



KRA/HQS/NCB-011/2020-2021: PROPOSED OFFICE FIT-OUT AND RENOVATION WORKS AT  
USHURU PENSION TOWERS BUILDING, ELGON ROAD, UPPER HILL, NAIROBI  
FOR  
KENYA REVENUE AUTHORITY

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BILL OF QUANTITIES - PHASE 11  
VOLUME 1

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[Contact email: eprocurement@kra.go.ke](mailto:eprocurement@kra.go.ke)

**SITE VISIT: 7<sup>TH</sup> OCTOBER 2020 AT 11.00 AM**  
**CLOSING DATE: 21<sup>ST</sup> OCTOBER, 2020 AT 11.00 AM - TIMES TOWER**

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### Tender Notice

The Kenya Revenue Authority invites sealed bids from eligible candidates for the following tenders:

NO.	DESCRIPTION	ELIGIBILITY	SITE VISIT	CLOSING DATE AND TIME
1	KRA/HQS/NCB-011/2020-2021: PROPOSED OFFICE FIT-OUT AND RENOVATION WORKS AT USHURU PENSION TOWERS BUILDING, ELGON ROAD, UPPER HILL, NAIROBI	OPEN	7 <sup>TH</sup> October 2020 11.00 AM Ushuru Pension Towers -Upper Hill	21 <sup>st</sup> October 2020 11.00 AM Times Tower

- Interested eligible candidates may obtain further information and inspect the tender documents with detailed requirements at the office of the Deputy Commissioner-Supply Chain Management, Times Tower Building, 21<sup>st</sup> Floor.
- A complete set of bidding documents in English may be obtained from KRA E-Procurement portal available on the KRA website [www.kra.go.ke](http://www.kra.go.ke). Prospective bidders should register for E-Procurement to enable them access the KRA portal under "New Supplier Registration" found under the Tender Tab. For enquiries email to: [eprourement@kra.go.ke](mailto:eprourement@kra.go.ke)
- Bidders to note that Bill of quantities and Technical drawings are separately attached and marked **appendix 1 and 2 respectively**.
- Bidders will be evaluated using the criteria set out on page 78 to 79.**
- Mandatory site visit** is scheduled for 7<sup>th</sup> October 2020 at 11.00. Contact person Edward Biese. Tel: **0724 386 082**
- Existing Suppliers with V-numbers and SRM passwords will automatically obtain the tender document in their SRM supplier portal. Existing Suppliers List is available on KRA Website under Tenders
- Completed Bids are to be saved as PDF documents marked "KRA/HQS/NCB-011/2020-2021: : **Proposed Office Fit-Out and Renovation Works at Ushuru Pension Towers Building, Elgon Road, Upper Hill, Nairobi** and submitted to the appropriate KRA E-procurement Web Portal found on the KRA website so as to be received on or before **21st October 2020**
- Bidders to note that the COMBINED TECHNICAL AND FINANCIAL proposal shall be submitted through the KRA supplier portal. The bidder shall submit combined technical and financial proposals electronically via supplier portal in the Notes and attachment Section of the RFX {Tender. Bidders to note that system bid submission issues shall not be addressed **within 24 hours to the tender closing date and time**.
- Bids will be opened electronically promptly after closing time and Bidders or their representatives are welcome to witness the opening at **Times Tower Building**.
- An **original hard copy** of the Bid Security of not less than the indicated amount or equivalent amount in a freely convertible currency must be dropped in the **Tender security Box** located at **Times Tower Building**, Ground Floor any day before the tender closing date. The Bid Security must be in a sealed envelope bearing the Tender Description and addressed to the address indicated below.  
**Deputy Commissioner-Supply Chain Management**

Times Tower Building, 25<sup>th</sup> Floor,  
P.O Box 48240- 00100 GPO,  
Tel. +254 020 310900  
Nairobi, Kenya.  
website: [www.kra.go.ke](http://www.kra.go.ke)  
Email :[eprourement@kra.go.ke](mailto:eprourement@kra.go.ke)

Any canvassing or giving of false information will lead to automatic disqualification.

## **SECTION II**

### **NOTES TO TENDERERS**

The Contract Documents consist of the Agreement and Schedule of Conditions of Building Works (1999 Edition) published by the Joint Building Council of Kenya, the Drawings listed herein, the General Description of Materials herein and those Bills of Quantities containing all modifications thereof as incorporated in the documents before the signing of the Contract takes place.

These Contract Documents supersedes all enquiries, proposals, agreements, negotiations and commitments, whether written or verbal, prior to the date of execution of this Contract.

