum key requirements in terms of physical size, complexity, construction method, technology and/or other characteristics including part of the requirements that may be met by specialized subcontractors, if permitted in accordance with ITT 34.3]</i></p>	Form EXP 4.2(a)	

SECTION IV – TENDERING FORMS

QUALIFICATION FORMS

1. FOREIGN TENDERERS 40% RULE

Pursuant to ITT 3.10, a foreign tenderer must complete this form to demonstrate that the tender fulfils condition. this

ITEM	Description of Work Item	Describe location of Source	COST in K.shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Subcontracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			
1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				
	TOTAL COST LOCAL CONTENT		XXXXX	
	PERCENTAGE OF CONTRACT PRICE			

2 FORMEQU:EQUIPMENT

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

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

Omit the following information for equipment owned by the Tenderer.

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

3 FORM PER - 1

Contractor's Representative

and Key Personnel Schedule

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

Contractor's Representative and Key Personnel

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

**Time commitment:
for this position:**

*[insert the number of days/week/months that has been scheduled for
this position]*

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

4. **FORM PER-2:**

Resume and Declaration-Contractor's Representative and Key Personnel

Name of Tenderer

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

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

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

Declaration

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

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

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

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

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

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

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Tenderer:

Signature: _____

Date: (day month year): _____

5. TENDERERS QUALIFICATION WITHOUT PREQUALIFICATION

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

FORM ELI-1.1

Tenderer Information Form

Date: _____

ITT No. and title: _____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: [indicate country of Constitution]
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4 <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 4.1 <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 4.6, documents establishing: <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of the Procuring Entity
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

FORMELI-1.2

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

Date: _____

ITT No. and title: _____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 4.4. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with the commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 4.6.
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

FORM CON-2

Historical Contract Non-Performance, Pending Litigation and Litigation History

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria

Contract non-performed did not occur since 1st January [insert year] specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.

Contract(s) not performed since 1st January [insert year] specified in Section III, Evaluation and Qualification Criteria, requirement 2.1

Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)
[insert year]	[insert amount and percentage]	Contract Identification: [indicate complete contract name/number, and any other identification] Name of Procuring Entity: [insert full name] Address of Procuring Entity: [insert City/street/building/floor number/room number/country] Reason(s) for non-performance: [indicate main reason(s)]	[insert amount]

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

No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.

Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.

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

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

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

Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.

Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (currency), Kenya Shilling

			Equivalent (exchangerate)
<i>[insert year]</i>	<i>[insertpercentage]</i>	Contract Identification: [indicate completecontract name, number, and any otheridentification] NameofProcuringEntity: <i>[insertfullname]</i> Address of Procuring Entity: <i>[insert City/street/building/floor number/roomnumber/country]</i> Matter in dispute: <i>[indicate main issues indispute]</i> Party who initiated the dispute: <i>[indicate "Procuring Entity" or "Contractor"]</i> Reason(s)forLitigationandawarddecision <i>[indicatemainreason(s)]</i>	<i>[insertamount]</i>

FORM FIN-3.1:

FinancialSituationandPerformance

Tenderer'sName: _____

Date: _____

JVMember'sName

ITTNo.andtitle: _____

FinancialData

TypeofFinancialinformation n _____ (currency)	Historicinformationforprevious _____ years, (amountincurrency,currency,exchangerate*,KESequivalent)				
	Year1	Year2	Year3	Year4	Year5
StatementofFinancialPosition(InformationfromBalanceSheet)					
TotalAssets(TA)					
TotalLiabilities(TL)					
TotalEquity/NetWorth(NW)					
CurrentAssets(CA)					
CurrentLiabilities(CL)					
WorkingCapital(WC)					
InformationfromIncomeStatement					
TotalRevenue(TR)					

Type of Financial information (currency)	Historic information for previous _____ years, (amount in currency, currency, exchange rate*, KE equivalent)				
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITT 15 for the exchange rate

Sources of Finance

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

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

Financial documents

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

- (a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).
 - (b) be independently audited or certified in accordance with local legislation.
 - (c) be complete, including all notes to the financial statements.
 - (d) correspond to accounting periods already completed and audited.
- Attached are copies of financial statements¹ for the _____ years required above; and complying with the requirements

FORM EIN -3.2:

Average Annual Construction Turnover

Tenderer's Name: _____

Date: _____

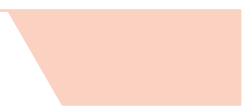
JV Member's Name

ITT No. and title: _____

Annual turnover data (construction only)			
Year	Amount Currency	Exchange rate	Kenya Shilling equivalent
[indicate year]	[insert amount and indicate]		

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

this should be justified.



	<i>currency]</i>		
Average Annual Construction Turnover*			

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

FORMEIN –3.3:

Financial Resources

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

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

FORMEIN -3.4:

Current Contract Commitments/Works in Progress

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

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

FORMEXP -4.1

General Construction Experience

Tenderer's Name: _____

Date: _____

JV Member's Name

ITT No. and title: _____

Page _____ of _____ pages

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

FORMEXP-4.2(a)

Specific Construction and Contract Management Experience

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

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

FORMEXP - 4.2(a)(cont.)**Specific Construction and Contract Management Experience (cont.)**

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

FORMEXP - 4.2(b)**Construction Experience in Key Activities**

Tenderer's Name: _____

Date: _____

Tenderer's JV Member Name: _____

Sub-contractor's Name² (as per ITT 34): ITT No. and title: _____

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

1. Key Activity No One: _____

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

	Information
Procuring Entity's Name:	
Address: Telephone/fax number E-mail:	

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

- 2. Activity No. Two
- 3.....

OTHER FORMS

6. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

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

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

Tender submission] **Request for Tender No.:** *[insert identification]* **Name and description**

of Tender *[Insert as per ITT]* **Alternative No.:** *[insert identification No if this is a*

Tender for an alternative] **To.....** *[insert complete name of Procuring Entity]*

Dear Sirs,

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

Breakdown of the Tender Price

Item	Description	Amount (in KES)
1	Construction of Interventional Radiology Suite	
2	Supply, Installation, Testing and Commissioning of Biplane DSA System	
3	Supply, Deliver, Install, Test and Commission the Dual-inverter Split Air Conditioners	
	TOTAL TENDER PRICE	

The amount quoted above does not include provisional sums, and does not allow use of foreign currencies.

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

3. We agree to adhere by this tender until _____ *[Insert date]*, and it shall remain binding up on us and maybe accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.
5. We, the under signed, further declare that:
 - (i) No reservations: We have examined and have no reservation to the tender document, including Addenda issued in accordance with ITT 8;
 - (ii) Eligibility: We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;
 - (iii) Tender-Securing Declaration: We have not been debarred by the Authority based on execution of a Tender-Securing Declaration or Tender Securing Declaration in Kenya in accordance with ITT 19.8;
 - iv) Conformity: We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works: *[insert a brief description of the Works]*;
 - (v) Tender Price: The total price of our Tender, excluding any discounts offered in item 1 above is: *[Insert one of the options below as appropriate]*
 - (vi) Option 1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies]*; Or
 Option 2, in case of multiple lots:
 - a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]*; and
 - b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies]*;
 - vii) Discounts: The discounts offered and the methodology for their application are:
 - viii) The discounts offered are: *[Specify in detail each discount offered.]*
 - ix) The exact method of calculation to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts]*;
 - x) Tender Validity Period: Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
 - xi) Performance Security: If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document;
 - xii) One Tender Per Tender: We are not submitting any other Tender (s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;
 - xiii) Suspension and Debarment: We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
 - xiv) State-owned enterprise or institution: *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 3.8];*

- xv) Commissions, gratuities, fees: We have paid, or will pay the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

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

- xvi) Binding Contract: We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- xvii) Not Bound to Accept: We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive;
- xviii) Fraud and Corruption: We here by certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption;
- xix) Collusive practices: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Tender Determination" attached below.
- xx) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from www.pppra.go.ke during the procurement process and the execution of any resulting contract.
- xxi) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict of interest.
 - Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
 - Self-Declaration of the Tenderer - to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - declaration and commitment to the code of ethics for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya,

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

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

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

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

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

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

Date signed _____ day of _____,

Notes

**In the case of the Tenders submitted by joint ventures specify the name of the Joint Venture as Tenderer*

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



TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

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

a) Tenderer's details

ITEM	DESCRIPTION
1	Name of the Procuring Entity
2	Reference Number of the Tender KNH/T/60/2022-2023
3	Date and Time of Tender Opening 21st July, 2022
4	Name of the Tenderer
5	Full Address and Contact Details of the Tenderer. 1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
6	Current Trade License Registration Number and Expiring date
7	Name, country and full address (<i>postal and physical addresses, email, and telephone number</i>) of Registering Body/Agency
8	Description of Nature of Business
9	Maximum value of business which the Tenderer handles.
10	State if Tenders Company is listed in stock exchange, give name and full address (<i>postal and physical addresses, email, and telephone number</i>) of state which stock exchange

General and Specific Details

b) Sole Proprietor, provide the following details.

Name in full _____ Age _____

Nationality _____ Country of Origin _____

Citizenship _____

c) Partnership, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

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

i) Private or public Company _____

ii) State the nominal and issued capital of the Company:-

Nominal Kenya Shillings (Equivalent).....

Issued Kenya Shillings (Equivalent).....

iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

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

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

If yes, provide details as follows.

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

ii) **Conflict of interest disclosure**

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the work that are the subject of the tender.		



6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract		
---	--	--	--

	Type of Conflict	Disclosure YES OR NO	If YES provided details of the relationship with Tenderer
	specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

f) Certification

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

Full Name _____

Title or Designation _____

(Signature)

(Date)

CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

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

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

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

Name _____

Title _____

Date _____

Signature _____

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



SELF-DECLARATION FORMS

FORMSD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,.....of Post Office Box being a resident ofin the Republic ofdo hereby make a statement as follows: -

- 1. THAT I am the Company Secretary/Chief Executive/Managing Director/Principal Officer/Director of (*insert name of the Company*) who is a Bidder in respect of **Tender No.**.....for(*insert tender title/description*) for(*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
- 2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
- 3. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORMSD2

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

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder's Official Stamp



DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

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

Name of Authorized signatory.....

Sign.....

Position.....

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

E-mail.....

Name of the Firm/Company.....

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness Name.....

.....

Sign.....

Date.....

APPENDIX 1-FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

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

2. Requirements

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

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

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

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

- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:

- i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of another party;
- v) “obstructive practice” is:
 - Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya in allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - Acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
- f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/ will not engage in any corrupt or fraudulent practices.

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

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

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

Beneficiary: _____

Request for Tenders No.:

Date: _____

TENDER GUARANTEE No.: _____

Guarantor: _____

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

[signature(s)]

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

TENDER GUARANTEE No.: _____

1. Whereas.....[Name of the tenderer] (hereinafter called “the tenderer”) has submitted its tender dated.....[Date of submission of tender] for the..... [Name and/or description of the tender] (hereinafter called “the Tender”) for the execution of under Request for Tenders No. _____ (“the ITT”).

2. KNOW ALL PEOPLE by these presents that WE.....of.....[Name of Insurance Company] having our registered office at.....(hereinafter called “the Guarantor”), are bound unto[Name of Procuring Entity] (hereinafter called “the Procuring Entity”) in the sum of (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this day of _____ 20.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:

- a) has withdrawn its Tender during the period of Tender validity set forth in the _____ Principal's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or
- b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal;
 - (i) failed to execute the Contract agreement; or
 - (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers (“ITT”) of the Procuring Entity's Tendering document.

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

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the result of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above _____ on or before that date.

[Date]

[Signature of the Guarantor]

[Witness]

[Seal]

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

TENDER-SECURINGDECLARATIONFORM{r46and155(2)}

[TheBiddershallcompletethis Formin accordance withtheinstructionsindicated]

Date: *[insert date (as day, month and year) of*

*TenderSubmission]*TenderNo.:*[insertnumberoftenderingproc*

*ess]*To:*[insertcompletenameofPurchaser]*

I/We,theundersigned,declarethat:

1. I/Weunderstandthat,accordingtoyourconditions,bidsmustbesupportedbyaTender-SecuringDeclaration.
2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract withthePurchaserfortheperiodoftimeof*[insertnumberofmonthsoryears]*startingon*[insertdate]*,ifwearein breach of our obligation (s) under the bid conditions, because we– (a) have withdrawn our tender duringthe period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of theacceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute theContract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with theinstructionstotenders.
3. I/WeunderstandthatthisTenderSecuringDeclarationshallexpireifwearenottthesuccessfulTenderer(s),uponthe earlierof:
 - a) Ourreceipt of acopyofyour notificationof thenameof thesuccessfulTenderer;or
 - b) ThirtydaysaftertheexpirationofourTender.
4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the nameof the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time ofbidding, the Tender Securing Declaration shall be in the name so fall future partners as named in the letter ofintent.

Signed:.....

Capacity/ title(directororpartnerorsoleproprietor,etc.).....

Name: Dulyauthorized tosignthe

bidforandonbehalfof:*[insertcompletenameofTenderer]*Datedon.....day

of..... *[Insertdateofsigning]*

Sealorstamp

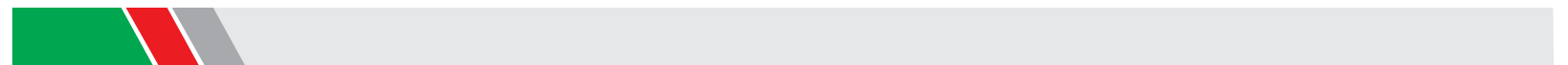


APPENDIXTOTENDER

ScheduleofCurrencyrequirements

SummaryofcurrenciesoftheTenderfor_____ [*insertnameofSectionoftheWorks*].

<i>Nameofcurrency</i>	<i>Amountspayable</i>
Localcurrency: _____	
Foreigncurrency#1: _____	
Foreigncurrency#2: _____	
Foreigncurrency#3: _____	
Provisionalsumsexpressedinlocal currency	[Tobeentered bytheProcuringEntity]



**PART II – PROCURING ENTITY'S
INFRASTRUCTURAL FACILITY
REQUIREMENTS**

SECTION VII - PROCURING ENTITY'S REQUIREMENTS

Notes on preparing the Procuring Entity's Requirements

This Section contains the Scope, site information, the Specifications, the Drawings, the Environmental requirements, Supplementary Information that describes the Works and Forms to be used during the implementation of the contract.

This is a “single responsibility contract”. The Procuring Entity is not expected to invite proposals with detailed technical specifications. However, the Procuring Entity does and must know what it wants and must communicate its needs to the Tenderers. Hence, this section on Procuring Entity's Requirements replaces the usual Technical Specifications of a more traditional approach.

To enable Tenderers to offer appropriate solutions, the Procuring Entity should specify the purpose for which the Works are intended (see so Sub-Clause 4.1 of the Conditions of Contract) and its particular requirements as clearly as possible. The Procuring Entity's requirements must therefore, specify exactly the particular requirements for the completed Works. It will also be necessary to specify the tests that will be carried out on completion of the Works to verify compliance with the requirements specified.

The Procuring Entity may perform appropriate front-end tasks (such as geotechnical/environmental investigations and permit acquisitions) to enable the Procuring Entity to: (a) develop a realistic understanding of the contract's scope and budget; and (b) furnish Tenderers with information that they can reasonably rely upon in establishing their price and other commercial decisions.

While this section of the Tender document should endeavor to define the Procuring Entity's Requirements as precisely as possible *care must be taken to avoid over specifying details to the extent that the flexibility and potential benefits associated with a “single responsibility” tender proposal approach are seriously eroded or threatened*. This section on Procuring Entity's Requirements should, therefore, be carefully prepared *by experts who are familiar with the requirements and with the technical aspect of the required Works*. As the contractor is expected to carry out the design, the Procuring Entity should provide the criteria to which it expects the design to confirm. The functional/performance specifications may specify the characteristics, nature and performance of the finished work and any limitations which the Procuring Entity wishes to impose.

The Procuring Entity's requirements should specify the Contractor's Documents (Sub-Clause 5.2 of the General Conditions of Contract) that are required and their submission/approval procedures.

The Procuring Entity's Requirements must be drawn up to permit the widest, possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials performance and/or functions of the Works. The Procuring Entity's Requirements should stipulate that all goods and materials to be incorporated in the Works are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials.

Care must be taken when drafting the Procuring Entity's Requirements to ensure that the requirements are not restrictive. Recognized international standards should be used as much as possible for the description of goods, materials and workmanship. Where other particular standards are specified, whether national standards of Kenya or other standards, it should be stated that goods, materials and workmanship meeting other authoritative standards and which promise to ensure equal or higher quality than the standards specified, will also be acceptable. Where a brand name of a product is specified it should always be qualified with the terms “or equivalent”.

- 1.9. For such a turnkey contract, no detail drawings would generally be available when inviting proposals. It would, however, be useful to include **conceptual drawings** and/or outline design, if any and as appropriate, to supplement or help explain the general concept of the Procuring Entity's needs. Tenderers should be advised to the extent to which the Procuring Entity's outline design is a suggestion or a requirement.

Pursuant to Sub-Clause 4.10 of the Conditions of Contract, the Procuring Entity shall make available to Tenderers all relevant information in the Procuring Entity's possession pertaining to the site and the proposed works. Typical information to be provided by the Procuring Entity may include:

- a) Statutory planning and zoning constraints
- b) Orders, consents, permits, licenses and compliance requirements

- c) Topographic survey
- d) Ground investigation and condition information
- e) Utility records and Land ownership information
- f) Groundwater, surface water and hydrological information
- g) Environmental and social baseline data
- h) Details of known accommodation works requirements
- i) As-built records of existing infrastructure
- j) Details of any risks or hazards
- k) Any other physical constraints
- l) Quality and Environmental, health and safety systems to apply
- m) Stakeholder engagement records and requirements on sub-surface and hydrological conditions at the Site, including environmental aspects.

In addition, the Procuring Entity's Requirements should also include, as appropriate, information of a technical nature referring to Procuring Entity's Requirements in the following Sub-Clauses of the Conditions of Contract:

Sub-Clause No.	Information required	Remarks
1.8	Number of copies of Contractor's Documents Publications to be kept on Site	
1.11	Intellectual Property rights retained by the Procuring Entity	
1.13	Permissions being obtained by the Procuring Entity	
2.1	Phased possession of foundations, structures, plant or means of access	Please also refer to Sub-Clause 2.1 (Part A-Contract Data) to ensure consistency and applicability.
4.1	Intended purposes for which the Works are required	As mentioned above
4.6	Other contractors and others on Site, if any	
4.7	Setting-out points, lines and levels of reference	The Sub-Clause states: "...specified in the contract notified by the Engineer"
4.18	Emissions, surface discharges and effluent	
4.19	Details and prices of electricity, water, gas and other services if these services are to be available for the Contractor to use.	
4.20	Details of Procuring Entity's equipment and free-issue material, if any.	
5.1	Criteria (if any) for design personnel	Consistent with any such requirement in Section III- Evaluation and Qualification Criteria
5.2	Contractor's Documents required and whether for approval	Specify, as appropriate, the extent to which the Contractor's Documents are required, which of them are required for approval (not just review), and the submission procedures. Some examples, which are in no way exhaustive and have to be adapted, are given under Contractor's Documents in this Section VII.
5.4	Applicable Technical Standards and regulations	
5.5	Training of Procuring Entity's Personnel	
5.6	As-built drawings and other records of the Works	
5.7	Operation and maintenance manuals and any other Manuals for these purposes	
6.6	Facilities for Personnel	



7.2	Samples	
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Sub-ClauseNo.	Informationrequired	Remarks
7.4	Testing	
7.8	Royalties	
9.1	Testson Completion	
9.4	DamagesforfailuretopassTestsonCompletion	
12.1	TestsafterCompletion	
12.4	DamagesforfailuretopassTestsafterCompletion	

Any additional sustainable procurement technical requirements (beyond the ESHS requirements stated in the Environmental, Social, Health and Safety Requirements section below) shall be clearly specified. These sustainable procurement requirements may be specified to enable evaluation of such a requirement on a pass/fail basis and/or rated criteria (points system), as appropriate.

Environmental, social, health and safety requirements; The Procuring Entity should use the services of a suitably qualified environmental, social, health and safety specialist/s to prepare this section, working with a procurement specialist/s. The Procuring Entity should attach or refer to the Procuring Entity's environmental, social, health and safety policies that will apply to the project.

SUGGESTED CONTENT FOR AN ENVIRONMENTAL AND SOCIAL POLICY

The Works' policy goal, as a minimum, should be stated to integrate environmental protection, occupational and community health and safety, gender, equality, child protection, vulnerable people (including those with disabilities), gender-based violence, HIV/AIDS awareness and prevention and wide stakeholder engagement in the planning processes, programs, and activities of the parties involved in the execution of the Works. The policy should set the frame for monitoring, continuously improving processes and activities and for reporting on the compliance with the policy.

The policy should, as far as possible, be brief but specific and explicit, and measurable, to enable reporting of compliance with the policy in accordance with the Particular Conditions of the Contract Sub-Clause 4.21 and Appendix C to the General Conditions of Contract.

As a minimum, the policy is set out to the commitment to:

- i) apply good international industry practice to protect and conserve the natural environment and to minimize unavoidable impacts;
- ii) provide and maintain a healthy and safe work environment and safe systems of work;
- iii) protect the health and safety of local communities and users, with particular concern for those who are disabled, elderly, or otherwise vulnerable;
- iv) ensure that terms of employment and working conditions of all workers engaged in the Works meet the requirements of national labor laws of Kenya;
- v) be intolerant of, and enforce disciplinary measures for illegal activities. To be intolerant of, and enforce disciplinary measures for gender violence, child sacrifice, child defilement, and sexual harassment;
- vi) incorporate a gender perspective and provide an enabling environment where women and men have equal opportunity to participate in, and benefit from, planning and development of the Works;
- vii) work cooperatively, including with end users of the Works, relevant authorities, contractors and local communities;
- viii) engage with and listen to affected persons and organizations and be responsive to their concerns, with special regard for vulnerable, disabled, and elderly people;
- ix) provide an environment that fosters the exchange of information, views, and ideas that is free of any fear of retaliation;
- x) minimize the risk of HIV transmission and to mitigate the effects of HIV/AIDS associated with the execution of the Works;

The policy should be signed by the senior manager of the Procuring Entity. This is to signal the intent that it will be applied rigorously. When preparing the specifications have regard to the relevant General Conditions of Contract and Particular Conditions of Contract.

2. Scope of the Works

**PROPOSED CONSTRUCTION OF
INTERVENTIONAL RADIOLOGY (IR) SUITE**

AT

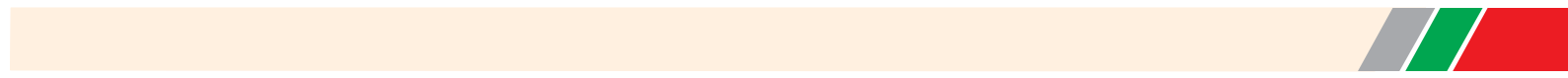
KENYATTANATIONALHOSPITAL

IN

NAIROBI-COUNTY

**BILLS OF QUANTITIES
(PRICED)**

JULY 2022



ITEM	DESCRIPTION	Kshs.
	<p><u>BILLNO. 1</u> <u>PARTICULARPRELIMINARIES</u></p> <p>A PRICING ITEMSOFPRELIMINARIESGENERALLY</p> <p>Prices SHALL BE INSERTED against items of“preliminaries” in the tenderer’s priced Bills of Quantities.TheContractorshallbedeemedtohaveincludedinhispricesor ratesforthevariousitemsintheBills ofQuantitiesor Specificationforallcostsinvolvedincomplyingwithalltherequirements for the proper execution of the whole of theworks intheContract.Thecontractorisadvisedtoreadandunderstandall preliminaryitems.</p> <p>B DESCRIPTIONOFTHEWORKS</p> <p>The works to be carried out under this contract involvesSustructure,RCFrame,Walling,Windows, Roof, Finishes and the associated External Works.</p> <p>C MEASUREMENTS</p> <p>IntheeventofanydiscrepanciesarisingbetweentheBills of Quantitiesandtheactualworks,thesitemeasurementsshall Generally take precedence. However, such discrepancies between any contract documents shallimmediatelybereferredtothePROJECTMANAGERin accordancewithClause22oftheConditionsofContract.Thediscrepanciess hallthenbetreatedasavariationandbedealtwithinaccordancewith Clause22ofthesaidConditions.</p> <p>D LOCATIONOFSITE</p> <p>The site is located within the Kenyatta National Teaching &ReferralHospitalgrounds,alongNgong’Road,NairobiCounty.The Contractoris advisedtovisitthesite,tofamiliarizewiththenatureandpositionofthesite.Noclaimsarising fromtheContractor’sfailure todosowill beentertained.</p>	
	CarriedtoCollection	

ITEM	DESCRIPTION	Kshs.
A	<p>CLEARINGAWAY</p> <p>The Contractor shall remove all temporary works, rubbish, debris and surplus materials from the site as they accumulate. Upon completion of the works, he shall remove and clear away all plant, equipment, rubbish and un used materials. The whole of the works shall be delivered up clean, complete and in perfect condition in every respect to the satisfaction of the Project Manager.</p>	
B	<p>CLAIMS</p> <p>It shall be a condition of this contract that upon it becoming reasonably apparent to the Contractor that he has incurred losses and/or expenses due to any of the contract conditions, or by any other reason whatsoever, he shall present such claim or intent to claim notice to the PROJECT MANAGER within the contract period. <u>No claims shall be entertained upon the expiry of the said contract period.</u></p>	
C	<p>PAYMENTS</p> <p>The tenderer's attention is drawn to the fact that the</p> <p>GOVERNMENT SHALL NOT MAKE ADVANCE PAYMENTS</p>	
D	<p>PREVENTION OF ACCIDENT, DAMAGE OR LOSS</p> <p>The Contractor is notified that these works are to be carried out on a restricted site where the client is going on with other normal activities. The Contractor is instructed to take reasonable care in the execution of the works as to prevent accidents, damage or loss and disruption of normal activities being carried out by the Client. The Contractor shall allow in his rates any expense he deems necessary by taking such care within the site.</p>	
E	<p>BID SECURITY</p> <p>The contractor shall provide a bid security duly signed, sealed and stamped from an approved Institution in and approved format of required amount.</p>	
	Carried to Collection	

ITEM	DESCRIPTION	Kshs.
A	<p>WORKING CONDITIONS</p> <p>The Contractor shall allow in this tender for any interference that they may encounter in the course of execution of the works for the Client <u>may</u> in some cases ask the Contractor not to proceed with the works until some activities within the site are completed, as the facility will be operating as usual during the course of the contract.</p>	
B	<p>SIGNBOARD</p> <p>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.</p>	
C	<p>LABOUR CAMPS</p> <p>The Contractor shall NOT be allowed to house labour on site. Allow for transporting workers to and from the site during the tenure of the contract.</p>	
D	<p>MATERIALS FROM DEMOLITIONS</p> <p>Any materials arising from demolitions and not re-used shall become the property of the government. The Contractor shall allow in his rate the cost of transporting the demolished material to the Client's area of preference within the compound.</p>	
E	<p>PRICING RATES</p> <p>The tenderers shall include for all costs in executing the whole of the works, including transport, replacing damaged items, fixing, all to comply with the said Conditions of Contract.</p>	
F	<p>URGENCY OF THE WORKS</p> <p>The Contractor is notified that these "works are urgent" and should be completed within the period stated in these Particular Preliminaries. The Contractor shall allow in this tender for any costs he deems that he/she may incur by having to complete the works within the stipulated contract period.</p>	
	Carried to Collection	

ITEM	DESCRIPTION	Kshs.
A	<p>PAYMENT FOR MATERIALS ONSITE</p> <p>All materials for incorporation in the works must be delivered and stored onsite before payment is effected, unless specifically exempted by the Project Manager. This is to include materials of the Contractor, nominated sub-Contractors and nominated suppliers.</p>	
B	<p>EXISTING SERVICES</p> <p>Prior to the commencement of any work, the Contractor shall 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 that may be required by the authorities concerned for the support, maintenance and protection of such services.</p>	
C	<p>TENDER DOCUMENTS</p> <p>Tender documents are as listed in Clause 2.1 of the Instruction to Tenderer's Page STD/8</p>	
D	<p>DELIVERY OF TENDER</p> <p>Tenders and all documents in connection therewith, as specified above must be delivered in the addressed envelope which should be properly sealed and deposited at the offices as specified in the letter accompanying these documents or as indicated in the advertisement.</p> <p>Tenders will be opened at the time specified in the letter accompanying these Tender Documents or as indicated in the advertisement. Tenders delivered/received later than the time indicated above will not be opened.</p>	
E	<p>VALUE ADDED TAX</p> <p>The Contractor's attention is drawn to the Legal Notice in the Finance Act part 3 Section 21(b) operative from 1st September, 1993 which requires payment of VAT on all contracts. The Tenderer is required to allow for VAT for all items in the Bills of Quantities and no claim for VAT shall otherwise be entertained.</p>	
	Carried to Collection	-

ITEM	DESCRIPTION	Kshs.
	<p><u>PROJECT MANAGEMENT AND CONTRACT ADMINISTRATION EXPENSES</u></p> <p>A Allow a Provisional Sum of Kenya Shillings Five Hundred Thousand only for Project Management Expenses including subsistence allowances for Project Management officers.</p> <p>B Allow a percentage sum for the contractors administrative costs and profits for the above ____%</p> <p>C Allow a Provisional Sum of Kenya Shillings Fifty Thousand only for stationery</p> <p>D Allow a percentage sum for the contractors administrative costs and profits for the above ____%</p>	
	Carried to Collection	

ITEM	DESCRIPTION	Kshs.
	<p><u>PARTICULARS OF INSERTIONS TO BE MADE IN APPENDIX TO CONTRACT AGREEMENT</u></p> <p>The following are the insertions to be made in the appendix to the Contract Agreement</p> <p>Period of Final Measurement</p> <p>Defects Liability Period</p> <p>Date for Possession</p> <p>Date for Completion</p> <p>Liquidated and Ascertained Damages</p> <p>Intervals for application of Payment Certificates</p> <p>Period of Honouring Certificates</p> <p>Percentage of Certified Value Retained</p>	<p>4 Weeks from Practical Completion</p> <p>6 Months from Practical Completion</p> <p>Within 14 days of receipt of notice of accepting Tender</p> <p>To be stated in the Form of Tender</p> <p>at a rate of Kshs 100,000 Per week or part thereof</p> <p>4 Weeks</p> <p>30 Days</p> <p>10% of the project cost</p>
	Carried to Collection	

ITEM	DESCRIPTION	Kshs.
	<p><u>COLLECTION</u></p> <p>Brought forward from page</p> <p>PP/1 Brought forward from page</p> <p>PP/2 Brought forward from page</p> <p>PP/3 Brought forward from page</p> <p>PP/4 Brought forward from page</p> <p>PP/5 Brought forward from page</p> <p>PP/6 Brought forward from page PP/7</p>	-
	<p align="center">PARTICULAR PRELIMINARIES CARRIED TO GRAND SUMMARY</p>	-

ITEM	DESCRIPTION	KSHS
A.	<p><u>BILLNO.2</u> <u>GENERALPRELIMINARIES</u></p> <p>PRICINGOFITEMSOFPRELIMINARIESANDPREAMBLES</p> <p>PriceswillbeinsertedagainstitemsofPreliminariesintheContractor'spricedBillsOfQuantitiesandSpecification.</p> <p>TheContractorshallbedeemedtohaveincludedinhispricesor ratesforthevariousitemsintheBillsOfQuantitiesorSpecificationforallcostsinvolvedincomplyingwithalltherequirementsfortheproperexecutionofthewholeoftheworksintheContract.</p>	
	Carriedto collection	

ITEM	DESCRIPTION	KSHS
<p>A.</p> <p>EXCEPTION TO THE STANDARD METHOD OF MEASUREMENT</p> <p><i>Attendance</i>; Clause B19(a) of the Standard Method of Measurement is deleted and the following clause is substituted:-</p> <p>Attendance of nominated Sub-Contractors shall be given as an item in each case shall be deemed to include: allowing use of standing scaffolding, mess rooms, sanitary accommodation and welfare facilities; provision of special scaffolding where necessary; providing space for office accommodation and for storage of plant and materials; providing light and water for their work: clearing away rubbish; unloading, checking and hoisting; providing electric power and removing and replacing duct covers, pipe casings and the like necessary for the execution and testing of Sub-Contractors' work and being responsible for the accuracy of the same.</p> <p><i>Fix Only</i>:-</p> <p>"Fix Only" shall mean to take delivery at nearest railway station (Unless otherwise stated), pay all demurrage charges, load and transport to site where necessary, unload, store, unpack, assemble as necessary, distribute to position, hoist and fix only.</p> <p>B. EMPLOYER</p> <p>The "Employer" is KENYATTA NATIONAL HOSPITAL</p> <p>The term "Employer" and "Government" wherever used in the contract documents shall be synonymous</p> <p>C. PROJECT MANAGER</p> <p>The term "P.M." wherever used in these Bills of Quantities shall be deemed to imply the Project Manager as defined in Condition 1 of the Conditions of Contractors such person or persons as may be duly authorised to represent him on behalf of the Hospital.</p> <p>D. ARCHITECT</p> <p>The term "Architect" shall be deemed to mean "The Project Manager." as defined above whose address unless otherwise notified is Kenyatta National Hospital, P.O. Box 20723-00202, NAIROBI.</p>		
	Carried to collection	

ITEM	DESCRIPTION	KSHS
A	<p>QUANTITY SURVEYOR</p> <p>The term "Quantity Surveyor" shall be deemed to mean "The Project Manager." as defined above whose address unless otherwise notified is Kenya National Hospital, P.O. Box 20723-00202, NAIROBI.</p>	
B	<p>ELECTRICAL ENGINEER</p> <p>The term "Electrical Engineer" shall be deemed to mean "The Project Manager." as defined above whose address unless otherwise notified is Kenya National Hospital, P.O. Box 20723-00202, NAIROBI.</p>	
B	<p>MECHANICAL ENGINEER</p> <p>The term "Mechanical Engineer" shall be deemed to mean "The Project Manager." as defined above whose address unless otherwise notified is Kenya National Hospital, P.O. Box 20723-00202, NAIROBI.</p>	
C	<p>STRUCTURAL ENGINEER</p> <p>The term "Structural Engineer" shall be deemed to mean "The Project Manager." as defined above whose address unless otherwise notified is Kenya National Hospital, P.O. Box 20723-00202, NAIROBI.</p>	
D	<p>FORM OF CONTRACT</p> <p>The Form of Contract shall be as stipulated in the Republic of Kenya's Standard Tender Document for Procurement of Building Works (2006 Edition) included herein Conditions of Contract. These are numbered from 1 to 5 / as set out in pages 1 to 56 of the tender documents. Particulars of insertion to be made in the Appendix to the Contract Agreement will be found in the Particular Preliminaries part of the Bills of Quantities</p>	
E	<p>PERFORMANCE BOND.</p> <p>The Contractor shall find and submit on the Form of Tender an approved Bank and who will be willing to be bound the Government in and amount equal to five percent (5%) of the Contract amount for the due performance of the Contract up to the date of completion as certified by the PROJECT MANAGER and who will when and if called upon, sign a Bond to that effect on the relevant standard form included herein. (without the addition of any limitations) on the same day as the Contract Agreement is signed, by the Government, the Contractor shall furnish within seven days another Surety to the approval of the Government.</p>	

ITEM	DESCRIPTION	KSHS
	Carried to collection	
A	<p>PLANT, TOOLS AND VEHICLES</p> <p>Allow for providing all scaffolding, plant, tools and vehicles required for the work 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. Not timber used for scaffolding, formwork or temporary works of any kind shall be used afterwards in the permanent work.</p>	
B	<p>TRANSPORT.</p> <p>Allow for transport of workmen, materials, etc., to and from the site at such hours and by such routes as may be permitted by the competent authorities.</p>	
C	<p>MATERIALS AND WORKMANSHIP.</p> <p>All materials and workmanship used in the execution of the work shall be of the best quality and description unless otherwise stated. The Contractor shall order all materials to be obtained from overseas immediately after the Contract is signed and shall also order materials to be obtained from local sources as early as necessary to ensure that they are on site when required for use in the works. The Bills of Materials shall not be used for the purpose of ordering materials.</p>	
D	<p>SIGN FOR MATERIALS SUPPLIED.</p> <p>The Contractor will be required to sign a receipt for all articles and materials supplied by the PROJECT MANAGER at the time of taking delivery thereof, as having received them in good order and condition, and will thereafter be responsible for any loss or damage and for replacements or any such loss or damage with articles and/or materials which will be supplied by the PROJECT MANAGER at the current market prices including Customs Duty and V. A. T., all at the Contractor's own cost and expense, to the satisfaction of the PROJECT MANAGER.</p>	
E	<p>STORAGE OF MATERIALS</p> <p>The Contractor shall provide at his own risk and cost where directed on the site whether prooflock-up sheds and make good damaged or disturbed surfaces upon completion to the satisfaction of the PROJECT MANAGER. Nominated Sub-Contractors are to be made liable for the cost of any storage accommodation provided especially for their use.</p>	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
<p>A</p>	<p>SAMPLES</p> <p>The Contractor shall furnish at his own cost any samples of materials or workmanship including concrete test cubes required for the works that may be called for by the PROJECT MANAGER for his approval until such samples are approved by the PROJECT MANAGER and the PROJECT MANAGER, may reject any materials or workmanship not in his opinion to be upto approved samples. The PROJECT MANAGER shall arrange for the testing of such materials as he may at his discretion deem desirable, but the testing shall be made at the expense of the Contractor and not at the expense of the PROJECT MANAGER. The Contractor shall pay for the testing in accordance with the current scale of testing charges laid down by the Ministry of Public Works.</p> <p>The procedure for submitting samples of materials for testing and the method of marking for identifications shall be as laid down by the PROJECT MANAGER. The Contractor shall allow in his tender for such samples and tests except those in connection with nominated sub-contractors' work.</p>	
<p>B</p>	<p>GOVERNMENT ACTS REGARDING WORK PEOPLE ETC.</p> <p>Allow for complying with all Government Acts, Orders and Regulations in connection with the employment of Labour and other matters related to the execution of the works. In particular the Contractor's attention is drawn to the provisions of the Factory Act 1950 and his tender must include for all costs arising or resulting from compliance with any Act, Order or Regulation relating to Insurances, pensions and holidays for workpeople or so the safety, health and welfare of the workpeople. The Contractor must make himself fully acquainted with current Acts and Regulations, including Police Regulations regarding the movement, housing, security and control of labour, labour camps, passes for transport, etc. It is most important that the Contractor, before tendering, shall obtain from the relevant Authority the fullest information regarding all such regulations and/or restrictions which may affect the information regarding all such regulations and/or restrictions which may affect the organisation of the works, supply and control of labour, etc., and allow accordingly in his tender. <u>No claim in respect of what of knowledge in his connection will be entertained.</u></p>	
<p>C</p>	<p>SECURITY OF WORKS ETC.</p> <p>The Contractor shall be entirely responsible for the security of all the works stores, materials, plant, personnel, etc., both his own and sub-contractors' and must provide all necessary watching, lighting and other precautions as necessary to ensure security against theft, loss or damage and the protection of the public.</p>	
	<p>Carried to collection</p>	

ITEM	DESCRIPTION	KSHS
A	<p>PUBLICANDPRIVATEROADS.</p> <p>Maintain asrequired throughouttheexecution of theworksandmakegoodanydamagetopublicorprivateroadsarisingfromorconsequentupontheexecutionoftheworkstothsatisfactionofthelocalandothercompetentauthorityandthePROJECTMANAGER</p>	
B	<p>EXISTINGPROPERTY.</p> <p>TheContractor shall takeeveryprecaution to avoid damageto allexistingpropertyincludingroads,cables,drainsandotherservicesandhewillbe heldresponsibleforandshallmakegoodallsuch damagearisingfromtheexecutionofthiscontractathisownexpensetothsatisfactionofthePROJECTMANAGER</p>	
C	<p>VISITSITEANDEXAMINEDRAWINGS.</p> <p>TheContractor isrecommended to examinethedrawingsandvisitthesitethelocationofwhichisdescribedintheParticularPreliminarieshereof.Heshallbedeemedtohaveacquaintedhimself therewithastoitsnature,position,meansofaccessoranyotner matterwhich,may affecthistender.Noclaimarisingfromhisfailuretocomplywith thisrecommendationwillbeconsidered.</p>	
D	<p>ACCESSTOSITEANDTEMPORARYROADS.</p> <p>MeansofaccesstotheSiteshallbeagreedwiththePROJECTMANAGERpriortocommencementoftheworkandContractormustallowforbuildinganynecessarytemporaryaccessroadsforthetransportofthematerials,plantandworkmenasmayberequiredforthecompleteexecutionoftheworksincludingtheprovisionof temporarycuiverts,crossings,bridges,oranyotnermeansofgaining accesstotheSite.Uponcompletionoftheworks,theContractorshallremovesuchtemporaryaccessroads;temporaryculverts,bridges,etc.,andmakegoodandreinst ateallworksandsurfacesdisturbedtothsatisfactionofthePROJECTMANAGER</p>	
E	<p>AREATOBEOCCUPIEDBYTHECONTRACTOR</p> <p>TheareaofthesitewhichmaybeoccupiedbytheContractorforuseof storage and for the purpose of erecting workshops, etc., shall bedefinedonsitebythePROJECTMANAGER</p>	
	Carriedto collection	

ITEM	DESCRIPTION	KSHS
A	<p>OFFICE ETC. FOR THE PROJECT MANAGER</p> <p>The Contractor shall provide, erect and maintain where directed onsite and afterwards dismantle the site office of the type noted in the Particular Preliminaries, complete with Furniture. He shall also provide a strong metal trunk complete with strong hasp and staple fastening and two keys. He shall provide, erect and maintain a lock-up type water or bucket closet for the sole use of the PROJECT MANAGER including making temporary connections to the drain where applicable to the satisfaction of Government and Medical Officer of Health and shall provide services of cleaner and pay all conservancy charges and keep both office and closet in a clean and sanitary condition from commencement to the completion of the works and dismantle and make good disturbed surfaces. The office and closet shall be completed before the Contractor is permitted to commence the works. The Contractor shall make available on the Site as and when required by the "PROJECT MANAGER" a modern and accurate level to get her with levelling staff, ranging rods and 50 metre metallic or linentape.</p> <p>WATER AND ELECTRICITY SUPPLY FOR THE WORKS</p> <p>The Contractor shall provide at his own risk and cost all necessary water, electric light and power required for use in the works. The Contractor must make his own arrangements for connection to the nearest suitable water main and for metering the water used. He must also provide temporary tanks and meters as required at his own cost and clear away when no longer required and make good on completion to the entire satisfaction of the PROJECT MANAGER.</p> <p>The Contractor shall pay all charges in connection herewith. No guarantee is given or implied that sufficient water will be available from mains and the Contractor must make his own arrangements for augmenting this supply at his own cost. Nominated Sub-contractors are to be made liable for the cost of any water or electric current used and for any installation provided especially for their own use.</p>	
B	<p>SANITATION OF THE WORKS</p> <p>The Sanitation of the works shall be arranged and maintained by the Contractor to the satisfaction of the Government and/or Local Authorities, Labour Department and the PROJECT MANAGER</p>	
C	<p>SUPERVISION AND WORKING HOURS</p> <p>The works shall be executed under the direction and to the entire satisfaction in all respects of the PROJECT MANAGER who shall at all times during normal working hours have access to the works and to the yards and workshops of the Contractor and sub-Contractors or other places where work is being prepared for the contract.</p>	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
A	<p>PROVISIONAL SUMS.</p> <p>The term "Provisional Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7(i) of the Standard Method of Measurement. Such sums are net and no additions shall be made to them for profit.</p>	
B	<p>PRIME COST (OR P.C.) SUMS.</p> <p>The term "Prime Cost Sum" or "P.C. Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7 (ii) of the Standard Method of Measurement. Persons or firms nominated by the PROJECT MANAGER to execute work or to provide and fix materials or goods are described herein as Nominated Sub-Contractors. Persons or firms so nominated to supply goods or materials are described herein as Nominated Suppliers. The subcontractors will be procured by the employer and will in turn enter into a subcontract agreement with the main contractor before executing the works.</p>	
C	<p>PROGRESS CHART.</p> <p>The Contractor shall provide within two weeks of Possession of Site and in agreement with the PROJECT MANAGER a Progress Chart for the whole of the works including the works of Nominated Sub-Contractors; one copy to be handed to the PROJECT MANAGER and a further copy to be retained on Site. Progress to be recorded and chart to be amended as necessary as the work proceeds.</p>	
D	<p>ADJUSTMENT OF P.C. SUMS.</p> <p>In the final account all P.C. Sums shall be deducted and the amount properly expended upon the PROJECT MANAGER'S order in respect of each of them added to the Contract sum. The Contractor shall produce to the PROJECT MANAGER such quotations, invoices or bills, properly receipted, as may be necessary to show the actual details of the sums paid by the Contractor. Items of profit upon P.C. Sums shall be adjusted in the final account pro-rata to the amount paid. Items of "attendance" (as previously described) following P.C. Sums shall be adjusted pro-rata to the physical extent of the work executed (not pro-rata to the amount paid) and this shall apply even though the Contractor's priced Bill shows a percentage in the rate column in respect of them. Should the Contractor be permitted to tender and his tender be accepted of any work for which a P.C. Sum is included in these Bill of Quantities profit and attendance will be allowed at the same rate as it would be if the work were executed by a Nominated Sub-Contractor.</p>	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
A.	<p>ADJUSTMENT OF PROVISIONAL SUMS.</p> <p>In the final account all Provisional Sums shall be deducted and the value of the work properly executed in respect of them upon the PROJECT MANAGER's order added to the Contract Sum. Such work shall be valued, but should any part of the work be executed by a Nominated Sub-Contractor, the value of such work or articles or the work to be supplied by a Nominated Supplier, the value of such work or articles shall be treated as a P.C. Sum and profit and attendance comparable to that contained in the priced Bills of Quantities for similar items added.</p>	
B.	<p>NOMINATED SUB-CONTRACTORS</p> <p>When any work is ordered by the PROJECT MANAGER to be executed by nominated sub-contractors, the Contractor shall enter into sub-contracts and shall thereafter be responsible for such sub-contractors in every respect. Unless otherwise described the Contractor is to provide for such sub-contractors any or all of the facilities described in these Preliminaries. The Contractor should price for these with the nominated Sub-contractor's work concerned in the P.C. Sums under the description "add for Attendance".</p>	
C.	<p>DIRECT CONTRACTS</p> <p>Notwithstanding the foregoing conditions, the Government reserves the right to place a "Direct Contract" for any goods or services required in the works which are covered by a P.C. Sum in the Bills of Quantities and to pay for the same direct. In any such instances, profit relative to the P.C. Sum in the priced Bills of Quantities will be adjusted as described for P.C. Sums is allowed.</p>	
D.	<p>ATTENDANCE UPON OTHER TRADESMEN, ETC.</p> <p>The Contractor shall allow for the attendance of trade upon trade and shall afford any tradesmen or other persons employed for the execution of any work not included in this Contract every facility for carrying out their work and also for use of his ordinary scaffolding. The Contractor, however, shall not be required to erect any special scaffolding for them. The Contractor shall perform such cutting away for and making good after the work of such tradesmen or persons as may be ordered by the PROJECT MANAGER and the work will be measured and paid for to the extent executed at rates provided in these Bills.</p>	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
<p>A</p>	<p>INSURANCE</p> <p>The Contractor shall insure as required in Conditions No. 30 of the Conditions of Contract. No payment on account of the work executed will be made to the Contractor until he has satisfied the PROJECT MANAGER either by production of an Insurance Policy or and Insurance Certificate that the provision of the foregoing Insurance Clauses have been complied with in all respects. Thereafter the PROJECT MANAGER shall from time to time ascertain that premiums are duly paid up by the Contractor who shall if called upon to do so, produce the receipted premium renewals for the PROJECT MANAGER's inspection.</p>	
<p>B</p>	<p>PROVISIONAL WORK</p> <p>All work described as "Provisional" in these Bills of Quantities is subject to measurement in order to ascertain the actual quantity executed for which payment will be made. All "Provisional" and other work liable to adjustment under this Contract shall be left uncovered for a reasonable time to allow all measurements needed for such adjustment to be taken by the PROJECT MANAGER</p> <p>Immediately the work is ready for measuring, the Contractor shall give notice to the PROJECT MANAGER. If the Contractor makes default in these respects he shall if the PROJECT MANAGER so directs uncover the work to enable all measurements to be taken and afterwards reinstate at his own expense.</p>	
<p>C</p>	<p>ALTERATION TO BILLS, PRICING, ETC.</p> <p>Any unauthorised alteration or qualification made to the text of the Bills of Quantities may cause the Tender to be disqualified and will in any case be ignored. The Contractor shall be deemed to have made allowance in his prices generally to cover any items against which no price has been inserted in the Bills of Quantities. All items of measured work shall be priced in detail and the Tenders containing Lump Sum to cover trades or groups of work must be broken down to show the price of each item before they will be accepted.</p>	
<p>D</p>	<p>BLASTING OPERATIONS</p> <p>Blasting will only be allowed with the express permission of the PROJECT MANAGER in writing. All blasting operations shall be carried out at the Contractor's sole risk and cost in accordance with any Government regulations in force for the time being, and any special regulations laid down by the PROJECT MANAGER governing the use and storage of explosives.</p>	
	<p>Carried to collection</p>	

ITEM	DESCRIPTION	KSHS
A	<p>MATERIALS ARISING FROM EXCAVATIONS Materials of any kind obtained from the excavations shall be the property of the Government. Unless the PROJECT MANAGER directs otherwise such materials shall be dealt with as provided in the Contract. Such materials shall only be used in the works, in substitution of materials which the Contractor would otherwise have had to supply with the written permission of the PROJECT MANAGER. Should such permission be given, the Contractor shall make due allowance for the value of the materials used at a price to be agreed.</p>	
B	<p>PROTECTION OF THE WORKS. Provide protection of the whole of the works contained in the Bill of Quantities, including casing, casing up, covering or such other means as may be necessary to avoid damage to the satisfaction of the PROJECT MANAGER and remove such protection when no longer required and make good any damage which may nevertheless have been done at completion free of cost to the Government.</p>	
C	<p>WORKS TO BE DELIVERED UP CLEAN Clean and flush all gutters, rain water and waste pipes, manholes and drains, wash (except where such treatment might cause damage) and clean all floors, sanitary fittings, glass inside and outside and any other parts of the works and remove all marks, blemishes, stains and defects from joinery, fittings and decorated surfaces generally, polish door furniture and bright parts of metalwork and leave the whole of the buildings watertight, clean, perfect and fit for occupation to the approval of the PROJECT MANAGER</p>	
D	<p>GENERAL SPECIFICATION. For the full description of materials and workmanship, method of execution of the work and notes for pricing, the Contractor is referred to the Ministry of Roads and Public Works and Housing General Specification dated 1976 or any subsequent revision thereof which is issued as a separate document, and which shall be allowed in all respects unless it conflicts with the General Preliminaries, Trade Preliminaries or other items in these Bills of Quantities.</p>	
E	<p>HOARDING The Contractor shall enclose the site or part of the works under construction with hoarding 2400mm high consisting of iron sheet on 100x50mm timber posts firmly secured at 1800mm centres with two 75x50mm timber rails approximately three hundred and fifty metres. The Contractor is in addition required to take all precautions necessary for the safe custody of the works, materials, plant, public and Employer's property on the site.</p>	
	Carried to collection	

ITEM	DESCRIPTION	KSHS
A	<p>CONTRACTOR'S SUPERINTENDENCE/SITE AGENT</p> <p>The Contractor shall constantly keep on the works a literate English speaking Agent or Representative, competent and experienced in the kind of work involved who shall give his whole experience in the kind of work involved and shall give his whole time to the superintendence of the works. Such Agent or Representative shall receive on behalf of the Contractor all directions and instructions from the Project Manager and such directions shall be deemed to have been given to the Contractor in accordance with the Conditions of Contract.</p>	
B	<p>NATIONAL CONSTRUCTION AUTHORITY</p> <p>The Contractor's attention is drawn to the recent enactment of the National Construction Authority Act of 2012, which requires registration of all construction projects. The tenderers shall bear all costs arising thereof in facilitating the process within the contract price.</p>	
C	<p>NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY</p> <p>The Contractor's attention is drawn to the recent enactment of the National Environmental Management Authority Act, which requires undertaking of an EIA. The costs arising thereof will be borne and settled by the client outside the contract price.</p>	
Carried to collection		

ITEM	DESCRIPTION	KSHS
	<p><u>COLLECTION</u></p> <p>Brought Forward From Page</p> <p>GP/1Brought Forward From Page</p> <p>GP/2Brought Forward From Page</p> <p>GP/3Brought Forward From Page</p> <p>GP/4Brought Forward From Page</p> <p>GP/5Brought Forward From Page</p> <p>GP/6Brought Forward From Page</p> <p>GP/7Brought Forward From Page</p> <p>GP/8Brought Forward From Page</p> <p>GP/9BroughtForwardFromPageGP/1</p> <p>0BroughtForwardFromPageGP/11Br</p> <p>oughtForwardFromPageGP/12</p>	
	<p>TOTALFORGENERALPRELIMINARIESC ARRIEDTOGRANDSUMMARY</p>	