Tenderers shall be deemed to have inspected and be fully acquainted with all Contract Documents prior to the submission of Tenders.

### **DESCRIPTION OF PROJECT**

The description hereunder is a general guide only and Tenderers are referred to the Architect's and Engineer's drawings for tender purposes.

The works generally consist of office interior fit-out and configuration. The scope of work to be undertaken include partitioning in office spaces using blocks, gypsum and glass. The surface application and finishes is in textured premium wall paper and various types of paints and applications. Floor finishes are granito tiles in the office areas and floor carpets in the enclosed offices. Ceiling finishes include paint works on some of the areas and gypsum ceiling on specified areas. The doors are glass doors in the offices and hard wood folding doors in the board rooms; while the windows include installation of aluminium blinds. Services include plumbing, drainage, firefighting installation, electrical and lift installations. The external works include improvements and modifications at the gate house to meet security standards and needs.

The gross floor areas measured over external walls are as follows: -

Description	Approx. Areas (m2 )
Third Floor	459m <sup>2</sup>
Fifth Floor	459m <sup>2</sup>
Seventh Floor	336m <sup>2</sup>
<hr/>	
<b>Total Area</b>	<b>1,254m<sup>2</sup></b>
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No liability shall be accepted should the information provided under this heading be considered misleading.

#### INFORMATION TO BE PROVIDED BY TENDERER'S

Tenderers are to provide, prior to appointment and within seven days of being requested by the Architect or Quantity Surveyor to do so, the following information:-

- i) Proposed construction management team and system including names of key personnel
- ii) List of proposed sub-contractors
- iii) Bar-chart or simple programme
- iv) Fully detailed costing of the Preliminaries
- v) Written confirmation from a recognized Bank or other acceptable Financial Institution that such Institution would be prepared to bind themselves as Surety for 10% of the contract sum in accordance with Clause 16 of the conditions for the full period of the contract, i.e. until the Contractor has complied with all of his obligations in terms of the Agreement and Schedule of Conditions of Building Contract.
- vi) Construction documentation lead-in period required for the various elements of the works.

#### EXTRACTS FROM PRELIMINARIES

The following clauses are highlighted and Tenderers are requested to take particular note of their contents as no claims due to the misunderstanding of the true meaning and intent thereof will be entertained.

Tenderers are to note that these clauses do not in any way reduce their liabilities and/or obligations arising from their compliance with the remainder of the contract documentation.

- i) **INSURANCE OF THE WORKS:** The Contractor shall arrange and pay for Insurance of the Works.
- ii) **CONTRACT DOCUMENTS:** The drawings as listed in Annexure "A" will form part of the Contract Documents.

- iii) **INTERPRETATION OF DRAWINGS, SPECIFICATIONS AND BILLS OF QUANTITIES:** Should any part or parts of any drawings, specifications or Bills of Quantities not be clearly intelligible to the Tenderer, or should there be any doubt or obscurity as to the meaning or intentions thereof, the Tenderer must, before submitting his tender, obtain in writing from the Architect, the necessary information to clarify same.

It will be deemed that, when tendering for this project, the Tenderer was fully acquainted with:-

- all the drawings from the Project, with the nature and requirements of the work to be done and the Scope of the Contract, and
- the Contract Documents, as amended

No consideration will be given to any claim resulting from his having failed to take the opportunity of inspecting and studying the said drawings and documents before submitting his tender.

The said drawings may be inspected at the offices of the Architect by prior appointment.

- iv) **ORDERING OF MATERIALS:** Should the Tenderer consider that he will be unable to obtain materials for any item on the drawings or items described in the Bills of Quantities or to obtain such materials timeously to suit the programme for the Works or to obtain such materials in specified sizes, he is to report this in writing to the Architect before the closing date for tenders and obtain the Architects written directives in connection therewith.

If the Tenderer fails to do this, his tender will be taken as firm for all items described in the Bills of Quantities and he will be responsible for supplying such materials timeously to meet the programme for the works.

- v) **PRICING PRELIMINARIES:** These Bills of Quantities have been formulated in the conventional manner, whereby the Preliminaries have been included as a separate section, in order to enable Tenderers to price their site establishment costs, site management, etc.

In pricing the Preliminaries, Tenderers are required to price the relevant items individually, as a single lump sum preliminaries amount will not be accepted.

In the event that a Tenderer elects not to price the Preliminaries section as contained within these Bills of Quantities, then it will be deemed that all relevant Preliminaries costs would have been included within the rates as tendered within the measured Bills of Quantities. Adjustment of the preliminaries will, in this instance, only be by measured final quantities applied to tendered rates.