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
<p><u>PROPOSED INTERVENTIONAL RADIOLOGY (IR) SUITE AT KNH</u></p> <p><u>BILL NO. 3</u></p> <p><u>ELEMENTA</u></p> <p><u>SUBSTRUCTURES (ALL PROVISIONAL)</u></p>					
A	Excavate over site to remove top soil average 150mm deep and cart away.	SM	259		
B	Excavate foundation trench commencing at reduced level and not exceeding 1.50m deep.	CM	120		
C	Ditto column bases	CM	63		
D	Cutting down of existing tree of overall girth of 1200-1500	NO	1		
E	Return fill in and ram selected excavated material around foundations.	CM	29		
F	Extra over excavation for excavating in rock.	CM	93		
G	Remove surplus excavated material from site.	CM	55		
<u>Selected hardcore</u>					
H	300mm Bedwell compacted and blinded with fine material 50mm thick to receive damp proof membrane (measured separately).	SM	195		
I	Approved insecticide treatment.	SM	221		
J	500 Gauge 'diothene' or other equal and approved polythene sheeting as damp proof membrane laid on blinded hardcore (measured separately).	SM	221		
<u>Plain concrete (1:3:6)</u>					
K	50mm Blinding under foundations.	SM	71		
L	Ditto under bases	SM	38		
Carried forward to collection					
©Kenya National Hospital					3/23

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
A	Vibrated reinforced concrete (class 25) Foundations	CM	15		
B	Bases	CM	14		
C	Columns	CM	3		
D	150mm Bed laid on damp proof membrane (measured separately) in bays not exceeding 50 square metres including formwork to edge of bays.	SM	221		
E	<u>Square twisted high tensile steel bar reinforcement to B.S. 4461 and K.S.02-22:1976</u> Assorted Nominal Sizes	KG	5,500		
F	Steel wire fabric mesh reinforcement to B.S. 4483 Ref: A 142 and K.S.02-18:1976 in concrete bed (measured net, no allowance made for minimum 225mm laps) including tying and supporting as required.	SM	221		
G	<u>Sawn formwork</u> Sides of foundation.	SM	52		
H	Ditto base	SM	40		
I	Ditto columns	SM	32		
J	Edge of bed 75-150mm high.	LM	67		
K	<u>Approved load bearing local stone walling in cement mortar (1:3).</u> 200mm Walling (7N/mm ²).	SM	168		
	Carried forward to collection				
	<u>COLLECTION</u>				
	Brought forward from Page No. 3/1				
	" " "3/2				
	TOTAL FOR SUBSTRUCTURES				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>ELEMENT B</u> <u>REINFORCED CONCRETE FRAME</u>				
	<u>Vibrated reinforced concrete (class 20) Beams</u>				
A	m.	CM	15		
B	Columns	CM	6		
C	200mm thick Suspended slab	SM	221		
	<u>Square twisted high tensile steel bar reinforcement as before (all provisional).</u>				
D	Assorted Normal Sizes	KG	10,500		
	<u>Sawn formwork</u>				
E	Sides of beam	SM	182		
F	Sides of columns	SM	74		
G	Soffit of Suspended slab	SM	186		
H	Edge of bed 75-150mm high.	LM	67		
	TOTAL RC FRAME				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>ELEMENTCWALLI</u> NG				
	<u>Precastconcrete(class25)bedded,jointedandpointeding</u> <u>augedmortar.</u>				
A	100x200mmLintolreinforcedwithandinclusing two 12mm square twisted high tensilesteelbarhookedatends.	LM	18		
	<u>ExternalWalling</u>				
	<u>ApprovedMachinecutstonewallingingausedmortar.</u>				
B	250mmthickreinforcedineveryalternatecourse	SM	120		
C	200mmthickditto	SM	88		
D	Dittoinparappetwall(1000mmhigh) <u>Exter</u>	SM	78		
	<u>nalWalling</u>				
	<u>ApprovedMachinecutstonewallingingausedmortar.</u>				
E	250mmthickreinforcedineveryalternatecourse	SM	44		
F	200mmthickditto	SM	48		
G	100mmthickditto	SM	18		
	<u>PluvexNo.1orotherequalandapprovedhorizontal</u> <u>bitumen damp proof course to B.S.743 (measured</u> <u>net - no allowance made forlaps).</u>				
H	250mmWideunderwalling.	LM	62		
I	200mmDitto	LM	52		
J	100mmditto	LM	8		
	TOTAL FOR WALLING				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>ELEMENT D</u>				
	<u>ROOF AND ROOF FINISHES</u>				
	<u>APP waterproofing membrane</u>				
A	4mm APP membrane applied to roof slabs	SM	210		
B	Ditto to 600mm high skirting to upstands	SM	59		
C	Dress membrane round 100mm rainwater outlet	NO	6		
	<u>Lightweight water-proofed screeds</u>				
D	50mm average screed laid to falls and cross falls to roof slabs and balconies	SM	210		
E	50x50mm triangular fillet	LM	71		
	<u>Roof terrace finishes</u>				
F	20mm thick protective screed laid over APP membrane and finished to receive cement interlocking tiles	SM	221		
	<u>Cement Interlocking tiles as manufactured by Kenya Clay Products Ltd or there equal and approved</u>				
G	Supply and fix 200 x 200 x 20mm thick tiles on prepared bed (m.s), bedded and jointed in tinted mortar	SM	221		
H	150mm thick skirting	LM	106		
	<u>UPVC rainwater pipes and fittings (provisional)</u>				
I	100mm diameter down pipe encased in concrete	LM	24		
J	100mm shoe	NO	6		
K	100mm diameter dome headed full bore roof outlet	LM	6		
	TOTAL FOR ROOF AND ROOF FINISHES				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
A	<p><u>ELEMENTEWIND</u> <u>OWS</u></p> <p>250x 75mm Precast concrete (class 20) sunk, weathered and throated cill cast in convenient lengths, reinforced as necessary for handling, bedded, jointed and pointed in gauged mortar and finished fair on all exposed faces.</p> <p><u>Supply, assemble and fix the following purpose made natural ionized aluminum windows with profiles from an approved manufacturer incorporating hooded mosquito proofed permanent vents, pin type hinges 6mm thick clear sheet toughened glass and ironmongery from an approved supplier</u></p>	LM	15		
B	Window size 8450x900mm high.	NO	1		
C	Ditto 7000x900mm high	NO	1		
D	Ditto 5300x900mm high	NO	1		
	TOTAL FOR WINDOWS				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>ELEMENTFDOORS</u>				
	<u>45mm Finished solid core flush doors faced both sides with approved hardwood veneer and hardwood lipped on all edges.</u>				
A	Door size 900x2600mm high	NO	2		
B	Ditto 800x2100mm high Panel Doors	NO	2		
	<u>45mm Thick Panelled Mahogany solid core door with hardwood lipping; panels to Architect's details</u>				
C	Size 900x2600mm high X-ray shielding doors	NO	4		
	<u>Supply, fix and install a heavy 9000kg/10,000kg /radio safety purpose made swing doors,; with hinges hunged correctly to specification; equiped with motorised/hydraulic opener; including all accessories closers, handles as provided by the manufacturer</u>				
D	Size 1800x2600mm high.	NO	1		
E	Ditto 1500x2600mm high	NO	1		
F	Ditto 900x2600mm high Frames	NO	3		
	<u>Wrot Mahogany or there equal and approved soft wood timber</u>				
G	150x50mm Frame with four labours.	LM	55		
H	50x25mm Architrave with six labours.	LM	55		
I	25x25mm Beading.	LM	55		
	Carried to collection				
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3/29					

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>Supply and fix the following UNION Ironmongery or other equal and approved ironmongery complete with all matching screws and keys (Reference to this particular catalogue is given as a guide to type and quality only and equal and approved alternatives may be used)</u>				
A	102x76x2mm Brass ball bearing steel hinge	PRS.	12		
B	Three Lever mortice Lock	NO	4		
C	Two lever mortice lock	NO	2		
D	Indicator Bolt	NO	2		
E	Floor mounted door stop	NO	6		
F	Provide a provisional sum for additional ironmongery (biometric locks)	SUM			
	<u>The whole of the following work is to be executed by an approved Sub-Contractor</u>				
G	Prepare and apply approved stain, sanding sealer and three coats of 'Crown Paints Solo' or other equal and approved clear matt varnish on general surfaces of timber doors	SM	34		
H	Do. but surfaces 100-200mm girth.	LM	50		
	Carried to collection C				
	<u>COLLECTION</u>				
	Brought forward from page No. 3/7 " "				
	" " " 3/8				
	TOTAL FOR DOORS				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
A	<u>ELEMENTG</u> <u>EXTERNAL WALLFINISHES</u> <u>Cementandsand(1:4)render</u> 12mmThicktoexposedwalls,beamsandcolu mns	SM	286		
B	<u>Prepareandapplythreecoatsexternalqualitymattemul sionpaintto:-</u> Plasteredsurfacesexternally	SM	286		
	TOTAL FOREXTERNALWALL FINISHES				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>ELEMENTH</u> <u>INTERNALWALLFINISHES</u>				
A	12mmTwocoatinternallimeplasteronwallsfinishedsmothwithasteeltrowel.	SM	400		
B	Do. <u>but</u> finishedtoreceiveceramicwalltiles(measuredseparately).	SM	28		
	<u>Approved'SAJceramic'walltilesorotherequaland approvedfixedonbacking(measuredseparately)withan approvedadhesivejointedandflushpointedwithgroutin gtomatchtile.</u>				
C	Glazedwalltiling.	SM	28		
D	Extraforapprovedplasticileedgingclip(Provisional).	LM	46		
	<u>The whole of the following work is to beexecutedbyanapprovedSub-Contractor.</u>				
E	Prepareandapplyoneundercoatandtwofinishing coats of 'Crown Paints Solo'silk sheenor other equal and approved emulsion paint onplasteredwallsinternally.	SM	400		
	<u>TOTALFORINTERNALWALLFINISHES</u>				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>ELEMENTIFLOOR FINISHES</u>				
	<u>Cementandsand(1:3)bedsandbackings</u>				
A	32mmBedonconcretefinishedtosmoothtoreceiveepoxy finish	SM	180		
B	Dittotoreceiveceramicfloortiles	SM	16		
	<u>SAJCeramicsotherequalandapprovedglazedfloortile sfixedonbacking(measuredseparately)withan approvedadhesivejointedandflushpointedwithgrouti ngtomatchtile.</u>				
C	Non-slipfloortiling.	SM	16		
D	100mmHighchamferedskirting.	LM	28		
	<u>Epoxyflooring</u>				
E	SupplyandFixonlyonecoatof"SikaFloor156ZAprimer" (5sqmtr/Lt)andonecoatof"SikaFloor261ZAto3mmthic kness"DFT"Epoxyresinfloorfinishorequalandapprove d:appliedasperthemanufacturersinstructionsandappro val	SM	180		
F	200mm high epoxy skirting to walls andcolumns	LM	139		
	TOTALFORFLOORFINISHES				

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
A	<u>ELEMENT CEILIN</u> <u>GFINISHES</u> <u>12mmThickplastertosoffitsCementsand</u> andlime(1:2:9)in <u>Prepareandapplythreecoatsinternalqualitysilkvinyle</u> <u>ulsionpaintto:-</u>	SM	195		
B	Ceilingsoffits	SM	195		
	TOTALFORCEILINGFINISHES				

ITEM				AMOUNT
<u>BILLNO. 3</u>				
<u>BUILDERSWORK</u>				
<u>SUMMARY</u>				
	<u>Element</u>	<u>Title</u>	<u>PageNo.</u>	
	A	SUBSTRUCTURES(<u>AllProvisional</u>)	3/2	
	B	RCFRAME	3/3	
	C	WALLING	3/4	
	D	ROOFANDROOFFINISHES	3/5	
	E	WINDOWS	3/6	
	F	DOORS	3/8	
	G	EXTERNALWALLFINISHES	3/9	
	H	INTERNALWALLFINISHES	3/10	
	I	FLOORFINISHES	3/11	
	J	CEILINGFINISHES	3/12	
	TOTAL AMOUNT CARRIED TO GRANDSUMMARY		SHS.	

ITEM	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<p><u>BILLNO.4</u> <u>PRIMECOSTSUMS</u></p> <p>Note:See Appendix'E' forpreamblestoPrimeCostandProvisionalSums</p> <p><u>The following prime cost sums are for works tobeexecutedcompletebynominatedSub-Contractors.</u></p>				
A	ProvideaPrimecostsumofKenyaShillingsFiveHundr edThousand Only for Plumbing,Drainage&firefighting		Sum		500,000.00
B	Addforprofit.				
C	Allowforattendance.		Sum		
D	ProvideaprimecostsumofKenyaShillingsOneMillion ,FiveHundredThousandOnlyForAirConditioningan dMechanicalVentilationServices		Sum		1,500,000.00
E	Addforprofit.				
F	Allowforattendance.		Sum		
G	Provideaprimecostsum of Kenya ShillingsTwo Million, Five Hundred Thousand Only ForelectricalInstallations				2,500,000.00
H	AddforProfit				
I	Allowforgeneral&specialAttendance		Sum		
	<p><u>TOTALAMOUNTCARRIEDTOGRANDSUM</u> <u>MARY</u></p>			Shs.	

PROPOSED CONSTRUCTION OF INTERVENTIONAL RADIOLOGY (IR) SUITE KNH

GRAND SUMMARY

Page

1 PARTICULAR PRELIMINARIES

PP/7

2 GENERAL PRELIMINARIES

GP/13

3 BUILDERS WORK

3/13

4 PRIME COST & PROVISIONAL SUMS

4/1

SUB-TOTAL

5 CONTINGENCIES

2,000,000.00

TOTAL AMOUNT VAT INCLUSIVE CARRIED TO FORM OF TENDER

R

KSHS.

SIGNED:

(CONTRACTOR)

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Address:

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Tel No:

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Date:

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SIGNED:

(EMPLOYER)

.....

Address:

.....

Tel No:

.....

Date:

.....

G/1

TECHNICAL SPECIFICATIONS FOR SUPPLY OF A NEW INTERVENTIONAL RADIOLOGY IMAGING SUITE FOR KENYATTA NATIONAL HOSPITAL

SUPPLY, INSTALLATION, TESTING AND COMMISSIONING OF BIPLANE DSA SYSTEM DESCRIBED IN THE SPECIFICATIONS

THE MACHINE OFFERED SHOULD BE HIGH END MODEL UNDER CURRENT PRODUCTION

1. The scope of work includes civil, mechanical and electrical works in the room/s provided by the hospital. The bidders are advised to make a site visit.
2. Data sheet is compulsory and will be used for evaluation in line with the technical specifications below
3. Any civil, mechanical and electrical alteration pertaining to installation of equipment will be to the supplier's account.
4. The supplier must include the cost of construction/ interior civil works and give the details of work (This will be quoted separately).
5. All parts and components used in the equipment which will be supplied as a part of this tender shall be virgin and should not have been used previously as a part of equipment or for any purpose other than pre installation testing. All the equipments shall be new. All the requirements of this supply shall be sourced from the original equipment manufacturer of the model quoted
6. Equipments shall operate on have 240V/50HZ single phase and 415V/50HZ three phase. The necessary protective relaying/circuitry shall be there with the machines. The mains supply voltage variation may be maximum 10% and frequency variation maximum 3%.
7. All the major equipments viz. the Biplane DSA system, anesthesia workstation with ventilator and patient monitor, pressure injector, ultrasound machine, protective lead apparels, etc. shall be having valid CE marking / US FDA approval and documentary evidence to that effect shall be submitted
8. Training on use of the equipments shall be imparted to the user staff.
9. The equipment must be tropicalized as below: Working temperature : Max. 35°C Storage temperature : Max. 50°C Relative humidity for Working : 40 - 60 % Relative humidity for Storage : Max. 90%
10. The license for the software shall be valid for the warranty period and for the CMC period without any extra charge to the purchaser i.e. MCGM.
11. Bidder should submit all technical details in the form of technical brochures / leaflets for all the equipments proposed for supply and mentioned in the technical offer.
12. It will be the responsibility of the successful bidder to fulfil all the installation related requirements of the AERB and commission the system.

PLEASE NOTE THE COLUMNS MARKED * MUST BE FILLED

Technical Specifications	*Compliance with respect to tender specifications	*Deviations with respect to tender specifications	Remarks
<p>A. <u>General Description of the IR System</u></p> <p>The supplier shall deliver and install its latest model of Bi-plane ceiling mounted C-arm Interventional Radiology Angiographic X-ray System with <i>hemodynamic system</i>. It must be a state of the art dual – plane high resolution Flat Panel Detector Technology digital imaging system</p> <p>The biplane X-ray angiography system shall be applicable for vascular angiography and other Interventional procedures of the whole body including the brain, thorax, abdomen and the extremities. It must have advanced diagnostic applications for vascular, neurovascular and non-vascular interventional procedures for both paediatric and adult patients.</p> <p>The Supplier shall design and construct or renovate the room in the site where the equipment will be installed following the manufacturer’s installation recommendation and radiation protection requirement.</p> <p>The supplier shall deliver all the accessories required in the operation of the cardiovascular angiographic x-ray system as stated herein.</p>			
<p>B. <u>Basic Description</u></p> <p>A biplane X-ray angiography system with flexible configuration capable of Adult and Paediatric Interventional Cardiology and Radiology and General Vascular Applications.</p>			
<p>C. <u>Features and Capability</u></p> <p>-Either capable of peripheral digital stepping angiography with online subtraction display in an examination procedure with only one single contrast medium injection under visual control for the bolus flow or capable of visually controlled stepless bolus chase technique which means more accurate bolus chase of the peripheral flow can be achieved (looking at bolus flow displayed at the monitor while controlling the speed of the table by using an actual controller) - Capable of real time Digital Angiography (DA) and Digital Subtraction (DSA) acquisition, with real time automatic pixel shift function without any user interaction. Minimum pulse rate available shall be 10 frames or pulses per second or less. The maximum pulse rate shall not be less than 30 frames or pulses per second.</p> <p>-Rotational angiography capability. Ability to perform single and/or dual axis rotational angiography at head end and nurse side.</p>			



<p>-Capable of road mapping with REAL TIME zoom, freeze-frame and advanced facilities.</p> <p>- Capable of fluoro grabbing of fluoroscopic image for documentation</p> <p>-Excellent patient access from all sides for various techniques and procedures. No need to reposition patients for these procedures</p> <p>-Easy to use and full control of all functionality whether in the examination or control room</p> <p>-Interventional tool for 3D modelling of coronary, thoracic, abdominal and peripheral and neurologic examinations. Rotational angiography possibility with 3D reconstruction.</p> <p>-Capable of 3D roadmap with CT or MR scan overlay on live fluoroscopy images.</p> <p>-Should be capable of registration of pre-acquired 3D data from various modalities such as CT, MR, PET to the angio information.</p> <p>-Automatic stand and table positioning program with unlimited stand projection that can be saved and recalled in a single procedure</p> <p>-Should have a minimum image storage capacity of 100,000 images in 1k/12- bit matrix.</p> <p>-Should have bi-directional communication with the physiologic/hemodynamic system for the exchange of patient data, X-ray shots and dose information to ensure optimized workflow: No need to type patient demographic data separately on the angiography system and hemodynamic system. Hemodynamic feature can be controlled at the table side</p>			
<p><u>D. GENERATOR</u></p> <ol style="list-style-type: none">1. Multipulse Microprocessor-controlled, high frequency X-ray generators1. Generator with fully integrated system control and automatic regulation of radiation power for all fluoroscopy and imaging modes.2. Modes required for all cardiovascular and interventional application such as DSA, rotational DSA, pulsed fluoroscopy, single exposure, and kV reduction technology are supported without limitations3. Power Rating of at least 100 KW at 1000 mA4. Radiographic kV/Tube Voltage range of 40 kV to 125kV5. It should have digital display for KVP and mAs.6. Maximum Radiographic Tube Current up to 1000			

mA in acquisition mode.

7. Maximum Fluoroscopic Tube Current of at least 50 mA for continuous and of at least 150 mA for pulsed fluoroscopy.
8. Must have variable pulse frequency of at least 60 pulse/second.
9. Number of Anatomically programmed protocol must not be less than 200.
10. Each acquisition protocol shall be able to programme the right x-ray parameters, processing, frame speed including pre-filtration settings, image appearance, etc. based on type of procedures and type of patients.
11. Shall be able to programme different protocols based on individual users' personal preferences.
12. The fields of view can be controlled automatically - without the user having to make any changes
13. Integrated automatic kV, mA, and pulse width control.
14. It should have over loading protection.
15. Pulsed fluoroscopy at variable rates for reducing the x-ray dose to the patient during interventional procedures should be possible without image drag during pulsing intervals.
16. Pulsed X-ray for (subtracted) acquisition up to 6 frames/s for vascular applications and Fluoroscopy should be possible in low frame rates up to 3.75fr/sec.
17. Must have different levels of adaptive Copper (Cu) pre-filtration for reduction of skin dose. Automatic selection control based on the absorption of the object. The extra Cu pre-filtration should remained in position in function of body absorption and should not be auto-removed depending of c-arm projection at any time

E. XRAY TUBE (BOTH PLANES)

Dual or triple focus X-ray tubes for biplane system. It should be Grid Switch tube technology with continuous rotating anode with instant x-ray on/off.

1. The focal spot of the x-ray tubes must be compliance with the following:
 - Small focus shall not be more than 0.5 mm
 - Large focus shall not be more than 0.9 mm
2. The small focal spot should provide at least 15kw and the large focal spot at least 65 kw output for extended runs.
3. The high tube power should provide brilliant image quality even with heavier/obese patients
4. The high tube power should provide brilliant image quality even with heavier/obese patients
5. Maximum anode heat storage capacity/maximum anode heat content at 5 MHU or more Maximum X-ray tube heat storage capacity of at least 7.0 MHU
6. Anode heat dissipation not less than 1,500 KHU/min Oil and/or water cooled X-ray tube with thermal safety switch
7. The tubes should provide at least 2.5kW continuous output for over 30 minutes.
8. Leakage radiation should conform to international standards. Filtration and leakage radiation dose should be indicated in the offer.
9. High inherent filtration not less than 0.9 mm Cu
10. Ability to manually override the automatic filters when needed

F. C-arm for Both Planes

1. There should be free space at the head end and both sides of the patient for access during emergencies.
2. Should be configurable to the room for optimal transfer positions to allow free access to the table from all sides during patient preparation
3. Positioning is automatic/motorized with option to move it manually
4. There is a collision protection or a safety system for the C-arm movements with either non-contact sensors or touch sensors on the tube, detector, C-arm and stand
5. Patient coverage: At least 180 cm
6. Focus to Iso-center: Should not be less than 75 cm
7. Iso-center to floor distance: Should not be less than 105 cm
8. Variable focal spot-to-detector distance Automatic
9. Positioning Stand Program
10. No. of pre-program stand position: at least 50 user definable positions can be stored
11. Programmable parameters: Must include at least the rotation, angulation and SID
12. Roadmap-driven positioning: Able to automatically position the stand to original stand parameter setting based on the roadmap image selected. The stand parameter shall include at least the rotation, angulation and SID
13. Selection of automatic positioning program must be simple and easy from the patient tableside

a) Floor Mounted C-Arm

1. Maximum possible angulation ranges for projections depending on selected working positions. Arm rotation must be both motorized & manual, to position left, head and right side of the patient over at least 180°.
2. LAO and RAO: (0 to 120° LAO, 0 to 185° RAO) at head-end position, (90° LAO, 90° RAO at both side



<p>of C-arm position)</p> <ol style="list-style-type: none">3. Cranial: (In head-end position: 0 to 90° cranial. In both side position: 0 to 185° cranial)4. Caudal: (0 to 90° caudal. In both side position: 0 to 120° caudal)5. Rotation speed and horizontal swivel speed of the C-arm: up to 25 degrees/sec and for 3D applications: 45 degrees/sec or higher6. Angulation speed and sliding speed: up to 18 degrees/sec or higher <p>b) Ceiling Mounted C-Arm</p> <ol style="list-style-type: none">1. Ceiling suspended counterbalanced with a single or double C-Arm design2. LAO and RAO: 0 to 90 degrees or higher3. Cranial: 0 to 45 degrees or higher, possible at any rotation angle as stated above4. Caudal: 0 to - 45 degrees or higher, possible at any rotation angle as stated above5. Angulation speed and sliding speed of the C-arm of at least 8°/s6. Speed of the C-arm in longitudinal direction: at least 15 cm/sec with speed control within the working area.			
<p>G. <u>Flat Detector Image Acquisition System</u></p> <ol style="list-style-type: none">1. The Frontal plane panel size should be 30x40 and the lateral plane panel should be 30x30 or more. Quote the largest size of lateral plane Flat Panel available with the Vendor2. High-resolution, dynamic flat detector for a fully digital imaging chain3. Max. field of view for frontal: at least 48 cm diagonal4. Max. field of view for Lateral: at least 39 cm diagonal5. Pixel size not more than 184 μm6. At least 6 detector field of views7. High resolution image matrix: at least one of the detector must be 2480 x 1920 pixels at 16 bits depth.8. The spatial resolution should be 3.25 lp/mm or more.9. Acquisition speed of the detector panel should be 30 images / sec or more			

<p>10. Detector quantum efficiency at 0 lp/mm: At least 70% both frontal and lateral</p> <p>11. With either passive or active detector cooling mechanism</p> <p>12. With removable grid</p> <p>13. With integrated non-touch collision protection system</p> <p>14. Automatic achievement of compact SID for additional dose reduction is preferred.</p>			
<p>H. <u>COLLIMATOR</u></p> <p>1. One collimator for each plane with motorized transverse and hexagonal leaves to be provided. The collimator leaf should have IRIS type arrangement.</p> <p>2. The collimator should have facility for automatic/selectable copper pre-filtration for reducing x-ray dose as per patient thickness.</p> <p>3. Additional filters with multiple leafs should be provided and it should be possible to position these filters and collimator leafs without live fluoroscopy.</p> <p>4. The collimator should have integrated dose measurement chamber in order to display skin dose on the live monitors in the lab.</p>			
<p>I. <u>Acquisition preference settings</u></p> <p>Using a touch screen tableside control system to include:</p> <ul style="list-style-type: none"> • Fluoro levels • FOV • Subtracted/non subtracted fluoro • Fluoro landscape • Room light on/off • Fluoro timer reset • Fluoro Loop and store 			
<p>J. <u>Patient Table</u></p> <p>a) Type: Floor-mounted carbon fiber radio translucent floating top, with maximum rigidity, low absorption and scatter, contoured for all neuroradiological examinations and peripheral interventional procedures</p> <p>b) Dimensions of the table: a. Table Length of at least 280 cm b. Table width of at least 45 cm</p> <p>c) Transverse travel: at least 35 cm</p> <p>d) Longitudinal travel: at least 120 cm</p> <p>e) The height of the patient tabletop can be set using a motorized telescopic foot/column or using the control module.</p> <p>f) Height adjustment range of the patient tabletop: Lowest should be less than 85 cm, Highest up to 110 cm or better</p> <p>g) Table load capacity of at least 300 kg. (inclusive of at least 500 N additional force for emergency CPR).</p>			



<p>Emergency CPR can be performed at any table position.</p> <ul style="list-style-type: none">h) Tabletop pivot/range of rotation: at least 240 degrees or -180° to +90°i) Tilt angle (Head down/Head up): At least +/-15 degreesj) With durable visco-elastic medical grade, body shape conforming mattress with latex free cover at least 7 cm thickk) It should be possible to swivel the table in case of emergencies.l) All patient positioning accessories to be supplied.m) Fully ergonomic footswitch and hand positioning for easy positioning and quick release to be provided.n) Headrest, armrest, full radiolucent armboard and drip stand should be provided.			
<p><u>K. Image Display for the Examination Room</u></p> <ul style="list-style-type: none">a) At least four (4) medical grade monitors be installed in the examination room including hemodynamics systemb) Ceiling-mounted, longitudinally mobile, swivelling, rotating, and heightadjustable display suspension system with a large color flat screen display, and hidden cabling, at least four (4) 19" (Medical grade at least 2 MP) or bigger TFT monitorc) Motorized height adjustment Swivel range (max. system rotation): 300° ±10°d) Colour flat display: Flicker-free and distortion-freee) Can receive different external video signals and process this information for displayf) All changes can be performed during the procedure by using the touch screen panel at table side. Data such as live and reference images, workplace, recording systems, PACS, HIS/RIS, ultrasound, ECG, external video, endoscope, mapping systems, device and table geometry, system messages and dose indications, can be individually positioned and displayed. All this changes can be performed during the procedure by using the control or screen panel at table side.g) Safety measure to secure against a power supply failure: four (4) or more separate power supplies. <p><u>L. Image display for the Control Room</u></p> <ul style="list-style-type: none">a) Provided with one (1) monitor for live frontal and live lateral in split display of at least 24" monitor with image matrix of at least 1920 x 1080b) Another one (1) monitor for patient data and review			

<p>display of at least 24" monitor with image matrix of at least 1920 x 1080</p> <p>c) Must be able to view images of previous patients in the console while a current procedure in on-going</p> <p>d) Two (2) units of at least 21" monitor for hemodynamic waveform and procedure charting</p> <p>e) One (1) unit TFT-LCD color monitor for 3D post-processing and other advanced applications of at least 19" with image matrix of at least 1280 x 1024</p> <p>f) At least one (1) unit TFT-LCD (minimum 21") monitor for workstation (DICOM) and Report editing terminal/ workstation</p> <p>g) Provide the Doctors with workstation complete with UPS and one (1) unit medical grade 3 MP monitor of at least 19" for reporting and editing.</p>			
<p><u>M. Digital Imaging System and Essential Software</u></p> <p>Fluoroscopy</p> <ul style="list-style-type: none"> • Must have variable frame rate from 0.5 fps to not lower than 30 fps for mono-plane and biplane mode • Acquisition Matrix: - highest image matrix of at least 2480 x 1920 pixels at 16 bits depth • Capable of superimposing active fluoro and reference image <p>Pulsed fluoroscopy</p> <ul style="list-style-type: none"> • Must have variable pulse rate of up to 30 fps • On-the-fly fluoroscopy mode of at least 3 selections at the table side of different pre-programmed dose rate and copper pre-filtration combinations for optimal balance between dose and image quality • Storage of a fluoroscopic run of at least 20 sec shall be possible and reviewable in cine loop • Real-time on-line image harmonization and edge-enhancement processing algorithm applicable for both fluoroscopy and acquisition mode • Real-time temporal noise reduction algorithm with vessel motion compensation applicable to reduce noise, produce sharper and better contrast image in fluoroscopy and acquisition runs using very low detector dose and low X-ray tube power settings <p><i>DSA functions shall include the following;</i></p>			

- Real-time subtraction at frame rates up to 30 fps
- Storage of a fluoroscopic run of at least 20 sec shall be possible and reviewable in cine loop Real-time on-line image harmonization/filtering and edge-enhancement processing algorithm applicable for both fluoroscopy and acquisition mode
- DSA functions shall include the following and must be selectable and operable inside the examination from the tableside:
 - a) Real-time subtraction
 - b) Subtracted fluoro capability
 - c) Mask selection
 - d) Land marking
 - e) Manual, automatic and flexible pixel shift
 - f) Opacification for iodine and CO2 contrast

Digital Angiography

- Frame rates are available for acquiring digital real-time images: minimum of 7.5 fps or less and can be set up to 30 fps or higher
- Can be acquired both as individual and series acquisitions with 1k matrix and bit depth of at least 10 bits for acquisition, display and storage
- Over and underexposed areas of native series and individual images can be harmonized online to ensure a homogenous view of the image

Roadmap:

- Able to store up at least 100 roadmap image of runs. Cine loop must be possible
- Able to create a vessel map from a DSA-scene to enhance image quality over conventional Roadmap to reduce X-ray dose and contrast media at the same time
- The system must have an automatic pixel shift processing during Roadmap and DSA based on real time movement detection and image compensation to ensure a perfect image match
- Shall have the ability to store up to at least 1 physiological data and display at least one real time

physion data with acquired images simultaneously

- ECG triggered fluoro and acquisition facility
- High resolution roadmap / subtracted fluoroscopy facility for long period in uninterrupted manner should be available. It should be possible to display the subtracted and the native images for both planes simultaneously alongside the reference image in the examination room as well as the control room.
- It should be possible to perform serial acquisition at prefixed frame rate or manually vary the sequence.
- The system should have automatic background image transfer without interruptions even during acquisition and image review.

Peripheral DSA:

- Native and subtracted peripheral digital angiography with stepping can be performed using only a single contrast-medium injection or using a digital stepless bolus technique.
- Shall support the following DICOM protocols
 - a) DICOM Store
 - b) DICOM WLM
 - c) DICOM MPPS
 - d) DICOM Query and Retrieve
 - e) DICOM Print
 - f) DICOM SR
- Fusion package for spatial alignment and visualization of image data of one patient where image data has been generated at different points in time of by different modalities.
- The successful bidder must supply all image enhancement softwares that may be launched in future and may be available at the time of supply of the equipments

N. WORKSTATIONS

- a) Separate workstation should be provided with at least 2 GB main memory for 3D reconstruction to free the main system for continuation of procedure

immediately after 3D acquisition.

- b) The 3D reconstruction should be fast and the 3D projections should be displayed both in the control room as well as the examination room.
- c) It should be possible to recall and view images acquired in the rotational mode (subtracted and unsubtracted) alongside the 3D images in both the rooms.
- d) Review of all images should be fast, interactive and user friendly in the examination as well as the console room.
- e) Tableside controls for 3D reconstruction and C-arm positioning with respect to 3D image and selection of 3D image to enable C-arm positioning should be provided.
- f) The 3D reconstruction should be in true 512 matrix.
- g) The independent workstation should have following functions:
 - Post processing software facilities with real time edge enhancement, re-masking, peak opacification, image inversion, anatomical background display, windowing, electronic shuttering, roaming, zooming and magnifying with text and annotation functions should be provided.
 - All essential post-processing functions should be possible from tableside consoles and from the control room.
- h) Access to all series / images should be fast and possible from the control room as well as the examination room.
- i) It should have minimum image storage capacity of 50,000 images in 10242 matrix.
- j) User selected fluoroscopy loops storage in the disc should be possible.
- k) The complete digital system along with workstation should be networked and connected to a DICOM compatible laser camera and it should be possible to document hardcopies from the main system as well

as the 3D workstation.			
<p>O. <u>CT</u></p> <p>a) CT acquisition for soft tissue viewing should be fast, at least 30f/s at 1k matrix.</p> <p>b) Image reconstruction should be fast and automatic. Typical image reconstruction and display time to be specified.</p> <p>c) It should be possible to post process CT images both in the control room and the examination room.</p> <p>d) 4. It should be possible to have both the 3D and CT data with 3D Angio to combine high resolution vessel information with soft tissue information. Fusion of 3D and CT is preferable.</p> <p>e) 5. Low contrast resolution of the 2D images on CT acquisition should be at least 10HU for 10mm slice measured on a 16cm CATPHAN phantom.</p> <p>f) 6. The system should be capable of giving 3D image and CT image from the same acquisition with capability to toggle between both on the fly, without the need to reload the volume.</p>			
<p>P. <u>CLINICAL APPLICATIONS</u></p> <p>i) Neuro-angiography</p> <p>ii) Peripheral angiography</p> <p>iii) Interventional procedures including:</p> <p>iv) Arterial embolization/angioplasty</p> <p>v) Hepatobiliary procedures-Biliary drainage, biliary stenting, TIPS</p> <p>vi) Renal interventional techniques- Nephrostomy, stenting</p> <p>vii) Revascularization procedures</p> <p>viii)MSK procedures- Joint injections, Kyphoplasty</p> <p>ix) Radiofrequency and microwave ablation of tumours</p>			
<p>Q. <u>ADVANCED APPLICATIONS</u></p> <p>i) System for stent visualization during stent deployment. Cracked stents, stent in stent should be clearly visualized</p> <p>ii) Dynamic, unsubtracted acquisition at a fixed frame rate of 5fps with manual and remote</p>			



<p>panning of the table to optimize visualization of a run off</p> <ul style="list-style-type: none"> iii) Ability to reconstruct and visualize the entire length of the subtracted bolus chasing acquisition on a single image. iv) Capability for 3D imaging for the internal body structures and interventional devices in one image v) The digital system should have software for vascular analysis and quantification including stenosis quantification with auto-calibration. vi) Live and integrated needle guidance for interventional procedures such as vertebroplasty, kyphoplasty, biopsies, drainages, radiofrequency and microwave ablations vii) Tissue reconstruction for imaging bone, soft tissues and other internal body structures viii) Subtracted 3D enhanced application ix) To give 3D effects through acquiring a range of projections with one contrast injection x) Simple and automated bolus chasing techniques xi) Blended Roadmap vascular application in DSA xii) Alignment between C arc & 3D model. xiii) Should include capability to store & recall multiple positions whether preset or according to reference images xiv) Stereotactic biopsy plus the biopsy attachments to be provided. 			
<p>R. <u>VESSEL WALL QUANTIFICATION</u></p> <ul style="list-style-type: none"> i) Vessel Diameter ii) Stenotic Index iii) Automated vessel analysis iv) True lesion length v) Calibration routine <p>S. <u>Interventional Packages</u></p> <ul style="list-style-type: none"> a) Provide the following Quantitative Evaluation Software; <ul style="list-style-type: none"> • Full neuro package 3D software • Tumor/embolization Roadmap/guidance software • Stent Boost or equivalent software • Angio Smart Perfusion software or equivalent b) Quantification results can be quickly and easily stored in the patient folder for documentation and 			

demonstration purposes			
<p>T. <u>System Controls and User Interface</u></p> <ul style="list-style-type: none"> • All system movements of the C-arm, table, image display, image review, image processing, and analysis must be operable from table-side • The following control elements/control options positioned at table-side: <ul style="list-style-type: none"> a) Console and controls for stand movements b) A handle for table movement c) Exposure switch and hand switch table controller for special procedures, if any, such as peripheral stepping or bolus chase and rotational angiography d) For detector lift control e) For C-arm, table, and collimator movements f) A wireless foot pedal for radiation release, acquisition and table break. With configurable setting to switch on/off the room light g) Should the wireless foot pedal run out of battery, it should be possible to just connect a cable and use like a regular foot pedal or there should be another wired foot pedal as a backup h) Images can be digitally magnified from table side control • Touchscreen or table side control panel that can be able to display acquired images and ability to perform common hemo features at tableside: <ul style="list-style-type: none"> a) For all fluoroscopy and acquisition modes for fluoroscopy storage b) For image/scene replay and monitor display c) For image post-processing d) For quantitative analysis e) The archived images can be shown on the live monitor in the examination room The device and table positions, system messages and dose values can be displayed in both the examination room and the control room 			
<p>U. <u>Rotational Angiography</u></p> <ul style="list-style-type: none"> • Angle-triggered native and subtracted digital rotational angiography can be performed for optimized 2D image display with 3D effect • Acquisitions with frame rates in 1k matrix from 0.5 to 7.5, 10, 15, 30 f/s (standard) and 60 f/s with reduced spatial resolution can be selected • 3D Image Acquisition and Generation • A graphic display of 3D protocol menu must be available for easy selection of the appropriate 3D acquisition protocol • Injection recommendations and other important notes for the staff can be incorporated into the displayed 3D protocol, for consistency in imaging 			

results and standardization

- Acquisition of 3D images be completed at table side if necessary
- Angle-triggered native and subtracted digital rotational angiography (if available) be optimally reconstructed to allow three-dimensional imaging and review
- The selected 3D program already contain all the parameters for 3D reconstruction
- The reconstruction can be performed automatically without need for control room assistance
- The default reconstruction parameters and viewing presets can be configured according to user preferred result
- Reconstructions be repeated with different reconstruction parameters
- Generation of 3D Volumes with High Contrast Resolution Software must fulfil the following requirements:
 - a) Acquisition of angiographic images using a fast-rotating C-arm around the Isocenter at an angle range of at least 150°
 - b) Parameterizable exposure programs must be available that enable situation dependent acquisition parameters
 - c) Start positions of the C-arm must be able to be saved, retrieved and protected against changes
 - d) Acquisition of images must be possible using native and subtracted technology (when DSA is part of the acquisition system). For native acquisitions, dose reduction must be possible without an additional run
 - e) It must be possible to transfer images to the 3D workstation in the background via a high-speed interface without affecting the work on the acquisition system and without actions on the acquisition system slowing down the transfer
 - f) The 3D workstation must have processing software that can create back projections from the images received from the acquisition system
 - g) The system will allow both subtracted (when DSA is available) and native reconstructions
 - h) Specific desired working positions can be automatically transferred from the 3D volume to the C arm
 - i) The 3D volume can be set to automatically and simultaneously adjust to any change in C arm geometry and zoom format performed in the system
 - j) Specific working projections can be planned in the 3D volume and saved for later use
 - k) Specific working projections can be planned in the 3D volume and saved for later use
 - l) The 3D workstation must offer functions for the

- display and editing of 3D images
- m) Images from CT, MR and PET must be usable and capable for image fusion
 - n) There should be a software for reconstructing slices with CT-like soft tissue resolution from the projection images of rotational angiography
 - o) There should be different acquisition programs for the heart, neuro and abdomen
 - p) Should be capable of double volume display, e.g., for simultaneous display of mask and fill run for optimal differentiation of calcification and contrast-filled vessel
 - q) The segmented tumour (s) and tracked feeder vessel(s) with the line tackers (in 3D Volume) can be overlaid with the live fluoroscopy images for 3D roadmap navigation of the catheter and to be able to assist the embolization procedure selectively.
 - r) Should be capable of double volume display, e.g., for simultaneous display of mask and fill run for optimal differentiation of calcification and contrast-filled vessel
 - s) Should have simultaneous overlay of mask run as MPR and fill run as VRT
 - t) The real-time overlay of the 3D Volume (segmented tumour (s) and tracked feeder vessel(s) with line trackers) with the live fluoroscopy images shall be able to be recorded in movie as well as snapshot files and stored for reviewing at any time.
 - u) Should be able to acquire CT-like images at the table side for planning and guidance
 - v) With excellent soft tissue image quality through rotational angiography, for neuro and general interventional angiography.
 - a. Measurements can be performed in MPR mode and transferred to VRT imaging

V. Three Dimensional (3D) ROADMAP

- Should be capable of overlaying a live fluoroscopy image with a corresponding 3D image from the 3D reconstruction
- Must be possible for any projection, zoom, SID and table position, with automatic adjustment in the overlaid 3D image should there be any changes to these parameters
- Can be overlaid in both regular or subtracted fluoro.
- Patient movements can be compensated either

manually or automatically to achieve optimal overlay of fluoroscopy

W. Registration of Pre-Acquired 3D Data from Various Modalities to the Angiography System

- Datasets from different modalities such as CT, MR, or PET should be supported.
- Registration of pre-acquired 3D datasets to the current patient geometry can be performed using fluoroscopy, with or without a current new 3D acquisition
- Fusion of loaded pre-acquired 3D information can be completely performed from table side, without the need to step out to the control room
- The module should have automatic registration functions

X. Dose Saving Measures

- a) There should be fluoroscopy modes with different system doses per image directly selectable by the user
- b) A measurement chamber is available for the display and documentation of equivalent skin dose and dose area product
- c) Pulse frequencies can be adapted using additional reduced pulse frequencies to the requirements of each application to significantly reduce exposure to radiation in fluoroscopy, particularly during interventions
- d) Different fluoroscopy programs are always available for instant selection at tableside, even under sterile conditions
- e) Dose values of the fluoroscopy programs can be changed simply and quickly without any change in the temporal resolution (constant pulse rate)

<p>f) There should be radiation-free positioning of the primary and semi-transparent collimators by means of graphic display in the LIH (Last Image Hold)</p> <p>g) It should be possible to reposition an object under visual control without radiation</p> <p>h) The measured dose-area product and the calculated patient entry dose must be shown on the monitor</p> <p>Y. <u>Dose reporting</u></p> <p>a) The dose information can be displayed in DICOM format after each examination</p> <p>b) The dose information in an integrated DICOM data set consisting of images and dose information can be sent together to a DICOM archive</p> <p>c) The dose information in text format can be evaluated flexibly and processed further via an analysis software/database and exported, for example to Excel</p> <p>d) Over- and under-exposed images can be harmonized to guarantee a homogeneous image impression</p> <p>e) No need for manual correction via windowing</p> <p>f) Image noise can be suppressed efficiently through dose-dependent filtering of image data Vessel edges can be displayed in high contrast using a real time analysis of pixels without increasing image noise</p> <p>g) Small moving vessels and guide wires can be made more clearly visible in fluoroscopy Image quality can be customized to the preferences of the use</p> <p>h) Image quality can be customized to the preferences of the user</p>			
<p>Z. <u>Anaesthetic Components</u></p> <p>a) Anaesthesia Workstation</p> <p>i. It should be a compact, integrated system consisting of basic unit with flow meters and breathing system, electrically driven ventilator with electronic controller unit and two vaporisers (Isoflurane and Sevoflurane).</p> <p>ii. Anaesthesia Workstation should be pendant mounted.</p> <p>iii. Basic unit should include the following:</p> <ul style="list-style-type: none"> • Should be operable on mains/battery; battery backup should be up to 60 minutes. • Should be available with O2, N2O and Air (3 			



<p>gas) combination.</p> <ul style="list-style-type: none">• iii) Should have cylinder yokes : O2 and N2O pin-indexed hanger yokes• iv) Mounting for Two vaporisers should be provided.• Flow meters should be cascaded for O2 and N2O from 0.02 to 0.5 and 0.5 to 10 L/min.• O2 shortage indication by means of audio alarm.• Vii) N2O should be shut off when O2 supply is interrupted / stopped or O2 fresh gas valve is closed.• In case of O2 failure system should automatically ambient air ventilation should continue.• ORC (Oxygen ratio controller) should be available to ensure minimum supply of 25 % oxygen at any given time in an O2/N2O mixture• Separate pressure gauges for supply of O2, N2O and Air.• The breathing system should have outlets for excess gas, semi-closed mode and mounting for single or double chambered internal circle absorber. <p>b) Vaporisers</p> <ol style="list-style-type: none">1. Vaporisers should be available for Isoflurane/Sevoflurane2. Vaporisers should be flow, temperature and pressure compensated.3. Vaporisers should have lifetime calibration warranty and should not require periodic refurbishment. <p>c) Ventilator</p> <ol style="list-style-type: none">1. Ventilator should be integrated within main unit.2. Ventilator should be electrically driven and electronically controlled from an electronic control unit.3. System should have fresh gas decoupling for low flow anaesthesia.4. Ventilator should be piston base.5. Tidal volume should not be affected by changing fresh gas flow <p>d) Electronic Controller Unit</p>			
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1. The electronic control unit should be easy to operate with rotary knob.
2. Should have LED display of adjustable settings for:
 - i) Tidal Volume (20 - 1400 ml)
 - ii) Rate (6-60 bpm)
 - iii) I : E Ratio (1:3 – 2:1)
 - iv) PEEP (0 – 15 mbar)
 - v) Inspiratory flow: 10 to 70 l/min in volume control mode
 - vi) Ventilator Modes: Volume Control (VC), PCV, SIMV/PS, Manual/Spontaneous
3. The display should be minimum 6.5” and shall display
 - i) 6.5 Inch (16.5 cm) display
 - ii) FiO2 adjustment and Monitoring
 - iii) Minute Volume
 - iv) Peak Pressure
 - v) PEEP
 - vi) Alarm limits
 - vii) Alarm Messages

e) Three (3) Patient Monitors (one with capnography)

- i) Should be suitable for adult, paediatric and neonatal patient monitoring in fixed environment.
 - ii) Should have minimum 8 channels of waveforms with minimum 17” display with vertical and horizontal cursors
 2. Should display minimum 30 waveforms
 - iii) Battery backup for the base unit should be two hours.
 - iv) Should have automatic graphic and tabular trending of all monitored parameters as standard
 - v) Should have event recall minimum up to 50 events, graphical and tabular trends, drug dose calculations, alarm logs
 - vi) Should have Arrhythmia detection including All life threatening arrhythmias such as VTACH , ASYST, VFIB as standard feature
 - vii) Should have minimum ECG, Respiration, NIBP, SpO2, 2 IBPs, 2 Temp., OxyCRG as standard .
- All other parameters should be through upgrades as pods or modules/ software.

f) ECG

- i) 6 lead ECG cable (for dual V lead display)
- ii) Should be able to monitor single or two leads of ECG waveform simultaneously.
- iii) Should display 12 leads of ECG by connecting 6/5 ECG lead wires (Reduced lead set algorithm) as standard feature.

g) Respiration

- i) Through impedance pneumography method for Adult, Pediatric and Neonatal patients

h) SpO2

- i) Should have option for both Nellcor as well as Masimo SET technology with respective sensors
- ii) Should display digital value and Plethysmograph
- i) NIBP**
- i) For adult, pediatric , neonatal patients
- ii) By oscillometric principle of measurement with step wise deflation.
- iii) Suitable Should display Systolic, diastolic, mean pressure in large easy to read display
- iv) Should have manual/ stat mode or automatic mode with adjustable time intervals from 2 – 240 minutes and adjustable alarm limits
- j) IBPs**
- i) 2 IBP's should be standard
- ii) Upgradeable to 4 IBP's, CO2 and Wedge Pressure

11. Temperature: Two temperatures, one core and second skin.

12. Neuro Muscular Monitoring (NMT) module.

13. EEG: minimum 4 channels with display of spectra

14. BIS Module for measuring dept of anesthesia with 30 adult BIS sensors

15. Cardiac Output module for measuring the cardiac output using the thermodilution technique and four Invasive pressures.

16. Agent Monitoring to include agent analysis, CO2, N2O, MAC value with color coding of agents.

k) CEILING SUPPLY PENDANT FOR ANAESTHESIA

- i) Double arm pendant minimum length of arm should be 1500mm.
 - ii) Should have horizontal and vertical movements.
 - iii) Minimum service column length should be 1000mm with load carrying capacity of approximately 180 kg.
 - iv) Maximum numbers of possible services on column should <50.
 - v) Angle of rotation of column and arms should not be <330 degree.
 - vi) Inner diameter of bearing inside the arm to pass the service cables should be min 104 mm.
 - vii) Should have facility to stop the arm movement as per the site requirement.
 - viii) Should come with the friction break and pneumatic break as standard for arm system.
 - ix) Should have facility to mount and lift any Anaesthesia machine on service column.
 - x) Should have 2 x O2, 1x N2O, 2x Vac, 2x

<p>Air 4 bar gas outlets.</p> <p>xi) Should have venture principle scavenging system integrated in service column.</p> <p>xii) Should have at least 10 electrical sockets and 1 RJ 45 data output connection facility.</p> <p>xiii) Should have 1 shelf for monitor and 1 CVP pole for min 4 infusion pumps.</p>			
<p>AA. <u>NETWORKING</u> PLUS</p> <p><u>CONNECTIVITY</u></p> <p>1. The system and workstations must be PACS/DICOM 3.0 compatible (compliant).</p> <p>2. DICOM facility should be included to send, store, print, receive, Query/Retrieve, service class, storage service class, storage commitment service class, print management service class, MWM, (modality worklist management) and modality performed procedure step (MPPS) service etc. should be standard.</p> <p>3. DICOM Modality Worklist to provides HIS/RIS interface through DICOM Modality Worklist service class; enhances clinical workflow by importing patient demographics and study information from an information management system.</p> <p>4. DICOM connectivity activated service class user and provider (CT, MRI and other imaging modalities)</p> <p>5. PC Based connectivity through PACs should be standard for easy transfer of Images & Reporting.</p> <p>6. The DICOM should be DICOM enabled and ready at the time of installation for all DICOM requirements of the institution.</p> <p>7. The vendor (supplier) must provide DICOM conformance statement</p> <p>8. All the costs associated with connectivity of the system to the PACs and HIS/RIS is the responsibility of the vendor (i.e interfaces, licences, software and hardware)</p>			
<p>BB. <u>ARCHIVING</u></p> <p>1. Computer offered should be the latest with multitasking processors and menu driven platform with a RAM size of at least 4GB</p> <p>2. The hard disk capacity for both image & raw data should be more than 1,500 GB.</p> <p>3. It should have facility to store at least 500,000 images.</p> <p>4. The system should be supported with archiving facility of DVD, CD & USB Main Console and workstations</p> <p>5. UPS for the archiving workstation</p>			
<p>CC. <u>FILMING</u></p> <p>1. Auto filming of user-selected images and series from any local or remote storing device, and from any</p>			



<p>application, should be available.</p> <p>2. Basic monochrome and color DICOM Print capability should be supported.</p> <p>3. The Film Preview application that permits image manipulation and windowing as well as rearranging film pages prior to printing is required.</p>			
<p>DD. <u>SYSTEM UPGRADES</u></p> <p>a) Software upgrades that enhance the existing applications will be provided by the vendor.</p> <p>b) These changes shall include any circuit boards, software upgrades etc to enhance system capability</p> <p>c) The system should have capability of being upgraded as new technology emerges for at least 7-10 years (with better results). This must be guaranteed.</p> <p>d) Additional or new software must have the capability of being downloaded by remote computer access.</p>			
<p>EE. <u>ACCESSORIES</u></p> <p>The supplier must provide the following accessories:</p> <p>1. On line UPS for the entire system with minimum One (1) hour back up.</p> <p>2. One pressure dual syringe injector pump with 200 mls disposable syringes.</p> <ul style="list-style-type: none">• A modern dual head pump injector for both angiography and cardiac work.• Must have an extravasation detector to prevent even mild contrast extravasation• Must have saline flush capabilities and protocol options for most advanced clinical applications. <p>3. Radiation Protection:</p> <p>a) Six (6) pcs. Wrap around Lead gown with thickness of >0.35 mm lead equivalence. Full overlap in front for total protection, flexible belt to release load on back and shoulder, smart side closure to prevent accidental exposure</p> <p>b) Six (6) pcs. Lead gown (vest and skirt) with thickness of >0.35 mm lead equivalence Complete overlap on the front opening as well as the vest as well as the vest overlap of the skirt for added protection, optimized weight distribution to reduce load on back and shoulders, full overlap on skirt circumference for added lower body protection</p>			

<ul style="list-style-type: none"> c) Two (2) pcs. Radiation protective cap d) Six (6) pcs. Thyroid Collar with thickness of >0.35 mm lead equivalence e) Three (3) pcs. lead eye Goggles f) Five (5) pcs. Gonadal shield g) Table side lead protection. h) A Large Radiation Protection Lead Glass of minimum size of 80cm x 40cm between the Examination Room and the Console. i) Radiation protection shield should be table mounted acrylic lead shield j) Two (2) units Mobile Apron Storage Racks for Lead Aprons each with 10 Hangers k) Wall Rack for Lead Aprons with 5 Hangers l) One (1)unit focused ceiling Headlight Wireless High Performance Led Headlight powered by Li-batteries or rechargeable batteries <p>4. i. One Color HP Laser Printer.</p> <p>ii. Multi size dry laser film printer of any reputable make with 600 dpi or more -large fast printer with three film trays -should be able to print images from multiple imaging modalities in the department[CT,MRI and fluoroscopy machines]</p> <p>5. X-Ray View Box: The View Box should be wall mounted, slim design, light- weight, with high luminous density uniform light. It should have daylight LED lamps. It should have scratch-proof clear glass pane and an internal acrylic milk glass pane. It should have sharp edge collimation of small image areas. The X-ray view boxes should be supplied in the following sizes: To view 4 Films of 14"x17" size : 4 Nos</p> <p>6. Water phantoms shall be included CATPHAN. QC (Quality Control) Phantoms shall be provided including Infant Calibration Phantom.</p> <p>7. 10 High back office chairs</p> <p>8. Signage for radiation safety</p>			
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<p>9. Crash medicine cart (trolley)</p> <p>10. Long Patient trolley to hold catheters (2 No) ,at least 1.5 meters long.</p> <p>11. Steel cupboards (1Nos)</p> <p>12. In –Build drawers for keeping catheters and other consumables</p> <p>13. Two (2) units Teo Crank Hospital bed, Height adjustment of 45cm70cm(optional), 80 degree back section lifting angle, 40 degree leg section lifting angle, all casters with lock, steel frame epoxy painted powder coating, detachable ABS head and foot boards, foldable cranks handle with over loading protection system, collapsible side rails, 4 IV sockets with 8cm thick Leatherette mattress</p> <p>14. Two (2) units Stretchers... Three crank back-rest lifting; height adjustment, stainless steel frame, fifth-aluminum alloy guard rail, 5 inches silent caster, with brake, with IV pole, oxygen cylinder holder, debris basket, mattress</p> <p>15. Five (5) units mobile IV Pole, stainless steel, size, 4 hooks , legs heavy base, Adjustable Height</p> <p>16. One (1) unit each of Manual Resuscitator for Adult and for Pediatric. It must be made of silicon rubber and autoclavable up to 135 degree Celsius</p> <p>17. Stethoscope, one for Pediatric and one for adult.</p> <p>18. Glucometer one touch-sure step with lancet</p> <p>19. Two (2) units Instrument Table (stainless kidney type)</p> <p>20. Two (2) units Stainless square instrument table</p> <p>21. Two (2) units Stainless bedside trolley with towel tail on both sides</p> <p>22. Three (3) units, 3 seater Gangchair</p> <p>23. Two (2) units Emergency cart</p> <p>24. Two (2) units Kidney table (long table aluminum)</p> <p>25. One (1) Printer with Bluetooth or WIFI/WIFI</p>			
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<p>DIRECT/Ethernet. Desk top black and white printer with scanner and copier capabilities.</p> <p>26. One (1) unit Arterial Blood Gas Analyser</p> <ul style="list-style-type: none"> -Highly portable -microprocessor controlled -Analysis range 0-2000ppm up to 0-100% vol/vol -LCD monitor -Rechargeable batteries- charger input range 220-240Vac -Internal sampling pump to draw samples into analyzer -CO2 sensor – solid state infrared sensor <p>27. One (1) unit Defibrillator/ MONITOR</p> <p>28. Three (3) units Anesthesia Syringe Pumps it must be applicable for OR and Cath Lab procedure.</p> <p>29. Two[2] electric suction units</p> <p>30. Positioning Aids</p> <ol style="list-style-type: none"> a) Flexible anesthesia screen holder serves as a holder for sterile drape (anesthesia screen) placed between the head and abdomen of the Patient. b) Arm rest for radial access which can be fixed on both sides of the bed. Includes: at least a 60 cm radiolucent arm board with open polyurethane cushion, with fixation strap c) Radiolucent elastic compression band: which can be mounted to the sides of the tabletop to compress abdomen for easier access to groin d) Head wedge to elevate head part of the patient when they cannot tolerate flat position (height 1-10 cm): should be made of washable plastic foam e) Head pad: with deep profile for securing the head during examinations f) Body strap: at least 2 belts with Velcro straps that can be inserted through holes in the tabletop to secure patient 			
<p>31. POWER REQUIREMENT</p> <ul style="list-style-type: none"> -400/415 VAC - 50/60Hz electric supply - Three phase power distribution source <p>Machine should be connected to the hospital's maintained power from the hospital's substation</p>			
<p>32. UPS</p>			

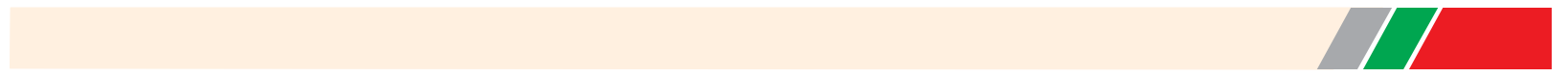
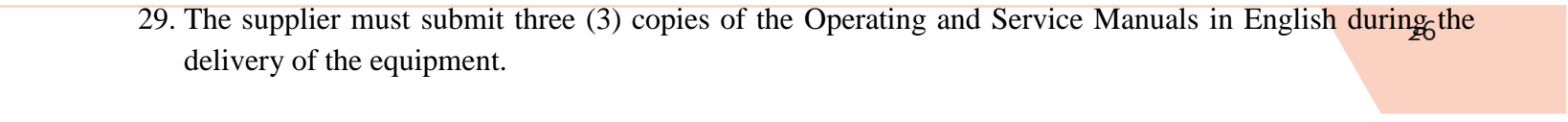


<p>UPS compatible with machine (not less than 100kVA with not less than 1 hour back up) Uninterrupted power supply (UPS) must be provided which must supply at least 60 minutes of backup, Power for host computer, reconstruction and the monitors (longer duration is preferred).</p>			
<p>33. WARRANTY</p> <p>At least Three (3) years warranty. All parts and all labour costs to be included during the warranty period. Comprehensive service contract to be given for at least Five (5) years negotiable including labour, spare parts and third party items which include air conditioning, UPS plus batteries ,pump injector, workstation and printer. TO BE QUOTED SEPARATELY. Service support to be detailed. Spare parts availability to be detailed. Remote service support to be detailed.</p> <p>For the warranty period is over, five (5) years annual Comprehensive Maintenance Contract (CMC) will have to be entered into with the terms and conditions mentioned in the tender specifications. The successful bidder has to ensure that all the required spares and services are available during the period of CMC and Ten (10) years after that period.</p> <p>-The equipment supplied must be new and must meet medical devices regulations or CSA medical standards</p>			
<p>34. START UPS FOR TESTING</p> <ul style="list-style-type: none"> - IV contrast media – (Nonionic low osmolar contrast media – 50 bottles of 50mls each. - Films – Laser Printer films 35cm x 45cm- 5 boxes. - Paper for colour laser printer- 5 boxes - Injector pump syringes-5 boxes 			
<p>35. TRAINING</p> <p>(a) Training for Biomedical technologists, radiologists and radiographers must be included.</p> <p>(b) Training for two biomedical technologists for Ten (10) days at the vendor’s education centre or factory training is required.</p> <p>c) Ten (10) days overseas training for two radiographers at a similar installation site</p> <p>d) Ten days application onsite training for Radiographers, Radiologists, anaesthetists and Biomedical engineers immediately following the installation is required.</p> <p>e) Radiologist training. At least Ten (10) days application training for two (2) radiologists at a similar installation overseas</p>			
<p>The Qualifications of the instructors must be clearly stated. Course content, written materials</p>			

and program duration must be stated.			
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OTHER TERMS AND CONDITIONS

1. Only original documents printed by the manufacturer will be considered for evaluating specifications. Photocopies will not be accepted in lieu of the originals. Any changes/ alterations/clarifications in comparison to the original printed document should be submitted on the letterheads of the original manufacturer duly signed by manufacturer's representative competent to do so.
2. All the equipments should be provided with one hard copy in original of the detailed service manual and operation manual. Further a soft copy is also required.
3. Bidders must be licensed to install radiological apparatus by the Kenya Nuclear Regulatory Authority (KNRA)
4. The angiographic x-ray system shall have a full warranty for at least Three (3) years on parts and service
5. The supplier should provide the necessary radiation shielding on walls and doors of the x-ray room
6. The x-ray system must be compatible and can be integrated with the PACS / RIS of the hospital.
7. A software and hardware interface for a PACS connection to other modalities must be included.
8. The supplier must upgrade the host computer hardware and software and when they upgrade to the prevailing industry standards free of cost.
9. Any Software upgrade packages in the supplied system, within 5 years from date of supply must be done free of cost and included as standard.
10. There shall be **no separate** licensing fee for the use of software (software by the bidder or third party) supplied by the bidder if there is.
11. All equipment provided shall be of current production, new and of first-rate quality.
12. Remote diagnostic capabilities must include the ability to remotely connect the system on a regular basis to retrieve information about the system and to correct any software problems.
13. It is the responsibility of the bidder to provide all items required but **erroneously mentioned or omitted** above for the full commissioning of the equipment.
14. Civil works and Interior finish in all aspect to build and remodel the proposed rooms to meet the installation and operating requirement of the manufacturer shall be the responsibility of the supplier. **See specs for civil works.**
15. **The supplier shall provide the airconditioning units in all areas of Angiography Suite Facility. See specs for civil works**
16. The Supplier must install a Main Distribution Panel (MDP) for Hospital Building of at least 4000 Amp with the following Scope of Works:
 - a. Installation of rough in-ins/cable trays from transformer going to Main Distribution Panel (MDP).

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- b. Installation of wirings/cables from transformer going to Main Distribution Panel boards as per electrical plan.
 - c. Installation of electrical panel boards and circuit breakers as per electrical plan
 - d. Connection of wirings/cables and energization.
 - e. Construction of Main Distribution Panel (MDP) Housing.
17. The Supplier shall be responsible for laying the electrical cables from the main supply point of the hospital panel board to Angiographic system incoming power point
 18. The supplier shall supply and install the main incoming switch fuse unit lighting and power distribution boards and lay distribution lines required for all items installed with the Angiographic system and electrical lightings, switches and sockets for the main equipment, console room and electrical room.
 19. The electrical power needed by the x-ray system must be compatible with the available power supply of the hospital. It is the obligation of the supplier to provide the necessary transformer if necessary. The unit must be supported with online UPS and TVSS appropriate for the Angiographic system.
 20. The angiographic x-ray system manufacturer must conform with ISO 13485. The unit must conform with International Electrotechnical Commission. The supplier must provide the proof of compliance.
 21. The bidder/supplier should have trained technical staff based in Africa Region that is competent to perform preventive and corrective maintenance and should be currently employed by the bidder/supplier. The technical staff must have at least three years' experience in conducting maintenance of a Angiographic X-ray System.
 22. The bidder/supplier must be the exclusive distributor of the x-ray system being offered in the Africa.
 23. The x-ray system carrying the brand being offered by the supplier must be in the local market for at least Five (5) years.
 24. The supplier must specify at least one (1) installation in the Africa region indicating the name of facility, its address and date of installation that will prove the x-ray system existences for the last ten years and above.
 25. All equipment and other materials needed for the delivery and installation, commissioning of the Angiographic unit shall be the sole responsibility of the supplier and at no cost to the Hospital.
 26. Supplier must bind itself to conduct preventive maintenance on a quarterly basis at its own expense (including labour and cost of spare parts in compliance) with SPMC ISO and CQI Standards.
 27. Cost of damages on the existing facility that will be incurred during delivery and installation of all equipment will be shouldered by the supplier.
 28. During warranty, the supplier's technical staff must respond within 24 – 48 hours in case of technical problems or equipment breakdown. In case of machine downtime, the supplier is given three (3) days for remedial action (repair and or replacement of spare parts). On the 4th day, if the unit is not operational, a penalty shall be imposed in accordance with the General Condition of the Contract and Special Condition of the Contract being part of the bid document.
 29. The supplier must submit three (3) copies of the Operating and Service Manuals in English during the delivery of the equipment.
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- 30. Submit Notarized Certificate of availability of spare parts for the next ten (10) years.
- 31. Submit Certificate of Exclusive Distributorship or Authorized Distributorship.
- 32. Safety requirement should meet internationally approved guidelines.

CENTRAL AIRCON AND DUAL-INVERTER SPLIT AIR CONDITIONING SYSTEM AT RADIOLOGY DEPARTMENT

TECHNICAL SPECIFICATIONS FOR AIR CONDITIONER:

QUANTITY – 5 (FIVE)

Area of use –RADIOLOGY

Scope of work: CENTRAL AIRCON AND DUAL-INVERTER SPLIT AIRCONDITIONING SYSTEM.

- Supply, deliver, install, test and commission the Dual-inverter split air conditioners to the satisfaction of the Hospital

	Description	Unit	Qty	Rate	Total
	To supply, deliver and install Split Air Conditioner (AS PER SPECIFICATIONS).				
A	TYPE – -Wall mounted split Air Conditioner -Cooling capacity 26,000 BTU/HR. (6.2—6.8kw), 240 V 50Hz power supply				
1	<u>Indoor Unit (Wall mounted)</u> (a)Operating refrigerant R-410A or any non CFC Acceptable by Montreal protocol.- C/W protection grill and must come complete with a wireless remote controller, with a liquid crystal display or LED display & a set of 1.5V batteries (b)To come complete with a variable speed tangential fan - Low noise with 3 - Dimensional turbo fan & filters - Unit to be microprocessor controlled	No	4		
2	<u>(ii) Outdoor unit</u> (a)(6.2—6.8kw), 240 V 50Hz power supply (b) Operating refrigerant R410A or any approved refrigerant in accordance with Montreal protocol. (To have a tangential condenser fan and hermetic compressor fully charged with refrigerant. R410A or any approved refrigerant in accordance With Montreal protocol)	No	4		
3	Power surge protector type AVS 30 Amps: Power supply 240, 50 HZ C/W phase failure relays as approved hermetic compressor complete with all other necessary controls such as-electrical wiring and cables from power distribution board, mcbs, spur switch, contractors and overloads.	No	4		
4	SUPPLY, DELIVER, INSTALL, TEST AND COMMISSION CENTRAL AIR CONDITIONING SYSTEM AS PER SPECIFICATIONS (i) Supply and install central air conditioning system - complete with humidifiers and dehumidifiers , Cooling Capacity of 30KW, refrigerant, R-410 A , C/C2 5.7 KG .BP-LP 20 Bar HP -31 Bar A Max- 14.3, - KW Max -6.2. , 415V.				
					NO

<p>Control 24/50/1, 100VA 415V.TYPE 355041-TRANE BVBA/France OR equal to TRANE MODEL TTA 100B, 102,000 BTU/HOUR (30KW) cooling capacity and complete with -it's indoor /out door units and fans. The system Should be complete with a properly sized sound silencer. ii) <u>Indoor Unit (Wall mounted)</u> No.4(four) (a)-- Operating refrigerant R-410A or any non CFC Acceptable by Montreal protocol-C/W protection grill compete with a wireless remote controller, with a liquid crystal display or LED display b)To come complete with a variable speed tangential fan - Low noise with fan & filters - Unit to be microprocessor controlled</p>				
<p>ii) Allow construction of a 6 “ concrete platform for the A/C in the plant room</p>				

Configuration/features

Indoor unit - A variable speed tangential fan- low noise with 3 dimension turbo fan, plasma T.M air purifying system.

(ii) Outdoor unit

- C/W variable speed tangential fan
- C/W hermetic compressor fully charged with R410A or any approved refrigerant in accordance With Montreal protocol.

Noise level 45/57db-in/out

Air circulation 16M³ IN/42M³ OU

N/B The above shall give an added advantage

Accessories –

To include one (1) remote control c/w batteries

Copper pipes, insulation material and fittings

Correctly rated installation cables (2.5mm² size)

Conduits & mini trunkings for installation works, and protection mcbs

Outdoor housing/mounting cage

Safety protection

The equipment must also be protected with an appropriate properly sized M.C.B. isolator

Utilities-

Electricity – single phase 240V 50Hz

Conditions

- | |
|---|
| <p>1. Bidders must be licensed mechanical engineering firms specializing in ventilation and air conditioning.</p> |
| <p>2. Bidder must attach NCA 5 and above registration certificate for mechanical engineering HVAC9(Attach the certificates)</p> |
| <p>3. Bidders must attach practice license, machine catalogues intended placement for evaluation</p> |
| <p>4. Equipment to be ISO 9001/CE certified.</p> |
| <p>5. Bidders must show proof of having carried out similar works.</p> |
| <p>6. Successful bidder must provide a 1 year warranty of their product.</p> |

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

SECTION VIII - GENERAL CONDITIONS OF CONTRACT (GCC)

[Name of Procuring Entity] [Name
of Contract] [Project Manager's
Name and Address] **General**

Conditions of Contract

1. GENERAL PROVISIONS

Definitions-

In this Contract, except where context otherwise requires, the following terms shall be interpreted as indicated below. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

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

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

“Completion Date” means the date of completion of the Works as certified by the Project Manager.

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

“Contractor” means the person(s) named as contractor in the Form of Tender accepted by the Procuring Entity.

“Particular Conditions of Contract” means the pages completed by the Procuring Entity entitled Particular Conditions of Contract which constitute Part A of the Particular Conditions.

“Contractor's Documents” means the calculations, computer programs and other software, progress reports, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.

“Contractor's Equipment” means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Procuring Entity's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

“Contract Price” means the price defined in the contract and thereafter as adjusted in accordance with the provisions of the Contract.

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

“Contractor's Representative” means the person named by the Contractor in the Contractor appointed from time to time by the Contractor who acts on behalf of the Contractor.

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

“Day” means a calendar day and **“year”** means 365 days.

“Dayworks” means Work in progress subject to payment on a time basis for labor and the associated materials and plant.

“Defects Notification Period” means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], which extends over the days stated in the Particular Conditions of Contract.

“Defects Liability Period” means the period named in the Particular Conditions of Contract and calculated from the Completion Date, within which the contractor is liable for any defects that may develop in the handed over works.

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

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

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

“Procuring Entity” means the Procuring Entity named as Procuring Entity in the Particular Conditions of Contract.

“Procuring Entity's Personnel” means the Project Manager, the assistants and all other staff, labor and other employees of the Project Manager and of the Procuring Entity; and any other personnel notified to the Contractor, by the Procuring Entity or the Project Manager, as Procuring Entity's Personnel.

“Procuring Entity's Equipment” means the apparatus, machinery and vehicles (if any) made available by the Procuring Entity for the use of the Contractor in the execution of the Works, as stated in the Specification; but does not include Plant which has not been taken over by the Procuring Entity.

“Project Manager” means the person appointed by the Procuring Entity to act as the Project Manager for the purposes of the Contract and named in the Particular Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor.

“Final Payment Certificate” means the payment certificate issued under Sub-Clause 14.13 [Issue of Final Payment Certificate].

“Final Statement” means the statement defined in Sub-Clause 14.11 [Application for Final Payment Certificate]. **“Force Majeure”** is defined in Clause 19 [Force Majeure].

“Foreign Currency” means a currency of another country (not Kenya) in which part (or all) of the Contract Price is payable, but not the Local Currency.

“Goods” means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

“Interim Payment Certificate” means a payment certificate issued under Clause 14 [Contract Price and Payment], other than the Final Payment Certificate.

“Laws” means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.

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

“Local Currency” means the currency of Kenya.

“Materials” means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

“Notice of Dissatisfaction” means the notice given by either Party to the other under Sub-Clause 20.3 indicating its dissatisfaction and intention to commence arbitration.

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

“Payment Certificate” means a payment certificate issued under Clause 14 [Contract Price and Payment].

“Performance Security” means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security]. **“Performance Certificate”** means the certificate issued under Sub-Clause 11.9 [Performance Certificate]. **“Permanent Works”** means the permanent works to be executed by the Contractor under the Contract.

“Plant” means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Procuring Entity and relating to the construction operation of the Works.

“Provisional Sum” means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional Sums].

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

“Retention Money” means the accumulated retention moneys which the Procuring Entity retains under Sub-Clause 14.3 [Application for Interim Payment Certificates] and pays under Sub-Clause 14.9 [Payment of Retention Money].

“Schedules” means the document (s) entitled schedules, completed by the Contractor and submitted with the Form of Tender, as included in the Contract.

“Section” means a part of the Works specified in the Particular Conditions of Contract as a Section (if any)

“Site” means the places where the Permanent Works are to be executed, including storage and working areas, and to which Plant and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.

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

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

“Statement” means a statement submitted by the Contractor as part of an application, under Clause 14 [Contract Price and Payment], for a payment certificate.

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

“Subcontractor” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works.

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

“Temporary Works” means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

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

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

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

“Time for Completion” means the time for completing the Works or a Section (as the case may be) as stated in the Particular Conditions of Contract (with any extension calculated from the Commencement Date).

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

“Unforeseeable” means not reasonably foreseeable by an experienced contractor by the Base Date.

“Variation” means any change to the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].

“Works” means the items the Procuring Entity requires the Contractor to construct, install, and turnover to the Procuring Entity, as defined in the Appendix to Conditions of Contract. **“Works”** may also mean the Permanent Works and the Temporary Works, or either of them as appropriate.

Interpretation

In the Contract, except where the context requires otherwise:

- a) Words indicating one gender include all genders;
- b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;
- d) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and
- e) The marginal words and other headings shall not be taken in to consideration in the interpretation of these Conditions.

Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

- a) In writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Particular Conditions of Contract; and
- b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Particular Conditions of Contract. However:
 - i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
 - ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Project Manager, a copy shall be sent to the Project Manager or the other Party, as the case may be.

Law and Language

The Contract shall be governed by the laws of **Kenya**.

The ruling language of the Contract shall be **English**.

Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a) The Contract Agreement,
- b) The Letter of Acceptance,
- c) The Form of Tender,
- d) The Particular Conditions–Part A,
- e) The Particular Conditions–Part B
- f) These General Conditions of Contract
- g) The Specifications
- h) the Drawings, and
- i) the Schedules and any other documents forming part of the Contract.

If an ambiguity or discrepancy is found in the documents, the Project Manager shall issue any necessary clarification or instruction.

Prior to commencing construction works, the Contractor shall prepare and submit to the Procuring Entity for approval drawings and specifications (including Bills of Quantities, (if need be) which will guide on the contract works to be carried out. The Specifications shall be prepared taking the following Notes for preparing Specifications.

Specifications

1. Specifications must be drafted to present a clear and precise statement of the required standards of materials, and workmanship to the requirements of the Procuring Entity. The Specifications should require that all materials, plant, and other supplies to be permanently incorporated in the Works be new, unused, of the most recent or current models, and incorporating all recent improvements in design and materials unless provided otherwise in the Contract.
2. Specifications from previous similar projects are useful and may not be necessary to re-write specifications for every Works Contract.
3. There are considerable advantages in standardizing **General Specifications** for repetitive Works in recognized public sectors, such as highways, urban housing, irrigation and water supply. The General Specifications should cover all classes of workmanship, materials and equipment commonly involved in constructions, although not necessarily to be used in a particular works contract. Deletions or additions should then adapt the General Specifications to the particular Works.
4. Care must be taken in drafting Specifications to ensure they are not restrictive. In the Specifications of standards for materials, plant and workmanship, existing Kenya Standards should be used as much as possible, otherwise recognized international standards may also be used.
5. The Procuring Entity should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in tender documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential tenderers.
6. The Contractor should provide a description of the selected parts of the Works with appropriate reference to Drawings, Specifications, Bills of Quantities, and Design or Performance criteria, stating that the alternative solutions shall be at least structurally and functionally equivalent to the basic design parameters and Specifications.
7. Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology, and other relevant details. Technical alternatives permitted in this manner shall be considered by the Procuring Entity each on its own merits and independently of whether the contractor has priced the items as described in his design included with the contract documents.

Contract Agreement

The Parties shall enter into a Contract Agreement within 28 days after the Contractor receives the Letter of Acceptance, unless the Particular Conditions establish otherwise. The Contract Agreement shall be based upon the form annexed to the Particular Conditions. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Procuring Entity.

Assignment

Neither Party shall assign the whole or any part of the Contractor any benefit or interest in or under the Contract. However, either Party:

- a) May assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and
- b) may, as security in favor of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.

Care and Supply of Documents

The Specifications and Drawings shall be in the custody and care of the Procuring Entity. Unless otherwise stated in the Contract, two copies of the Contract and of each subsequent Drawings and Bills of Materials shall be supplied to the Contractor, whomay make or request further copies at the cost of the Contractor.

Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Procuring Entity. Unless otherwise stated in the Contract, the Contractor shall supply to the Project Manager two copies of each of the Contractor's Documents.

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Procuring Entity's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

Delayed Instructions

The Contractor shall give notice to the Project Manager whenever the Works are likely to be delayed or disrupted if any necessary instruction is not issued to the Contractor within a particular time, which shall be reasonable. The notice shall include details of the necessary instruction, details of why and by when it should be issued, and the nature and amount of the delay or disruption likely to be suffered if it is late.

If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Project Manager to issue the notified instruction within a time which is reasonable and is specified in the notice with supporting details, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause

20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

After receiving this further notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Project Manager's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

Procuring Entity's Use of Contractor's Documents

As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Procuring Entity a non-terminable transferable non-exclusive royalty-free license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This license shall:

- a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacement of any computers supplied by the Contractor.

The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Procuring Entity for purposes other than those permitted under Sub-Clause 1.10.2.

Contractor's Use of Procuring Entity's Documents

As between the Parties, the Procuring Entity shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Procuring Entity. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Procuring Entity's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

Confidential Details

The Contractor's and the Procuring Entity's Personnel shall disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation.

The Contractor's and the Procuring Entity's Personnel shall also treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualification to compete for other projects.

Compliance with Laws

1.131 The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Particular Conditions:

- a) The Procuring Entity shall have obtained (or shall obtain) the planning, zoning, building permit or similar permission for the Permanent Works, and any other permissions described in the Specifications as having been (or to be) obtained by the Procuring Entity; and the Procuring Entity shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Procuring Entity harmless against and from the consequences of any failure to do so, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence.

Joint and Several Liability

If the Contractor constitutes (under applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons:

- a) These persons shall be deemed to be jointly and severally liable to the Procuring Entity for the performance of the Contract;

- b) these persons shall notify the Procuring Entity of their leader who shall have authority to bind the Contractor and each of these persons; and
- c) the Contractor shall not alter its composition or legal status without the prior consent of the Procuring Entity.

Inspections and Audit by the Procuring Entity

Pursuant to paragraph 2.2 e. of Appendix B to the General Conditions, the Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Public Procurement Regulatory Authority, Procuring Entity and/or persons appointed or designated by the Government of Kenya to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Procuring Entity if requested by the Procuring Entity. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 15.6 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Procuring Entity's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Procuring Entity's prevailing sanctions procedures).

2 THE PROCURING ENTITY

Right of Access to the Site

The Procuring Entity shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the **Particular Conditions of Contract**. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Procuring Entity is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Procuring Entity shall do so in the time and manner stated in the Specification. However, the Procuring Entity may withhold any such right or possession until the Performance Security has been received.

If no such time is stated in the Particular Conditions of Contract, the Procuring Entity shall give the Contractor right of access to, and possession of, the Site within such times as required to enable the Contractor to proceed without disruption in accordance with the programme submitted under Sub-Clause 8.3 [Programme].

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Procuring Entity to give any such right or possession within such time, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Procuring Entity's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

Permits, Licenses or Approvals

The Procuring Entity shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain properly:

- a) Copies of the Laws of Kenya which are relevant to the Contract but are not readily available, and
- b) Any permits, licenses or approvals required by the Laws of Kenya:
 - i) Which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws],
 - ii) For the delivery of Goods, including clearance through customs, and
 - iii) For the export of Contractor's Equipment when it is removed from the Site.

2.3 Procuring Entity's Personnel

2.3.1 The Procuring Entity shall be responsible for ensuring that the Procuring Entity's Personnel and the Procuring Entity's other contractors on the Site:

- a) co-operate with the Contractor's efforts under Sub-Clause 4.6 [Co-operation], and
- b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b) and (c) of Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.18 [Protection of the Environment].

Procuring Entity's Financial Arrangements

The Procuring Entity shall submit, before the Commencement Date and thereafter within 28 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Procuring Entity to pay the Contract Price punctually (as estimated at that time) in accordance with Clause 14 [Contract Price and Payment]. Before the Procuring Entity makes any material change to his financial arrangements, the Procuring Entity shall give notice to the Contractor with detailed particulars.

Procuring Entity's Claims

If the Procuring Entity considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period,

the Procuring Entity or the Project Managers shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Procuring Entity's Equipment and Free-Issue Materials], or for other services requested by the Contractor.

The notice shall be given as soon as practicable and no longer than 28 days after the Procuring Entity became aware, or should have become aware, of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Procuring Entity considers himself to be entitled in connection with the Contract. The Project Manager shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Procuring Entity is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension of Defects Notification Period].

This amount may be included as a deduction in the Contract Price and Payment Certificates. The Procuring Entity shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Sub-Clause.

3. The Project Manager

Project Manager's Duties and Authority

The Procuring Entity shall appoint the Project Manager who shall carry out the duties assigned to him in the Contract. The Project Manager's staff shall include suitably qualified Assistants and other professionals who are competent to carry out these duties. The Project Manager's Name and Address shall be provided in the **Particular Conditions of Contract**.

The Project Managers shall have no authority to amend the Contract.

The Project Manager may exercise the authority attributable to the Project Manager as specified in or necessarily to be implied from the Contract. If the Project Manager is required to obtain the approval of the Procuring Entity before exercising a specified authority, the requirements shall be as stated in the Particular Conditions. The Procuring Entity shall promptly inform the Contractor of any change to the authority attributed to the Project Manager.

However, whenever the Project Manager exercises a specified authority for which the Procuring Entity's approval is required, then (for the purposes of the Contract) the Procuring Entity shall be deemed to have given approval.

Except as otherwise stated in these Conditions:

- a) Whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Project Manager shall be deemed to act for the Procuring Entity;
- b) The Project Manager has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract;
- c) Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Project Manager (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances; and
- d) any act by the Project Manager in response to a Contractor's request except as otherwise expressly specified shall be notified in writing to the Contractor within 28 days of receipt.

The following provisions shall apply:

The Project Manager shall obtain the specific approval of the Procuring Entity before acting under the following Sub-Clauses of these Conditions:

- a) Sub-Clause 4.12: agreeing or determining an extension of time and/or additional cost.
- b) Sub-Clause 13.1: instructing a Variation, except:
 - i) In an emergency situation as determined by the Project Manager, or
 - ii) if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the **Particular Conditions of Contract**.
- c) Sub-Clause 13.3: Approving a proposal for Variations submitted by the Contractor in accordance with Sub-Clause 13.1 or 13.2.
 - a) Sub-Clause 13.4: Specifying the amount payable in each of the applicable currencies.

Notwithstanding the obligation, set out above, to obtain approval, if, in the opinion of the Project Manager, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Project Manager, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Procuring Entity, with any such instruction of the Project Manager. The Project Manager shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Procuring Entity.

Delegation by the Project Manager

3.2.1 The Project Manager may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident Project Manager, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Project Manager shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations].

3.3.2

Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Project Manager. However:

- b) Any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Project Manager to reject the work, Plant or Materials;
- c) If the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Project Manager, who shall promptly confirm, reverse or vary the determination or instruction.

Instructions of the Project Manager

The Project Manager may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Project Manager, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

The Contractor shall comply with the instructions given by the Project Manager or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Project Manager or a delegated assistant:

- d) Gives an oral instruction,
- e) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and
- f) does not reply by issuing a written rejection and/ or instruction within two working days after receiving the confirmation, then the confirmation shall constitute the written instruction of the Project Manager or delegated assistant (as the case may be).

Replacement of the Project Manager

If the Procuring Entity intends to replace the Project Manager, the Procuring Entity shall, not less than 21 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended replacement Project Manager. If the Contractor considers the intended replacement Project Manager to be unsuitable, he has the right to raise objection against him by notice to the Procuring Entity, with supporting particulars, and the Procuring Entity shall give full and fair consideration to this objection.

Determinations

- 3.51 Whenever these Conditions provide that the Project Managers shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Project Manager shall consult with each Party in an endeavor to reach agreement. If agreement is not achieved, the Project Manager shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.
- 3.5.2 The Project Manager shall give notice to both Parties of each agreement or determination, with supporting particulars, within 28 days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].

4 The Contractor

Contractor's General Obligations

The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Project Manager's instructions, and shall remedy any defects in the Works.

The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country.

The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor (I) shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and (ii) shall not otherwise be responsible for the design or specification of the Permanent Works.

The Contractor shall, whenever required by the Project Manager, submit details of the arrangements and methods which the Contractor propose to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Project Manager.

If the Contract specifies that the Contractor shall design any part of the Permanent Works, then unless otherwise stated in the Particular Conditions:

- a) The Contractor shall submit to the Project Manager the Contractor's Documents for this part in accordance with the procedure specified in the Contract;
- b) These Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language], and shall include additional information required by the Project Manager to add to the Drawings for coordination of each Party's designs;
- c) The Contractor shall be responsible for this part and it shall, when the Works are completed, be fit for such purposes for which the part is intended as specified in the Contract; and
- d) prior to the commencement of the Tests on Completion, the Contractor shall submit to the Project Manager the "as-built" documents and, if applicable, operation and maintenance manuals in accordance with the Specification and in sufficient detail for the Procuring Entity to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until these documents and manuals have been submitted to the Project Manager.

Performance Security

The Contractor shall obtain (at his cost) a Performance Security for proper performance, in the amount stated in the **Particular Conditions of Contract** and denominated in the currency (I e s) of the Contract or in a freely convertible currency acceptable to the Procuring Entity. If an amount is not stated in the Particular Conditions of Contract, this Sub-Clause shall not apply.

The Contractor shall deliver the Performance Security to the Procuring Entity within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Project Manager. The Performance Security shall be issued by a reputable bank selected by the Contractor, and shall be in the form annexed to the Particular Conditions, as stipulated by the Procuring Entity in the Particular Conditions of Contract, or in another form approved by the Procuring Entity.

The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.

The Procuring Entity shall not make a claim under the Performance Security, except for amounts to which the Procuring Entity is entitled under the Contract.

The Procuring Entity shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Procuring Entity was not entitled to make the claim.

The Procuring Entity shall return the Performance Security to the Contractor within 14 days after receiving a copy of the Taking-Over Certificate.

Without limitation to the provisions of the rest of this Sub-Clause, whenever the Project Manager determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation, or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Project Manager's request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage.

Contractor's Representative

The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract. The Contractor's Representative's Name and Address shall be provided in the **Particular Conditions of Contract**.

Unless the Contractor's Representative **is named in the Contract**, the Contractor shall, prior to the Commencement Date, submit to the Project Manager for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked in terms of Sub-Clause 6.9 [Contractor's Personnel], or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

The Contractor shall not, without the prior consent of the Project Manager, revoke the appointment of the Contractor's Representative or appoint a replacement.

The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Project Manager's prior consent, and the Project Manager shall be notified accordingly.

The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Project Manager].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Project Manager has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language]. If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Project Manager.

Subcontractors

The Contractor shall not subcontract the whole of the Works.

- 4.4.1 The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Particular Conditions:
- a) The Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract;
 - b) The prior consent of the Project Manager shall be obtained to other proposed Subcontractors;
 - c) the Contractor shall give the Project Manager not less than 28 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site; and
 - d) each subcontract shall include provisions which would entitle the Procuring Entity to require the subcontract to be assigned to the Procuring Entity under Sub-Clause 4.5 [Assignment of Benefit of Subcontract] (I for when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity].

The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.

Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from Kenya to be appointed as Subcontractors.

Assignment of Benefit of Subcontract

If a Subcontractor's obligations extend beyond the expiry date of the relevant Defects Notification Period and the Project Manager, prior to this date, instructs the Contractor to assign the benefit of such obligation to the

Procuring Entity, then the Contractor shall do so. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Procuring Entity for the work carried out by the Subcontractor after the assignment takes effect.

Co-operation

The Contractor shall, as specified in the Contract or as instructed by the Project Manager, allow appropriate opportunities for carrying out work to:

- i) The Procuring Entity's Personnel,
- j) Any other contractor employed by the Procuring Entity, and
- k) The personnel of any legally constituted public authorities, whom may be employed in the execution on or near the Site of any work not included in the Contract.

Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.

If, under the Contract, the Procuring Entity is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Project Manager in the time and manner stated in the Specification.

Setting Out

The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract or notified by the Project Manager. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

The Procuring Entity shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.

If the Contractor suffers delay and/or incurs Cost from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or Cost, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- l) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- m) payment of any such Cost-plus profit, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent the error could not reasonably have been discovered, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this.

Safety Procedures

The Contractor shall:

- a) Comply with all applicable safety regulations,
- b) Take care for the safety of all persons entitled to be on the Site,
- c) Use reasonable efforts to keep the Site and Works clear of unnecessary obstructions so as to avoid danger to these persons,
- d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Procuring Entity's Taking Over], and
- e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

Quality Assurance

The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Project Manager shall be entitled to audit any aspect of the system.

Details of all procedures and compliance documents shall be submitted to the Project Manager for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Project Manager, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

Site Data

The Procuring Entity shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Procuring Entity's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Procuring Entity shall similarly make available to the Contractor all such data which come into the Procuring Entity's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.

4.10.1 To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Tender as to all relevant matters, including (without limitation):

- n) The form and nature of the Site, including sub-surface conditions,
- o) The hydrological and climatic conditions,
- p) The extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,
- q) The Laws, procedures and labor practices of Kenya, and
- r) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

Sufficiency of the Accepted Contract Amount

The Contractor shall be deemed to:

- s) Have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and
- t) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.10 [Site Data].

Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any defects.

Unforeseeable Physical Conditions

In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.

If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give notice to the Project Manager as soon as practicable.

This notice shall describe the physical conditions, so that they can be inspected by the Project Manager, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical

conditions, and shall comply with any instructions which the Project Manager may give. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor shall be titled subject to notice under Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost, which shall be included in the Contract Price.

Upon receiving such notice and inspecting and/or investigating these physical conditions, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Project Manager may also review whether other physical conditions in similar parts of the Works (if any) were more favorable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favorable conditions were encountered, the Project Manager may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.

The Project Manager shall take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which shall be made available by the Contractor, but shall not be bound by the Contractor's interpretation of any such evidence.

Rights of Way and Facilities

Unless otherwise specified in the Contract the Procuring Entity shall provide effective access to and possession of the Site including special and/or temporary rights-of-way which are necessary for the Works. The Contractor shall obtain, at his risk and cost, any additional rights of way or facilities outside the Site which he may require for the purposes of the Works.

Avoidance of Interference

The Contractor shall not interfere unnecessarily or improperly with:

- a) The convenience of the public, or
- b) The access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Procuring Entity or of others.

The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

Access Route

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site at Base Date. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

Except as otherwise stated in these Conditions:

- a) The Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
- b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;

- c) the Procuring Entity shall not be responsible for any claims which may arise from the use or otherwise of any access route;
- d) the Procuring Entity does not guarantee the suitability or availability of particular access routes; and
- e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

Transport of Goods

Unless otherwise stated in the Particular Conditions:

- a) The Contractor shall give the Project Manager not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;
- b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and
- c) the Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.

Contractor's Equipment

The Contractor shall be responsible for all Contractor's Equipment. When brought onto the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Project Manager. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

Protection of the Environment

The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the Specification or prescribed by applicable Laws.

Electricity, Water and Gas

The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Specifications, for the tests.

The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Specifications. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Project Manager in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.

Procuring Entity's Equipment and Free-Issue Materials

The Procuring Entity shall make the Procuring Entity's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Specification. Unless otherwise stated in the Specification:

- a) The Procuring Entity shall be responsible for the Procuring Entity's Equipment, except that
- b) the Contractor shall be responsible for each item of Procuring Entity's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.

The appropriate quantities and the amounts due (at such stated prices) for the use of Procuring Entity's Equipment shall be agreed or determined by the Project Manager in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-

Clause 3.5 [Determinations]. The Contractor shall pay these amounts to

theProcuringEntity.

The Procuring Entity shall supply, free of charge, the “free-issue materials” (if any) in accordance with the details stated in the Specification. The Procuring Entity shall, at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them, and shall promptly give notice to the Project Manager of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Procuring Entity shall immediately rectify the notified shortage, defect or default.

After this visual inspection, the free-issue materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody and control shall not relieve the Procuring Entity of liability for any shortage, defect or default not apparent from a visual inspection.

Progress Reports

Unless otherwise stated in the Particular Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Project Manager in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works. Each report shall include:

- a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
- b) photographs showing the status of manufacture and of progress on the Site;
- c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
 - i) commencement of manufacture,
 - ii) Contractor's inspections,
 - iii) tests, and
 - iv) shipment and arrival at the Site;
- d) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];
- e) copies of quality assurance documents, test results and certificates of Materials;
- f) list of notices given under Sub-Clause 2.5 [Procuring Entity's Claims] and notices given under Sub-Clause 20.1 [Contractor's Claims];
- g) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- h) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

Security of the Site

Unless otherwise stated in the Particular Conditions:

- a) The Contractor shall be responsible for keeping unauthorized persons off the Site, and
- b) Authorized persons shall be limited to the Contractor's Personnel and the Procuring Entity's Personnel; and to any other personnel notified to the Contractor, by the Procuring Entity or the Project Manager, as authorized personnel of the Procuring Entity's other contractors on the Site.

Contractor's Operations on Site

The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Project Manager as additional working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

- 4.23.2 Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.

Fossils

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Procuring Entity. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

The Contractor shall, upon discovery of any such finding, promptly give notice to the Project Manager, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- i) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- j) payment of any such Cost, which shall be included in the Contract Price.

After receiving this further notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

5 Nominated Subcontractors

Definition of "nominated Subcontractor"

In the Contract, "nominated Subcontractor" means a Subcontractor:

- a) Who is stated in the Contract as being a nominated Subcontractor, or
- b) whom the Project Manager, under Clause 13 [Variations and Adjustments], instructs the Contractor to employ as a Subcontractor subject to Sub-Clause 5.2 [Objection to Notification].

Objection to Nomination

The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Project Manager as soon as practicable, with supporting particulars. An objection shall be deemed reasonable if it arises from (among other things) any of the following matters, unless the Procuring Entity agrees in writing to indemnify the Contractor against and from the consequences of the matter:

- a) there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength;
- b) the nominated Subcontractor does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor, his agents and employees; or
- c) the nominated Subcontractor does not accept to enter into a subcontract which specifies that, for the subcontracted work (including design, if any), the nominated Subcontractor shall:
 - i) undertake to the Contractor such obligations and liabilities as will enable the Contractor to discharge his obligations and liabilities under the Contract;
 - ii) indemnify the Contractor against and from all obligations and liabilities arising under or in connection with the Contract and from the consequences of any failure by the Subcontractor to perform these obligations or to fulfil these liabilities, and
 - iii) be paid only if and when the Contractor has received from the Procuring Entity payments for sums due under the Subcontract referred to under Sub-Clause 5.3 [Payment to nominated Subcontractors].

Payments to nominated Subcontractors

The Contractor shall pay to the nominated Subcontractor the amounts shown on the nominated Subcontractor's invoices approved by the Contractor which the Project Manager certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with sub-paragraph (b) of Sub-Clause 13.5 [Provisional Sums], except as stated in Sub-Clause [Evidence of Payments].

Evidence of Payments

Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the Project Manager may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

- a) Submit this reasonable evidence to the Project Manager, or
- b) i) satisfies the Project Manager in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and
ii) submits to the Project Manager reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement, then the Procuring Entity may (at his sole discretion) pay, direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as a due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Procuring Entity, the amount which the nominated Subcontractor was directly paid by the Procuring Entity.

6 Staff and Labour

Engagement of Staff and Labour

6.1.1 Except as otherwise stated in the Specification, the Contractor shall decide for the engagement of all staff and labor, local or otherwise, and for their payment, feeding, transport, and, when appropriate, housing. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within Kenya.

Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Procuring Entities whose trade or industry is similar to that of the Contractor.

The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in Kenya in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of Kenya for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

Persons in the Service of Procuring Entity

The Contractor shall not recruit, or attempt to recruit, staff and Labour from amongst the Procuring Entity's Personnel.

Labour Laws

The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

WorkingHours

No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the **Particular Conditions of Contract**, unless:

- a) OtherwisestatedintheContract,
- b) TheProjectManager givesconsent,or
- c) The work is un avoidable, or necessary for the protection of life or property or for the safety of theWorks,inwhichcase theContractorshallimmediatelyadvise theProjectManager.

FacilitiesforStaffandLabour

Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Procuring Entity's Personnel as stated in the Specifications. The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

Health andSafety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Project Manager, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Project Manager may reasonably require.

The Contractor shall conduct an awareness program on HIV and other sexually transmitted diseases via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of these diseases between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.

Contractor'sSuperintendence

Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendencies to plan, arrange, direct, manage, inspect and test the work.

Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be countered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

Contractor'sPersonnel

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in the respective trades or occupations. The Contractor's Key personnel shall be named in the **Particular Conditions of Contract**. The Project Manager may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- a) Persists in any misconduct or lack of care,
- b) Carries out duties incompetently or negligently,

- c) Failstoconformwithanyprovisions of the Contract,
- d) Persistsinanyconductwhichisprejudicialtosafety,health,ortheprotectionoftheenvironment,or
- e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during theexecutionoftheWorks.

Ifappropriate,theContractor shallthenappoint(orcause tobeappointed)asuitablereplacement person.

Records of Contractor's Personnel and Equipment

TheContractorshallsubmit,totheProjectManager,detailsshowingthenumberofeachclassofContractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Project Manager, until the Contractor has completed allwork which is known to be outstanding at the completion date stated in the Taking-Over Certificate for theWorks.

Disorderly Conduct

TheContractorshallatalltimestakeallreasonableprecautionstopreventanyunlawful,riotousordisorderly conductby or amongstthe Contractor'sPersonnel, and to preservepeace and protection ofpersonsand propertyon and nearthe Site.

Foreign Personnel

The Contractor may bring into Kenya any foreign personnel who are necessary for the execution of theWorks to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel areprovided with the required residence vis as and work permits. The Procuring Entity will, if requested by theContractor,usehisLowestendeavorsinatimelyandexpeditiousmannertoassisttheContractorinobtaining any local, state, nationalorgovernmentpermissionrequired forbringing in theContractor'spersonnel.

The Contractor shall be responsible for the return of these personnel to the place where they were recruitedortotheir domicile.IntheeventofthedeathinKenyaofanyofthesepersonnelormembersoftheirfamilies,the Contractorshallsimilarlyberesponsibleformakingtheappropriatearrangementsfortheirreturnorburial.

Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinkingandotherwaterforthe useoftheContractor'sPersonnel.

Measures against Insect and Pest Nuisance

TheContractorshallatalltimestakethenecessary precautions toprotecttheContractor'sPersonnelemployed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractorshallcomplywithallthe regulationsofthelocalhealthauthorities,includinguseofappropriateinsecticide.

Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of Kenya, on site, import, sell, give,barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barteror disposalthereofbyContractor'sPersonnel.

Prohibition of Forced or Compulsory Labour

The Contractor shall not employ forced labour, which consists of any work or service, not voluntarilyperformed, that is exacted from an individual under threat of force or penalty, and includes any kind ofinvoluntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contractingarrangements.

Prohibition of Harmful Child Labour

TheContractorshallnotemploychildreninamannerthatiseconomicallyexploitative,orlikelytobe

hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental,

spiritual, moral, or social development. Where the relevant labour laws of Kenya have provisions for employment of minors, the Contractor shall follow those laws applicable to the Contractor. Children below the age of 18 years shall not be employed in dangerous work.

Employment Records of Workers

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Project Manager. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

Workers' Organizations

The Contractor shall comply with the relevant labour laws that recognize workers' rights to form and to join workers' organizations of their choosing without interference.

Non-Discrimination and Equal Opportunity

The Contractor shall base the labour employment on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline.

7 Plant, Materials and Workmanship

Manner of Execution

The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:

- a) In the manner (if any) specified in the Contract,
- b) In a proper workmanlike and careful manner, in accordance with recognized good practice, and
- c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

Samples

The Contractor shall submit the following samples of Materials, and relevant information, to the Project Manager for consent prior to using the Materials in or for the Works:

- a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and
- b) additional samples instructed by the Project Manager as a Variation.

Each sample shall be labelled as to origin and intended use in the Works.

Inspection

The Procuring Entity's Personnel shall at all reasonable times:

- a) Have full access to all parts of the Site and to all places from which natural Materials are being obtained, and
- b) during production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.

The Contractor shall give the Procuring Entity's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

The Contractor shall give notice to the Project Manager whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Project Manager shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Project Manager does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by the Project Manager, uncover the work and thereafter reinstate and make good, all at the Contractor's cost.

Testing

This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

Except as otherwise specified in the Contract, the Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labor, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Project Manager, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

The Project Manager may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

The Project Manager shall give the Contractor not less than 24 hours' notice of the Project Manager's intention to attend the tests. If the Project Manager does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Project Manager, and the tests shall then be deemed to have been made in the Project Manager's presence.

If the Contractor suffers delay and/ or incurs Cost from complying with these instructions or as a result of a delay for which the Procuring Entity is responsible, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall promptly forward to the Project Manager duly certified reports of the tests. When the specified tests have been passed, the Project Manager shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Project Manager has not attended the tests, he shall be deemed to have accepted the readings as accurate.

Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Project Manager may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

If the Project Manager requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Procuring Entity to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity.

Remedial Work

Notwithstanding any previous test or certification, the Project Manager may instruct the Contractor to:

- a) Remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
- b) remove and re-execute any other work which is not in accordance with the Contract, and

- c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).

If the Contractor fails to comply with the instruction, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall be subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity all costs arising from this failure.

Ownership of Plant and Materials

Except as otherwise provided in the Contract, each item of Plant and Materials shall become the property of the Procuring Entity at whichever is the earlier of the following times, free from liens and other encumbrances:

- a) When it is incorporated in the Works;
- b) when the Contractor is paid the corresponding value of the Plant and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

Royalties

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

- a) Natural Materials obtained from outside the Site, and
- b) The disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal are as within the Site are specified in the Contract.

8 Commencement, Delays and Suspension

Commencement of Works

Except as otherwise specified in the Particular Conditions of Contract, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Project Manager's notification recording the agreement of both Parties on such fulfilment and instructing to commence the Work is received by the Contractor:

- a. Signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of Kenya;
- b. Delivery to the Contractor of reasonable evidence of the Procuring Entity's financial arrangements (under Sub-Clause 2.4 [Procuring Entity's Financial Arrangements]);
- c. Except if otherwise specified in the Particular Conditions of Contract, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works
- d. Receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor.

If the said Project Manager's instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor].

The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.

Time for Completion

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case maybe), including:

- a) Achieving the passing of the Tests on Completion, and

- b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

Programme

The Contractor shall submit a detailed time programme to the Project Manager within 28 days after receiving the notice under Sub-Clause 8.1 [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:

- a. The order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing,
- b. each of these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
- c. the sequence and timing of inspections and tests specified in the Contract, and
- d. a supporting report which includes:
 - i. a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and
 - ii. details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage.

Unless the Project Manager, within 21 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Procuring Entity's Personnel shall be entitled to rely upon the programme when planning their activities.

The Contractor shall promptly give notice to the Project Manager of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Sub-Clause 13.3 [Variation Procedure].

If, at any time, the Project Manager gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Project Manager in accordance with this Sub-Clause.

Extension of Time for Completion

The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:

- a. a Variation (unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure]) or other substantial change in the quantity of an item of work included in the Contract,
- b. a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,
- c. exceptionally adverse climatic conditions,
- d. unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or
- e. any delay, impediment or prevention caused by or attributable to the Procuring Entity, the Procuring Entity's Personnel, or the Procuring Entity's other contractors.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Project Manager in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Project Manager shall review previous determinations and may increase, but shall not decrease, the total extension of time.

Delays Caused by Authorities

If the following conditions apply, namely:

- a) The Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in Kenya,
- b) These authorities delay or disrupt the Contractor's work, and
- c) The delay or disruption was Unforeseeable, then this delay or disruption will be considered as a cause of delay under sub-paragraph (b) of Sub-Clause 8.4 [Extension of Time for Completion].

Rate of Progress

If, at any time:

- a. Actual progress is too slow to complete within the Time for Completion, and/or
- b. Progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme], other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Project Manager may instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

Unless the Project Manager notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Procuring Entity to incur additional costs, the Contractor shall, subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity, in addition to delay damages (if any) under Sub-Clause 8.7 below.

Additional costs of revised methods including acceleration measures, instructed by the Project Manager to reduce delays resulting from causes listed under Sub-Clause 8.4 [Extension of Time for Completion] shall be paid by the Procuring Entity, without generating, however, any other additional payment benefit to the Contractor.

Delay Damages

If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion], the Contractor shall, subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay delay damages to the Procuring Entity for this default. These delay damages shall be the sum stated in the **Particular Conditions of Contract**, which shall be paid for every day which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the Particular Conditions of Contract.

These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity] prior to completion of the Works. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

Suspension of Work

The Project Manager may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

The Project Manager may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

Consequences of Suspension

If the Contractor suffers delay and/or incurs Cost from complying with the Project Manager's instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Project Manager and shall be entitled, subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b. payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

Payment for Plant and Materials in Event of Suspension

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to Site, if:

- a) The work on Plant or delivery of Plant and/or Materials has been suspended for more than 28 days, and
- b) the Contractor has marked the Plant and/or Materials as the Procuring Entity's property in accordance with the Project Manager's instructions.

Prolonged Suspension

If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Project Manager's permission to proceed. If the Project Manager does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Project Manager, treat the suspension as an omission under Clause 13 [Variations and Adjustments] of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause 16.2 [Termination by Contractor].

Resumption of Work

After the permission or instruction to proceed is given, the Contractor and the Project Manager shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension after receiving from the Project Manager an instruction to this effect under Clause 13 [Variations and Adjustments].

9 Tests on Completion

Contractor's Obligations

The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [Testing], after providing the documents in accordance with sub-paragraph (d) of Sub-Clause 4.1 [Contractor's General Obligations].

The Contractor shall give to the Project Manager not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Project Manager shall instruct.

In considering the results of the Tests on Completion, the Project Manager shall make allowances for the effect of any use of the Works by the Procuring Entity on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Project Manager.

Delayed Tests

If the Tests on Completion are being unduly delayed by the Procuring Entity, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, the Project Manager may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Project Manager.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Procuring Entity's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

Retesting

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Project Manager or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

Failure to Pass Tests on Completion

If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Project Manager shall be entitled to:

- a. Order further repetition of Tests on Completion under Sub-Clause 9.3;
- b. if the failure deprives the Procuring Entity of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Procuring Entity shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects]; or
- c. issue a Taking-Over Certificate, if the Procuring Entity so requests.

In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Procuring Entity as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Procuring Entity may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations].

10 Procuring Entity's Taking Over

Taking Over of the Works and Sections

Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Procuring Entity when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Project Manager for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

The Project Manager shall, within 28 days after receiving the Contractor's application:

- a. Issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- b. reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

If the Project Manager fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

Taking Over of Parts of the Works

The Project Manager may, at the sole discretion of the Procuring Entity, issue a Taking-Over Certificate for any part of the Permanent Works.

The Procuring Entity shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Project Manager has issued a Taking-Over Certificate for this part. However, if the Procuring Entity does use any part of the Works before the Taking-Over Certificate is issued:

- a) The part which is used shall be deemed to have been taken over as from the date on which it is used,
- b) The Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Procuring Entity, and
- c) If requested by the Contractor, the Project Manager shall issue a Taking-Over Certificate for this part.

After the Project Manager has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period.

If the Contractor incurs Cost as a result of the Procuring Entity taking over and/or using a part of the Works, other than such use as is specified in the Contract, the Contractor shall (i) give notice to the Project Manager and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost-plus profit, which shall be included in the Contract Price. After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.

Interference with Tests on Completion

If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Procuring Entity is responsible, the Procuring Entity shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.

The Project Manager shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Project Manager shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.

If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b payment of any such Cost-plus profit, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

Surfaces Requiring Reinstatement

Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.

11. Defects Liability

Completion of Outstanding Work and Remedying Defects

In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

- a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Project Manager, and
- b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Procuring Entity on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).

If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Procuring Entity.

Cost of Remedying Defects

All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

- a) Any design for which the Contractor is responsible,
- b) Plant, Materials or workmanship not being in accordance with the Contract, or
- c) Failure by the Contractor to comply with any other obligation.

If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Procuring Entity, and Sub-Clause 13.3 [Variation Procedure] shall apply.

Extension of Defects Notification Period

The Procuring Entity shall be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or by reason of damage attributable to the Contractor. However, a Defects Notification Period shall not be extended by more than two years.

If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/or Materials would otherwise have expired.

Failure to Remedy Defects

If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Procuring Entity, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Procuring Entity may (at this option):

- a. carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity the costs reasonably incurred by the Procuring Entity in remedying the defect or damage;
- b. require the Project Manager to agree or determine a reasonable reduction in the Contract Price in

accordance with Sub-Clause 3.5 [Determinations]; or

- c. if the defect or damage deprives the Procuring Entity of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract otherwise, the Procuring Entity shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.

Removal of Defective Work

If the defect or damage cannot be remedied expeditiously on the Site and the Procuring Entity gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.

Further Tests

If the work of remedying of any defect or damage may affect the performance of the Works, the Project Manager may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 28 days after the defect or damage is remedied.

These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remedying Defects], for the cost of the remedial work.

Right of Access

Until the Performance Certificate has been issued, the Contractor shall have such right of access to the Works as is reasonably required in order to comply with this Clause, except as may be inconsistent with the Procuring Entity's reasonable security restrictions.

Contractor to Search

The Contractor shall, if required by the Project Manager, search for the cause of any defect, under the direction of the Project Manager. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus profit shall be agreed or determined by the Project Manager in accordance with Sub-Clause 3.5 [Determinations] and shall be included in the Contract Price.

Performance Certificate

Performance of the Contractor's obligations shall not be considered to have been completed until the Project Manager has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.

The Project Manager shall issue the Performance Certificate within 28 days after the latest of the expiry dates of the Defects Notification Periods, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any defects. A copy of the Performance Certificate shall be issued to the Procuring Entity.

Only the Performance Certificate shall be deemed to constitute acceptance of the Works.

Unfulfilled Obligations

After the Performance Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

Clearance of Site

Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

If all these items have not been removed within 28 days after receipt by the Contractor of the Performance Certificate, the Procuring Entity may sell or otherwise dispose of any remaining items. The Procuring Entity shall be entitled to be paid the costs incurred in connection with, or attributable to, such a sale or disposal and

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Procuring Entity's costs, the Contractor shall pay the outstanding balance to the Procuring Entity.

12 Measurement and Evaluation

Work to be Measured

The Works shall be measured, and valued for payment, in accordance with this Clause. The Contractor shall show in each application under Sub-Clauses 14.3 [Application for Interim Payment Certificates], 14.10 [Statement on Completion] and 14.11 [Application for Final Payment Certificate] the quantities and other particulars detailing the amounts which he considers to be entitled under the Contract.

Whenever the Project Manager requires any part of the Work to be measured, reasonable notice shall be given to the Contractor's Representative, who shall:

- a. Promptly either attend or send another qualified representative to assist the Project Manager in making the measurement, and
- b. Supply any particulars requested by the Project Manager.

If the Contractor fails to attend or send a representative, the measurement made by (or on behalf of) the Project Manager shall be accepted as accurate.

Except as otherwise stated in the Contract, wherever any Permanent Works are to be measured from records, these shall be prepared by the Project Manager. The Contractor shall, as and when requested, attend to examine and agree the records with the Project Manager, and shall sign the same when agreed. If the Contractor does not attend, the records shall be accepted as accurate.

If the Contractor examines and disagrees with the records, and/or does not sign them as agreed, then the Contractor shall give notice to the Project Manager of the respects in which the records are asserted to be inaccurate. After receiving this notice, the Project Manager shall review the records and either confirm or vary them and certify the payment of the undisputed part. If the Contractor does not so give notice to the Project Manager within 14 days after being requested to examine the records, they shall be accepted as accurate.

Method of Measurement

Except as otherwise stated in the Contract and notwithstanding local practice:

- a) Measurement shall be made of the net actual quantity of each item of the Permanent Works, and
- b) the method of measurement shall be in accordance with the Bill of Quantities or other applicable Schedules.

Evaluation

Except as otherwise stated in the Contract, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the Contract Price by evaluating each item of work, applying the measurement agreed or determined in accordance with the above Sub-Clauses 12.1 and 12.2 and the appropriate rate or price for the item.

For each item of work, the appropriate rate or price for the item shall be the rate or price specified for such item in the Contractor, if there is no such item, specified for similar work.

Any item of work included in the Bill of Quantities for which no rate or price was specified shall be considered as included in the rates and prices in the Bill of Quantities and will not be paid for separately.

However, a new rate or price shall be appropriate for an item of work if:

- a)
 - i) the measured quantity of the item is changed by more than 25% from the quantity of this item in the Bill of Quantities or another Schedule,
 - ii) this change in quantity multiplied by such specified rate for this item exceeds 0.25% of the Accepted Contract Amount,
 - iii) this change in quantity directly changes the Cost per unit quantity of this item by more than 1%, and

- iv) this item is not specified in the Contract as a “fixed rate item”; or
- b) the work is instructed under Clause 13 [Variations and Adjustments],
 - ii) no rate or price is specified in the Contract for this item, and
 - iii) no specified rate or price is appropriate because the item of work is not of similar character, or is not executed under similar conditions, as any item in the Contract.
- b) Each new rate or price shall be derived from any relevant rates or prices in the Contract, with reasonable adjustments to take account of the matters described in sub-paragraph (a) and/or (b), as applicable. If no rates or prices are relevant for the derivation of a new rate or price, it shall be derived from the reasonable Cost of executing the work, together with profit, taking account of any other relevant matters.
- c) Until such time as an appropriate rate or price is agreed or determined, the Project Manager shall determine a provisional rate or price for the purposes of Interim Payment Certificates as soon as the concerned work commences.

Omissions

- d) Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:
 - i) The Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;
 - ii) The omission of the work will result (or has resulted) in this sum not forming part of the Contract Price; and
 - iii) This cost is not deemed to be included in the evaluation of any substituted work;

then the Contractor shall give notice to the Project Manager accordingly, with supporting particulars. Upon receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this cost, which shall be included in the Contract Price.

13 Variations and Adjustments

Right to Vary

Variations may be initiated by the Project Manager at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Project Manager stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works. Upon receiving this notice, the Project Manager shall cancel, confirm or vary the instruction.

Each Variation may include:

- a. changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),
- b. changes to the quality and other characteristics of any item of work,
- c. changes to the levels, positions and/or dimensions of any part of the Works,
- d. omission of any work unless it is to be carried out by others,
- e. any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Test on Completion, boreholes and other testing and exploratory work, or
- f. changes to the sequence or timing of the execution of the Works.

The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Project Manager instructs or approves a Variation.

Value Project Managering

The Contractor may, at any time, submit to the Project Manager a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Procuring Entity of

executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Procuring Entity of the completed Works, or (iv) otherwise be of benefit to the Procuring Entity.

The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 13.3 [Variation Procedure].

If a proposal, which is approved by the Project Manager, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:

- a. The Contractor shall design this part,
- b. sub-paragraphs (a) to (d) of Sub-Clause 4.1 [Contractor's General Obligations] shall apply, and
- c. if this change results in a reduction in the contract value of this part, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:
 - a. such reduction in contract value, resulting from the change, excluding adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost], and
 - b. the reduction (if any) in the value to the Procuring Entity of the varied works, taking account of any reductions in quality, anticipated life or operational efficiencies.

However, if amount (i) is less than amount (ii), there shall not be a fee.

Variation Procedure

If the Project Manager requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- a. A description of the proposed work to be performed and a programme for its execution,
- b. The Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion, and
- c. The Contractor's proposal for evaluation of the Variation.

The Project Manager shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Project Managing] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Project Manager to the Contractor, who shall acknowledge receipt.

Each Variation shall be evaluated in accordance with Clause 12 [Measurement and Evaluation], unless the Project Manager instructs or approves otherwise in accordance with this Clause.

Payment in Applicable Currencies

If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable

currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.

Provisional Sums

Each Provisional Sum shall only be used, in whole or in part, in accordance with the Project Manager's instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Project Manager shall have instructed. For each Provisional Sum, the Project Manager may instruct:

- a. Work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under Sub-Clause 13.3 [Variation Procedure]; and/or
- b. Plant, Materials or services to be purchased by the Contractor, from a nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]) or otherwise; and for which there shall be included in the Contract Price:
 - i. The actual amounts paid (or due to be paid) by the Contractor, and
 - ii. a sum for overhead charges and profit, calculated as a percentage of these actual amounts by

applying the relevant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, the percentage rate stated in the **Particular Conditions of Contract** shall be applied.

The Contractor shall, when required by the Project Manager, produce quotations, invoices, vouchers and accounts or receipts in substantiation.

Dayworks

For work of a minor or incidental nature, the Project Manager may instruct that a Variation shall be executed on a day work basis. The work shall then be valued in accordance with the Day work Schedule included in the Contract, and the following procedure shall apply. If a Day work Schedule is not included in the Contract, this Sub-Clause shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Project Manager. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.

Except for any items for which the Day work Schedule specifies that payment is not due, the Contractor shall deliver each day to the Project Manager accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

- a. The names, occupations and time of Contractor's Personnel,
- b. The identification, type and time of Contractor's Equipment and Temporary Works, and
- c. The quantities and types of Plant and Materials used.

One copy of each statement will, if correct, or when agreed, be signed by the Project Manager and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Project Manager, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payment Certificates].

Adjustments for Changes in Legislation

The Contract Prices shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of Kenya (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.

If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b. payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been considered in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been considered in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause 13.8 [Adjustments for Changes in Cost].

Adjustments for Changes in Cost

In this Sub-Clause, "table of adjustment data" means the completed table of adjustment data for local and foreign currencies included in the Schedules. If there is no such table of adjustment data, this Sub-Clause shall not apply.

If this Sub-Clause applies, the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labor, Goods and other inputs to the Works, by the addition or deduction of the amounts determined by the formulae prescribed in this Sub-Clause. To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.

The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be of the following general type:

Price Adjustment

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

$$P = A + B \frac{I_m}{I_o}$$

where:

P is

the adjustment factor for the portion of the Contract Price payable.

A and B are coefficients **specified in the SCC**, representing the non-adjustable and adjustable portions, respectively, of the Contract Price payable and I_m is the index prevailing at the end of the month being invoiced and I_o is the index prevailing 28 days before Tender opening for inputs payable.

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

The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Project Manager. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table) for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.

In cases where the "currency of index" is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the Central Bank of Kenya, of this relevant currency on the above date for which the index is required to be applicable.

Until such time as each current cost index is available, the Project Manager shall determine a provisional index for the issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.

If the Contractor fails to complete the Works within the Time for Completion, adjustment of prices thereafter shall be made using either (i) each index or price applicable on the date 49 days prior to the expiry of the Time for Completion of the Works, or (ii) the current index or price, whichever is more favorable to the Procuring Entity.

The weightings (coefficients) for each of the factors of cost stated in the table(s) of adjustment data shall only be adjusted if they have been rendered unreasonable, unbalanced or inapplicable, as a result of Variations.

14 Contract Price and Payment

The Contract Price

Unless otherwise stated in the Particular Conditions:

- a. the Contract Price shall be agreed or determined under Sub-Clause 12.3 [Evaluation] and be subject to adjustments in accordance with the Contract;
- b. the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation];
- c. any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities;

- i. of the Works which the Contractor is required to execute, or
 - ii. for the purposes of Clause 12 [Measurement and Evaluation]; and
- d. the Contractor shall submit to the Project Manager, within 28 days after the Commencement Date, a proposed breakdown of each lump sum price in the Schedules. The Project Manager may take account of the breakdown when preparing Payment Certificates, but shall not be bound by it.

Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts there for, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of import duties and taxes upon importation.

Advance Payment

The Procuring Entity may make an advance payment, as an interest-free loan for mobilization and cash flow support, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total advance payment, the number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in the **Particular Conditions of Contract**.

Unless and until the Procuring Entity receives this guarantee, or if the total advance payment is not stated in the Particular Conditions of Contract, this Sub-Clause shall not apply.

The Project Manager shall deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Interim Payment Certificates]) and after the Procuring Entity receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by a reputable bank or financial institution selected by the Contractor and shall be in the form annexed to the Particular Conditions or in another form approved by the Procuring Entity.

The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

Unless stated otherwise in the **Particular Conditions of Contract**, the advance payment shall be repaid through percentage deductions from the interim payments determined by the Project Manager in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates], as follows:

- a. Deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention) exceeds 30 percent (30%) of the Accepted Contract Amount Less Provisional Sums; and
- b. Deductions shall be made at the amortization rate stated in the **Particular Conditions of Contract** of the amount of each Interim Payment Certificate (excluding the advance payment and deductions for its repayments as well as deductions for retention money) in the currencies and proportions of the advance payment until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when 90 percent (90%) of the Accepted Contract Amount Less Provisional Sums has been certified for payment.

If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Procuring Entity], Clause 16 [Suspension and Termination by Contractor] or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under Clause 15 [Termination by Procuring Entity], except for Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination for Convenience], payable by the Contractor to the Procuring Entity.

Application for Interim Payment Certificates

The Contractor shall submit a Statement in six copies to the Project Manager after the end of each month, in a form approved by the Project Manager, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.21 [Progress Reports].

The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:

- a. the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);
- b. any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];
- c. any amount to be deducted for retention, calculated by applying the percentage of retention stated in **the Particular Conditions of Contract** to the total of the above amounts, until the amount so retained by the Procuring Entity reaches the limit of Retention Money (if any) stated in **the Particular Conditions of Contract**;
- d. any amounts to be added for the advance payment and (if more than one instalment) and to be deducted for its repayment in accordance with Sub-Clause 14.2 [Advance Payment];
- e. any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];
- f. any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
- g. the deduction of amounts certified in all previous Payment Certificates.

Schedule of Payments

The Contract includes a schedule of payments specifying the instalments in which the Contract Price will be paid, unless otherwise stated in this schedule:

- a. The instalments quoted in this schedule of payments shall be the estimated contract values for the purposes of sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates];
- b. Sub-Clause 14.5 [Plant and Materials intended for the Works] shall not apply; and
- c. If these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less or more than that on which this schedule of payments was based, then the Project Manager may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less or more than that on which the instalments were previously based.

The Contract includes a schedule of payments, attached to this contract as Document _____

The Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

Plant and Materials intended for the Works

If this Sub-Clause applies, Interim Payment Certificates shall include, under sub-paragraph (e) of Sub-Clause 14.3, (i) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and (ii) a reduction when the contract value of such Plant and Materials is included as part _____ of _____ the Permanent Works under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates].

If the lists referred to in sub-paragraphs (b) (i) or (c) (i) below are not included in the Schedules, this Sub-Clause shall not apply.

The Project Managers shall determine and certify each addition if the following conditions are satisfied:

- a. The Contractor has:
 - (i) Kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and
 - (ii) submitted a statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence;
 and either:
- b. the relevant Plant and Materials:
 - (i) are those listed in the Schedules for payment when shipped,

(ii) have been shipped to Kenya, enroute to the Site, in accordance with the Contract; and

(iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Project Manager together with evidence of payment of freight and insurance, any other documents reasonably required, and a bank guarantee in a form and issued by an entity approved by the Procuring Entity in amounts and currencies equal to the amount due under this Sub-Clause: this guarantee may be in a similar form to the form referred to in Sub-Clause 14.2 [Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration; or

c. the relevant Plant and Materials:

- (i) are those listed in the Schedules for payment when delivered to the Site, and
- (ii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration, and appear to be in accordance with the Contract.

The additional amount to be certified shall be the equivalent of eighty percent (80%) of the Project Manager's determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this Sub-Clause and of the contract value of the Plant and Materials.

14.5.6 The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificates shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.

Issue of Interim Payment Certificates

No amount will be certified or paid until the Procuring Entity has received and approved the Performance Security. Thereafter, the Project Manager shall, within 28 days after receiving a Statement and supporting documents, deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate which shall state the amount which the Project Manager fairly determines to be due, with all supporting particulars for any reduction or withholding made by the Project Manager on the Statement if any.

However, prior to issuing the Taking-Over Certificate for the Works, the Project Manager shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated **in the Particular Conditions of Contract**. In this event, the Project Manager shall give notice to the Contractor accordingly.

An Interim Payment Certificate shall not be withheld for any other reason, although:

- a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or
- b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Project Manager, the value of this work or obligation may be withheld until the work or obligation has been performed.

The Project Manager may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Project Manager's acceptance, approval, consent or satisfaction.

Payment

The Procuring Entity shall pay to the Contractor:

- a) The first instalment of the advance payment within 42 days after issuing the Letter of Acceptance or within 21 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause 14.2 [Advance Payment], whichever is later;
- b) the amount certified in each Interim Payment Certificate within 45 days after the Project Manager receives the Statement and supporting documents; and
- c) the amount certified in the Final Payment Certificate within 45 days after the Procuring Entity receives this Payment Certificate; or after determination of any disputed amount shown in the Final Statement in accordance with Sub-Clause 16.2 [Termination by Contractor].

Payment of the amount due in each currency shall be made into the bank account, nominated by the Contractor,

in the payment country (for this currency) specified in the Contract.

Delayed Payment

If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges (interest) compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its subparagraph (b)) of the date on which any Interim Payment Certificate is issued.

Unless otherwise stated in **the Particular Conditions**, these financing charges shall be calculated at the annual rate of three percentage points above the discount rate of the central bank in Kenya of the currency of payment, or if not available, the interbank offered rate, and shall be paid in such currency.

The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

Payment of Retention Money

When the Taking-Over Certificate has been issued for the Works, the first half of the Retention Money shall be certified by the Project Manager for payment to the Contractor. If a Taking-Over Certificate is issued for a Section or part of the Works, a proportion of the Retention Money shall be certified and paid. This

proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section or part, by the estimated final Contract Price.

Promptly after the latest of the expiry dates of the Defects Notification Periods, the outstanding balance of the Retention Money shall be certified by the Project Manager for payment to the Contractor. If a Taking-

Over Certificate was issued for a Section, a proportion of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Notification Period for the Section. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section by the estimated final Contract Price.

However, if any work remains to be executed under Clause 11 [Defects Liability], the Project Manager shall be entitled to withhold certification of the estimated cost of this work until it has been executed.

When calculating these proportions, no account shall be taken of any adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost].

Unless otherwise stated in the Particular Conditions, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Project Manager, the Contractor shall be entitled to substitute a Retention Money Security guarantee, in the form annexed to the particular Conditions or in another form approved by the Procuring Entity and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money.

14.9.5 The Procuring Entity shall return the Retention Money Security guarantee to the Contractor within 14 days after receiving a copy of the Performance Certificate.

Statement at Completion

Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Project Manager six copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payment Certificates], showing:

- a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
- b) any further sums which the Contractor considers to be due, and
- c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

The Project Manager shall then certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates].

Application for Final Payment Certificate

Within 56 days after receiving the Performance Certificate, the Contractor shall submit, to the Project Manager, six copies of a draft final statement with supporting documents showing in detail in a form approved by the Project Manager:

- a. The value of all work done in accordance with the Contract, and
- b. Any further sums which the Contractor considers to be due to him under the Contract otherwise.

If the Project Manager disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Project Manager may reasonably require within 28 days from receipt of said draft and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Project Manager the final statement as agreed. This agreed statement is referred to in these Conditions as the "Final Statement".

However, if, following discussions between the Project Manager and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Project Manager shall deliver to the Procuring Entity (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under Sub-Clause 20.4 [Obtaining Dispute Board's Decision] or Sub-Clause 20.5 [Amicable Settlement], the Contractor shall then prepare and submit to the Procuring Entity (with a copy to the Project Manager) a Final Statement.

Discharge

When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.

Issue of Final Payment Certificate

Within 28 days after receiving the Final Statement and discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Project Manager shall deliver, to the Procuring Entity and to the Contractor, the Final Payment Certificate which shall state:

- a. The amount which he fairly determines is finally due, and
- b. after giving credit to the Procuring Entity for all amounts previously paid by the Procuring Entity and for all sums to which the Procuring Entity is entitled, the balance (if any) due from the Procuring Entity to the Contractor or from the Contractor to the Procuring Entity, as the case may be.

If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Project Manager shall request the Contractor to do so. If the Contractor fails to apply within a period of 28 days, the Project Manager shall issue the Final Payment Certificate for such amount as he fairly determines to be due.

Cessation of Procuring Entity's Liability

The Procuring Entity shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

- a) In the Final Statement and also
- b) (except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 14.10 [Statement at Completion].

However, this Sub-Clause shall not limit the Procuring Entity's liability under his indemnification obligations, or the Procuring Entity's liability in any case of fraud, deliberate default or reckless misconduct by the Procuring Entity.

Currencies of Payment

The Contract Price shall be paid in the currency or currencies named in the Schedule of Payment Currencies.
If more than one currency is named, payments shall be made as follows:

- a) If the Accepted Contract Amount was expressed in Local Currency only:
 - i) The proportions or amounts of the Local and Foreign Currencies, and the fixed rates of exchange to be used for calculating the payments, shall be as stated in the Schedule of Payment Currencies, except as otherwise agreed by both Parties;
 - ii) payments and deductions under Sub-Clause 13.5 [Provisional Sums] and Sub-Clause 13.7 [Adjustments for Changes in Legislation] shall be made in the applicable currencies and proportions; and
 - iii) other payments and deductions under sub-paragraphs (a) to (d) of Sub-Clause 14.3 [Application for Interim Payment Certificates] shall be made in the currencies and proportions specified in sub-paragraph (a)(i) above;
- b) payment of the damages specified in the Particular Conditions of Contract, shall be made in the currencies and proportions specified in the Schedule of Payment Currencies;
- c) other payments to the Procuring Entity by the Contractor shall be made in the currency in which the sum was expended by the Procuring Entity, or in such currency as may be agreed by both Parties;
- d) if any amount payable by the Contractor to the Procuring Entity in a particular currency exceeds the sum payable by the Procuring Entity to the Contractor in that currency, the Procuring Entity may recover the balance of this amount from the sums otherwise payable to the Contractor in other currencies; and
- e) if no rates of exchange are stated in the Schedule of Payment Currencies, they shall be those prevailing on the Base Date and determined by the central bank of Kenya.

14.13.1 Termination by Procuring Entity

14.14.1 Notice to Correct

If the Contractor fails to carry out any obligation under the Contract, the Project Manager may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

Termination by Procuring Entity

The Procuring Entity shall be entitled to terminate the Contract if the Contractor:

- a. fail to comply with Sub-Clause 4.2 [Performance Security] or with a notice under Sub-Clause 15.1 [Notice to Correct],
- b. abandon the Works or otherwise plainly demonstrate the intention not to continue performance of his obligations under the Contract,
- c. without reasonable excuse fails:
 - i. to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension], or
 - ii. to comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [Remedial Work], within 28 days after receiving it,
- d. subcontracts the major part or whole of the Works or assigns the Contract without the agreement with Procuring Entity,
- e. becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or
- f. gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:
 - i. for doing or for bearing to do any action in relation to the Contract, or
 - ii. for showing or for bearing to show favor or disfavor to any person in relation to the Contract, or
 - iii. if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f).
- g. However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination, or based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 2.2 of the Appendix

But these General Conditions, in competing for or in executing the Contract.

In any of these events or circumstances, the Procuring Entity may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of subparagraph (e) or (f) or (g), the Procuring Entity may by notice terminate the Contract immediately.

The Procuring Entity's selection to terminate the Contract shall not prejudice any other rights of the Procuring Entity, under the Contract or otherwise.

The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Project Manager. However, the Contractor shall use his lowest effort to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

After termination, the Procuring Entity may complete the Works and/ or arrange for any other entities to do so. The Procuring Entity and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.

The Procuring Entity shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Procuring Entity, these items may be sold by the Procuring Entity in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

Valuation at Date of Termination

As soon as practicable after a notice of termination under Sub-Clause 15.2 [Termination by Procuring Entity] has taken effect, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

Payment after Termination

After a notice of termination under Sub-Clause 15.2 [Termination by Procuring Entity] has taken effect, the Procuring Entity may:

- a) Proceed in accordance with Sub-Clause 2.5 [Procuring Entity's Claims],
- b) withhold further payments to the Contractor until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Procuring Entity, have been established, and/or
- c) recover from the Contractor any losses and damages incurred by the Procuring Entity and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 15.3 [Valuation at Date of Termination]. After recovering any such losses, damages and extra costs, the Procuring Entity shall pay any balance to the Contractor.

Procuring Entity's Entitlement to Termination for Convenience

The Procuring Entity shall be entitled to terminate the Contract, at any time for the Procuring Entity's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Procuring Entity returns the Performance Security. The Procuring Entity shall not terminate the Contract under this Sub-Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor under Clause 16.2 [Termination by Contractor].

After this termination, the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 16.4 [Payment on Termination].

Fraud and Corruption

The Procuring Entity requires compliance with the Kenya Government's Anti-Corruption Laws and its prevailing sanctions.

Corrupt gifts and payments of commission

The Contractor shall not;

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

15 Suspension and Termination by Contractor

Contractor's Entitlement to Suspend Work

If the Project Manager fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or the Procuring Entity fails to comply with Sub-Clause 2.4 [Procuring Entity's Financial Arrangements] or Sub-Clause 14.7 [Payment], the Contractor may, after giving not less than 21 days' notice to the Procuring Entity, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence of payment, as the case may be and as described in the notice.

The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8 [Delayed Payment] and to termination under Sub-Clause 16.2 [Termination by Contractor].

If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant Sub-Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.

If the Contractor suffers delay and/ or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b. payment of any such Cost plus profit, which shall be included in the Contract Price.

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

Termination by Contractor

The Contractor shall be entitled to terminate the Contract if:

- a. the Contractor does not receive the reasonable evidence within 45 days after giving notice under Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work] in respect of a failure to comply with Sub-Clause 2.4 [Procuring Entity's Financial Arrangements],
- b. the Project Manager fails, within 45 days after receiving a Statement and supporting documents, to issue the relevant Payment Certificate,
- c. the Contractor does not receive the amount due under an Interim Payment Certificate within 45 days after the expiry of the time stated in Sub-Clause 14.7 [Payment] within which payment is to be made (except for deductions in accordance with Sub-Clause 2.5 [Procuring Entity's Claims]),
- d. the Procuring Entity substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the economic balance of the Contract and/ or the ability of the Contractor to perform the Contract,
- e. the Procuring Entity fails to comply with Sub-Clause 1.6 [Contract Agreement] or Sub-Clause 1.7 [Assignment],

g. a prolonged suspension affects the whole of the Works as described in Sub-Clause 8.11 [Prolonged

Suspension],or

- h. the Procuring Entity becomes bankrupt or insolvent, goes into liquidation, has a receiver or administrator appointed against it, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.
- i. The Contractor does not receive the Project Manager's instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 [Commencement of Works].

In any of these events or circumstances, the Contractor may, upon giving 14 days' notice to the Procuring Entity, terminate the Contract. However, in the case of sub-paragraph (f) or (g), the Contractor may by notice terminate the Contract immediately.

The Contractor's selection to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contract or otherwise.

Cessation of Work and Removal of Contractor's Equipment

After a notice of termination under Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination for Convenience], Sub-Clause 16.2 [Termination by Contractor] or Sub-Clause 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall promptly:

- a) Cease all further work, except for such work as may have been instructed by the Project Manager for the protection of life or property or for the safety of the Works,
- b) hand over Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
- c) remove all other Goods from the Site, except as necessary for safety, and leave the Site.

Payment on Termination

After a notice of termination under Sub-Clause 16.2 [Termination by Contractor] has taken effect, the Procuring Entity shall promptly:

- a) Return the Performance Security to the Contractor,
- b) pay the Contractor in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release], and
- c) pay to the Contractor the amount of any loss or damages sustained by the Contractor as a result of this termination.

17. Risk and Responsibility

Indemnities

The Contractor shall indemnify and hold harmless the Procuring Entity, the Procuring Entity's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- a. Bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and
- b. Damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, their respective agents, or any one directly or indirectly employed by any of them.

The Procuring Entity shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their

respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d) (i), (ii) and (iii) of Sub-Clause 18.3 [Insurance Against Injury to Persons and Damage to Property].

Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Procuring Entity. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Procuring Entity.

After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

Procuring Entity's Risks

The risks referred to in Sub-Clause 17.4 [Consequences of Procuring Entity's Risks] below, insofar as they directly affect the execution of the Works in Kenya, are:

- a) War hostilities (whether war be declared or not),
- b) rebellion, riot, commotion or disorder, terrorism, sabotage by persons other than the Contractor's Personnel,
- c) explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such explosives, radiation or radio-activity,
- d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- e) use or occupation by the Procuring Entity of any part of the Permanent Works, except as may be specified in the Contract,
- f) design of any part of the Works by the Procuring Entity's Personnel or by others for whom the Procuring Entity is responsible, and
- g) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventive precautions.

Consequences of Procuring Entity's Risks

If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Project Manager and shall rectify this loss or damage to the extent required by the Project Manager.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) Payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 17.3 [Procuring Entity's Risks], Cost plus profit shall be payable.

After receiving this further notice, the Project Managers shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

In this Sub-Clause, “infringement” means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and “claim” means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

The Procuring Entity shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

- a) An unavoidable result of the Contractor's compliance with the Contract, or
- b) A result of any Works being used by the Procuring Entity:
 - i) For a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
 - ii) in conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

The Contractor shall indemnify and hold the Procuring Entity harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

Limitation of Liability

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contractor for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 8.7 [Delay Damages]; Sub-Clause 11.2 [Cost of Remedying Defects]; Sub-Clause 15.4 [Payment after Termination]; Sub-Clause 16.4 [Payment on Termination]; Sub-Clause 17.1 [Indemnities]; Sub-Clause 17.4(b) [Consequences of Procuring Entity's Risks] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights].

The total liability of the Contractor to the Procuring Entity, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Procuring Entity's Equipment and Free-Issue Materials], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum resulting from the application of a multiplier (less or greater than one) to the Accepted Contract Amount, as stated in the **Particular Conditions of Contract**, or (if such multiplier or other sum is not so stated) the Accepted Contract Amount.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

Use of Procuring Entity's Accommodation/Facilities

The Contractor shall take full responsibility for the care of the Procuring Entity provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Procuring Entity is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Project Manager.

In this Clause, “insuring Party” means, for each type of insurance, the Party responsible for effecting and maintaining the insurances specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Procuring Entity. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

Wherever the Procuring Entity is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Procuring Entity shall act for Procuring Entity's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods stated in **the Particular Conditions of Contract** (calculated from the Commencement Date), submit to the other Party:

- a. Evidence that the insurances described in this Clause have been effected, and
- b. copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].

When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Project Manager.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurers shall promptly give notice to the other Party.

If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide as is factory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Procuring Entity, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Procuring Entity.

Procuring Entity in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Procuring Entity's Claims] or Sub-Clause 20.1 [Contractor's Claims], as applicable.

The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to Clause 18) with insurers from any eligible source country.

Insurance for Works and Contractor's Equipment

The insuring Party shall insure the Works, Plant, Materials and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.

The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability]).

The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.

Unless otherwise stated in the Particular Conditions, insurances under this Sub-Clause:

- a. Shall be effected and maintained by the Contractor as insuring Party,
- b. shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage,
- c. shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks],
- d. shall also cover, to the extent specifically required in the tendering documents of the Contract, loss or damage to a part of the Works which is attributable to the use or occupation by the Procuring Entity of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h) of Sub-Clause 17.3 [Procuring Entity's Risks], excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated **in the Particular Conditions** of Contract (if an amount is not so stated, this sub-paragraph (d) shall not apply), and
- e. may however exclude loss of, damage to, and reinstatement of:
 - a. a part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),
 - b. a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,
 - c. a part of the Works which has been taken over by the Procuring Entity, except to the extent that the Contractor is liable for the loss or damage, and
 - d. Goods while they are not in Kenya, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].

If, more than one year after the Base Date, the cover described in sub-paragraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Procuring Entity, with supporting particulars. The Procuring Entity shall then (i) be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

Insurance against Injury to Persons and Damage to Property

The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount stated in **the Particular**

Conditions of Contract, with no limit on the number of occurrences. If an amount is not stated in the **Particular Conditions of Contract**, this Sub-Clause shall not apply.

Unless otherwise stated in the Particular Conditions, the insurance specified in this Sub-Clause:

- a. Shall be effected and maintained by the Contractor as insuring Party,
- b. Shall be in the joint names of the Parties,
- c. shall be extended to cover liability for all loss and damage to the Procuring Entity's property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and
- d. may however exclude liability to the extent that it arises from:
 - i. the Procuring Entity's right to have the Permanent Works executed on, over, under, in or
 - ii. through any land, and to occupy this land for the Permanent Works,
 - iii. damage which is an unavoidable result of the Contractor's obligations to execute the
 - iv. Works and remedy any defects, and
 - v. A cause listed in Sub-Clause 17.3 [Procuring Entity's Risks], except to the extent that cover is
 - vi. available at commercially reasonable terms.

Insurance for Contractor's Personnel

The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The insurance shall cover the Procuring Entity and the Project Manager against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Procuring Entity or of the Procuring Entity's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

19

Force Majeure

Definition of Force Majeure

In this Clause, "Force Majeure" means an exceptional event or circumstance:

- a. Which is beyond a Party's control,
- b. Which such Party could not reasonably have provided against before entering into the Contract,
- c. which, having arisen, such Party could not reasonably have avoided or overcome, and
- d. which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- ii) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,
- iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,
- iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

Notice of Force Majeure

If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall, having given notice, be excused performance of its obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

Duty to Minimize Delay

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

Consequences of Force Majeure

If the Contractor is prevented from performing his substantial obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b. if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in sub-paragraphs (ii) to (iv), occurs in Kenya, payment of any such Cost, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment].

After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

Force Majeure Affecting Subcontractor

If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

Optional Termination, Payment and Release

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

Upon such termination, the Project Manager shall determine the value of the work done and issue a Payment Certificate which shall include:

- a. The amounts payable for any work carried out for which a price is stated in the Contract;
- b. The Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery; this Plant and Material shall become the property of (and bear the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;
- c. other Cost or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;

d. the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of

these items to the Contractor's works in his Procuring Entity (or to any other destination at no greater cost); and

- e. the Cost of repatriation of the Contractor's staff and laboremployed wholly in connection with the Works at the date of termination.

Release from Performance

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- a) The Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- b) The sum payable by the Procuring Entity to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.

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Settlement of Claims and Disputes

Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

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

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

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- a) This fully detailed claim shall be considered as interim;
- b) The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
- c) The Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

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

Within the above defined period of 42 days, the Project Managers shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

If the Project Manager does not respond within the time frame defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 20.2 [Settlement of Claims and Disputes].

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

Amicable Settlement

Where a Notice of Dissatisfaction has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction in accordance with Sub-Clause 20.1 above should move to commence arbitration after the fifty-sixth day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

Matters that may be referred to arbitration

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

- a) The appointment of a replacement Project Manager upon the said person ceasing to act.
- b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
- c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- e) Any dispute arising in respect of war risks or war damage.
- f) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

Arbitration

Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.3 shall be finally settled by arbitration. Arbitration shall be conducted as follows:

- a) If the contract is with foreign contractors, arbitration proceedings shall be administered by the arbitration institution designated in the Particular Conditions of Contract, and conducted under the rules of arbitration of such institution; or, if so specified in the Particular Conditions of Contract, international arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or if neither an arbitration institution nor UNCITRAL arbitration rules are specified in the Particular Conditions of Contract, with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules;
- b) If the Contract is with national contractors, arbitration with proceedings conducted in accordance with the Arbitration Law of Kenya.

The place of arbitration shall be the neutral location specified in the Particular Conditions of Contract; and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language].

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

Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

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

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

National arbitration with proceedings

In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

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

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

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

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

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

The Arbitrator shall, without prejudice to the generality of his powers, have power to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.

The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.

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

Failure to Comply with Arbitrator's Decision

In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

SECTIONIX-PARTICULARCONDITIONSOFCONTRACT

The following Particular Conditions shall supplement the GCC. Whenever there is a conflict, the provisions here in shall prevail over those in the GCC.

PartA- Contract Data

Conditions	Sub-Clause	Data
Procuring Entity's name and address	Heading	
Name and Reference No. of the Contract	Heading and 3.1.1	
Project Manager's Name and address	Heading and 3.1.1	
Contractor's Representative's name	4.3.1	<i>[insert the name of the Contractor's Representative agreed by the Procuring Entity prior to Contract signature]</i>
Key Personnel names	6.9.1	<i>[insert the name of each Key Personnel agreed by the Procuring Entity prior to Contract signature]</i>
Time for Completion	1.1.	_____ days <i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Defects Notification Period	1.1	_____ days
Sections	1.1	<i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Electronic transmission systems	1.3	
Time for the Parties entering into a Contract Agreement	1.6	Within 28 days
Commencement Date	8.1.1	
Time for access to the Site	2.1	Not later than the Commencement Date, and not later than _____ days after Commencement Date
Project Manager's Duties and Authority	3.1.6(b)(ii)	Variations resulting in an increase of the Accepted Contract Amount in excess of % shall require approval of the Procuring Entity.
Performance Security	4.2.1	The performance security will be in the form of a _____ <i>[insert either one of "demand guarantee" or "performance bond"]</i> in the amount(s) of <i>[insert related figure(s)]</i> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.
Normal working hours	6.5	Specify
Delay damages for the Works	8.7 & 14.15.1(b)	_____ % of the Contract Price per day. <i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Maximum amount of delay damages	8.7	_____ % of the final Contract Price.
Provisional Sums	13.5.(b)(ii)	<i>[If there are Provisional Sums, insert a percentage for adjustment of Provisional Sums]</i> _____ %
Adjustments for Changes in Cost	13.8.3	Period "n" applicable to the adjustment multiplier "Pn": _____ <i>[Insert the period if different from one (1) month; if period "n" is one (1) month, insert "not applicable"]</i>

Conditions	Sub-Clause	Data
Total advance payment	14.2.1	% Percentage of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable <i>[Insert number and timing of instalments if applicable]</i>
Repayment amortization rate of advance payment	14.2.5 (b)	_____ %
Percentage of Retention	14.3.2 (c)	_____ %
Limit of Retention Money	14.3.2 (c)	_____ % of the Accepted Contract Amount
Plant and Materials	14.5.3(b)(i)	If Sub-Clause 14.5 applies: Plant and Materials for payment Free on Board _____ <i>[list]</i> .
	14.5.3(c)(i)	Plant and Materials for payment when delivered to the Site _____ <i>[list]</i> .
Minimum Amount of Interim Payment Certificates	14.6.2	_____ % of the Accepted Contract Amount.
Publishing source of commercial interest rates for financial charges in case of delayed payment	14.8.2	Specify _____ % rate per month of delayed payment.
Maximum total liability of the Contractor to the Procuring Entity	17.6.2	<i>[Select one of the two options below as appropriate]</i> The product of _____ <i>[insert a multiplier less or greater than one]</i> times the Accepted Contract Amount, or _____ <i>[insert amount of the maximum total liability]</i>
Periods for submission of insurance: a. evidence of insurance. b. relevant policies	18.1.6	<i>[Insert period for submission of evidence of insurance and policy. Period may be from 14 days to 28 days.]</i> ____ days ____ days
Maximum amount of deductibles for insurance of the Procuring Entity's risks	18.2.4 (d)	<i>[Insert maximum amount of deductibles]</i>
Minimum amount of third-party insurance	18.3.2	<i>[Insert amount of third-party insurance]</i>
The place of arbitration	20.4.2	<i>Insert city and country</i>

SECTIONIX-CONTRACTFORMS

Table ofForms

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AWARDFORMNo.2-REQUESTFORREVIEW

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RETENTIONMONYSECURITY

FORMNO.9BENEFICIALOWNERSHIPDISCLOSURE

FORM N01: NOTIFICATION OF INTENTION TO AWARD

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

FORMAT

1. For the attention of Tenderer's Authorized Representative

- i) Name: [insert Authorized Representative's name]
- ii) Address: [insert Authorized Representative's Address]
- iii) Telephone: [insert Authorized Representative's telephone/fax numbers]
- iv) Email Address: [insert Authorized Representative's email address]

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

2. Date of transmission: [email] on [date] (local time) This

Notification is sent by (Name and designation) _____

3. Notification of Intention to Award

- i) Procuring Entity: [insert the name of the Procuring Entity]
- ii) Project: [insert name of project]
- iii) Contract title: [insert the name of the contract]
- iv) ITT No: [insert ITT reference number from Procurement Plan]

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

4. Request a debriefing in relation to the evaluation of your tender by submitting a Procurement-related Complaint in relation to the decision to award the contracts.

- a) The successful tenderers
 - i) Name of successful Tender _____
 - ii) Address of the successful Tender _____
 - iii) Contract price of the successful Tender Kenya Shillings _____
(in words _____)
- b) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out.

S/No.	Name of Tender	Tender Price as read out	Tender's evaluated price (Note a)	One Reason Why Not Evaluated
1				
2				
3				
4				
5				

5. Howto request adebriefing
- a) DEADLINE:Thedeadlinetorequestadebriefingexpires atmidnight on[*insertdate*](*localtime*).
 - b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decideto request a debriefing your written request must be made within three (5) Business Days of receipt ofthisNotificationofIntentionto Award.
 - c) Provide the contract name, reference number, name of the Tenderer, contact details; and address therequestfordebriefingas follows:
 - i) Attention:[*insertfull nameof person,ifapplicable*]
 - ii) Title/position:[*inserttitle/position*]
 - ii) Agency:[*insertnameofProcuringEntity*]
 - iii) Emailaddress:[*insertemail address*]
 - d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefingwithin five (3) Business Days of receipt of your request. If we are unable to provide the debriefingwithin this period, the Standstill Period shall be extended by five (3) Days after the date that thedebriefing is provided. If this happens, we will notify you and confirm the date that the extendedStandstill Periodwillend.
 - e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptlyadviseyou in writinghowthe debriefingwilltake placeand confirmthe dateandtime.
 - f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, wewill provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days fromthedataofpublicationoftheContractAwardNotice.

6. Howto makea complaint

- a) Period:Procurement-relatedComplaintchallengingthedecisiontoawardshallbesubmittedbymidnight,[*insertdate*](*localtime*).
- b) Providethecontractname,referencenumber,nameoftheTenderer,contactdetails;andaddresstheProcurement-related Complaintasfollows:
 - i) Attention:[*insertfull nameof person,ifapplicable*]
 - ii) Title/position:[*inserttitle/position*]
 - iii) Agency:[*insertnameofProcuringEntity*]
 - iv) Emailaddress:[*insertemail address*]
- c) Atthispointinthe procurementprocess,youmaysubmitaProcurement-relatedComplaintchallenging the decision to award the contract. You do not need to have requested, or received, adebriefing before making this complaint. Your complaint must be submitted within the StandstillPeriodandreceivedbyus before the StandstillPeriodends.
- d) Furtherinformation:FormoreinformationrefertothePublicProcurementandDisposalsAct2015andits Regulationsavailable fromtheWebsitewww.ppra.go.ke.

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

- e) There are four essential requirements:
 - i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
 - ii) The complaint can only challenge the decision to award the contract.
 - iii) You must submit the complaint within the period stated above.
 - iv) You must include, in your complaint, all of the information required to support your complaint

7. StandstillPeriod

- i) DEADLINE:TheStandstillPeriodisduetoendatmidnighton[insert date](localtime).
- ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of IntentiontoAward.
- iii) TheStandstillPeriod maybe extendedasstatedinparagraphSection 5(d)above.

If you have any questions regarding this Notification please do not hesitate to contactus.On behalfoftheProcuringEntity:

Signature: _____

Name: _____

Title/position:

Telephone: _____

Email: _____

FORMNO.2-REQUESTFORREVIEW

FORMFORREVIEW (r.203(1))

PUBLICPROCUREMENTADMINISTRATIVEREVIEWBOARD

APPLICATIONNO.....OF.....20.....

BETWEEN

.....**APPLICANT**

AND

.....**RESPONDENT(ProcuringEntity)**

Requestforreviewofthedecisionofthe.....(NameoftheProcuringEntityof.....datedthe...dayof
.....20.....inthematterofTender No.....of.....20.....for(Tenderdescription).

REQUESTFORREVIEW

I/We.....,theabovenamedApplicant(s),ofaddress:Physicaladdress.....P.O.BoxNo.....Tel.
No.....Email.....,herebyrequestthePublicProcurement AdministrativeReviewBoardtoreviewthewhole/partofthe
abovementioneddecisiononthefollowinggrounds,namely:

- 1.
- 2.

Bythis memorandum,theApplicantrequeststheBoardforanorder/ordersthat:1.

- 2.

SIGNED.....(Applicant) Datedon.....dayof...../...20.....

FOROFFICIALUSEONLYLodgedwiththeSecretaryPublicProcurement AdministrativeReviewBoardon.....dayof
.....20.....

SIGNED

BoardSecretary

FORM NO 3:LETTER OF AWARD

[letterhead paper of the

Procuring Entity][date]

To:*[name and address of the Contractor]*

This is to notify you that your Tender dated.....*[date]* for execution of the. *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words][name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by *(name of Procuring Entity)*.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Procuring Entity: _____

Attachment: *Contract Agreement*: _____

FORMNO4:CONTRACTAGREEMENT

THIS AGREEMENT made the _____ day of _____, 20_____, between _____ of _____ (hereinafter “the Procuring Entity”), of the one part, and _____ of _____ (hereinafter “the Contractor”), of the other part:

WHEREAS the Procuring Entity desires that the Works known as _____ should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects there in,

The Procuring Entity and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - a) The Letter of Acceptance
 - b) The Letter of Tender
 - c) The addenda Nos _____ (if any)
 - d) The Particular Conditions of Contract
 - e) The General Conditions of Contract;
 - f) The Specifications
 - g) The Drawings; and
 - h) The completed Schedules and any other documents forming part of the contract.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Procuring Entity to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

Signed and sealed by _____ (for the Procuring Entity)

Signed and sealed by _____ (for the Contractor).

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

[Guarantor letterhead]

Beneficiary: [insert name and Address of
Procuring Entity] **Date:** ____ [Insert date of issue]

Guarantor: [Insert name and address of place of issue, unless indicated in the letterhead]

1. We have been informed that _____
_____ (hereinafter called "the Contractor") has entered into
Contract No. _____ dated _____ with
(name of Procuring Entity) _____ (the Procuring Entity as the Beneficiary), for the execution of
_____ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (in words),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sums specified therein.
4. This guarantee shall expire, not later than the Day of², and any demand for payment under it must be received by us at the office indicated above or before that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

[Name of Authorized Official, signature(s) and seals/stamps]

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

¹The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency of the Contractor or a freely convertible currency acceptable to the Beneficiary.

²Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM No.6-PERFORMANCE SECURITY [Option2-Performance Bond]

[Note: Procuring Entities are advised to use Performance Security- Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bondholder to action]

[Guarantor letterhead or SWIFT identifier

code] **Beneficiary:** *[insert name and Address of Procuring Entity]*

Date: _____ *[Insert date of issue]*

PERFORMANCE BOND No.: _____

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond _____ as Principal (hereinafter called "the Contractor") and _____ as Surety (hereinafter called "the Surety"), are held and firmly bound unto _____ as Obligees (hereinafter called "the Procuring Entity") in the amount of _____ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the day of _____, 20____, for _____ in accordance with the documents, plans, specifications, and amendments there to, which to the extent here in provided for, are by reference made part here of and are herein after referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity's obligation thereunder, the Surety may promptly remedy the default, or shall promptly:
 - (1) Complete the Contract in accordance with its terms and conditions; or
 - (2) obtain a tender or tenders from qualified tenderers for submission to the Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Procuring Entity and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable here under, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Procuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
 - (3) pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named here in or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.
6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day _____ of _____, 20____.

SIGNED ON _____ on behalf of

By _____ in the capacity of _____ in the presence of

SIGNED ON _____ on behalf of

By _____ in the capacity of _____ in the presence of

FORM NO. 7-ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____ [Insert name and Address of Procuring Entity]

Date: _____ [Insert date of issue] **ADVANCE**

PAYMENT GUARANTEE No.: [Insert guarantee reference number] **Guarantor:**

[Insert name and address of place of issue, unless indicated in the letterhead]

1. We have been informed that _____ (hereinafter called "the Contractor") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ (in words) is to be made against an advance payment guarantee.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (in words) upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
 - a) Has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
 - b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account number at _____.
5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, on the day of _____, 2,² whichever is earlier. y
Consequently, demand for payment under this guarantee must be received by us at this office on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

_____ [Name] of
Authorized Official, signature(s) and seals/stamps]

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

¹The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency of the advance payment as specified in the Contract.

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

FORM NO. 8 - RETENTION MONEY SECURITY [Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____ [Insert name and Address of Procuring Entity]

Date: _____ [Insert date of issue]

Advance payment guarantee no. [Insert guarantee reference number]

Guarantor: [Insert name and address of place of issue, unless indicated in the letterhead]

1. We have been informed that _____ [insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture] (herein after called "the Contractor") has entered into Contract No. _____ [insert reference number of the contract] dated _____ with the Beneficiary, for the execution of _____ [insert name of contract and brief description of Works] (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains money up to the limit set for this Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of [insert the second half of the Retention Money] is to be made against a Retention Money guarantee.
3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of [insert amount in figures] _____ (insert amount in words) upon receipt by us of the Beneficiary's complying demands supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sums specified therein.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its account number _____ at [insert name and address of Applicant's bank].
5. This guarantee shall expire not later than the Day of 20...², and any demand for payment under it must be received by us at the office indicated above on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

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

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

²Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

INSTRUCTIONSTOTENDERERS:DELETETHISBOXONCEYOUHAVECOMPLETEDTHEFORM

This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful tenderer. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:

- *Directly or indirectly holding 25% or more of the shares.*
- *Directly or indirectly holding 25% or more of the voting rights.*
- *Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.*

Tender Reference No.: _____ [insert identification no]
 Name of the Assignment: _____ [insert name of the assignment]
 to: _____ [insert complete name of Procuring Entity]

In response to your notification of award dated _____ [insert date of notification of award] to furnish additional information on beneficial ownership: _____ [select one option as applicable and delete the options that are not applicable]

D) We hereby provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes/No)	Directly or indirectly holding 25% or more of the Voting Rights (Yes/ No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer (Yes/No)
<i>[include full name (last, middle, first), nationality, country of residence]</i>			

OR

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

OR

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

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

Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing

body of the Tenderer]”

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

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

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

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

Date signed.....[insert date of signing] day of..... [Insert month],[insert ye



KENYATTANATIONALHOSPITALSITEVISITCERTIFICATE

TENDERNO: KNH/T/60/2022-2023

BiddersName.....

Address:.....

This is to confirm the above noted bidder visited KNH site on **19th July, 2022 at 10.30Am.**

Bidder's Representative

Name.....Sign.....date.....

KNHRepresentative:

Name.....Sign.....Date.....

This is to confirm the above noted bidder visited KNH site on.....Stamp.....