- vi) **PRICING OF BILLS OF QUANTITIES:** Tenderers are to allow opposite each item for all costs in connection therewith. All prices to include, unless otherwise stated, for all materials, fabrication, conveyance and delivery, unloading, storing, unpacking, hoisting, labour, setting, fitting and fixing in position, cutting and waste (except where to be measured in accordance with the Standard Method of Measurement) patterns, models and templates, plant, temporary works, returning of packings, duties, taxes, imposts, establishment charges, overheads, profit and all other obligations arising out of the Contract.

Items left unpriced will be deemed to be covered in prices against other items throughout these Bills of Quantities and no claim for any extras arising out of the Tenderer's omission to price any item will be entertained.

Prices for all plant, temporary works, services and other items provided shall include for the supply, maintenance, operating cost and subsequent removal and making good as necessary.

All rates are to include Value Added Tax (VAT)

## **ADJUSTMENTS OF ERRORS IN THE PRICED TENDER DOCUMENTS**

### **GENERALLY**

There shall be no correction of errors. Bidders are informed that bids with arithmetic errors shall be disqualified.

### **CALCULATION OF BUILDER'S WORK ELEMENT**

The Builder's Work Element to the Contract Sum will be calculated by taking the tendered sum and omitting the value of all Prime Cost and Provisional Sums (i.e. the total value of all items priced by the Contractor).

### **TYPES OF ERRORS**

(a) **Arithmetical Errors**

Arithmetical errors will include errors in extension of rates, additions or subtractions and the transfer of figures from one Bills of Quantities to another, and in all cases will be corrected.

(b) **Pricing Errors**

Should any rates or prices included in the Bills of Quantities be obviously erroneous, these rates or prices will be corrected, subject to consultation with the Contractor, so as to be fair and reasonable to both parties to the Contract. Such rates and prices will be ascertained by either taking Bill rates, rates pro-rata to Bill rates or calculated new rates, and the resulting discrepancies between these

revised rates and those rates previously included shall be classed as arithmetical errors and included in the total sum of errors.

**PREPARATION OF VARIATION ACCOUNT**

When the variation account is prepared omissions and additions in the Builders' Work element will be based on corrected figures and rates, and the sum total of such omissions and additions will be subjected to the adjustment percentage mentioned previously. Bidders to note that variations applies to contracts whose contracts duration is above 12 months and can contracts can only be varied after 12 months

**PREPARATION OF VALUATIONS FOR CERTIFICATES**

All valuations of Builders' Work for Certificates shall be calculated based on corrected figures and rates, and the sum of total of Works executed and materials on site will be subject to the percentage mentioned previously.



**SECTION III**

**INSTRUCTIONS TO TENDERERS**

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**INSTRUCTIONS TO TENDERERS.**

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

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

- (c) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and names and addresses of clients who may be contacted for further information on these contracts;
- (d) major items of construction equipment proposed to carry out the Contract and an undertaking that they will be available for the Contract.
- (e) qualifications and experience of key site management and technical personnel proposed for the Contract and an undertaking that they shall be available for the Contract.
- (f) reports on the financial standing of the tenderer, such as profit and loss statements and auditor's reports for the past five years;
- (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- (h) authority to seek references from the tenderer's bankers;
- (i) information regarding any litigation, current or during the last five years, in which the tenderer is involved, the parties concerned and disputed amount; and
- (j) proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.

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

- (a) the tender shall include all the information listed in clause 1.5 above for each joint venture partner;
- (b) the tender shall be signed so as to be legally binding on all partners;
- (c) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (d) one of the partners will be nominated as being in charge,

authorised to incur liabilities, and receive instructions for and on behalf of all partners of the joint venture; and

(e) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

- 1.7 To qualify for award of the Contract, tenderers shall meet the requirements as set in the criteria of evaluation (pages78 - 79).
- 1.8 The figures for each of the partners of a joint venture shall be added together to determine the tenderer's compliance with the minimum qualifying criteria of clause 1.7
- 1.9 Each tenderer shall submit only one tender, either individually or as a partner in a joint venture. A tenderer who submits or participates in more than one tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the tenderer's participation to be disqualified.
- 1.10 The tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.
- 1.11 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.
- 1.12 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 1.13 The document shall be downloaded from the KRA website free of charge.
- 1.14 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

## **2. Tender Documents**

- 2.1 The complete set of tender documents comprises the documents listed below and any addenda issued in accordance with Clause 2.4.

- (a) These Instructions to Tenderers
- (b) Form of Tender and Qualification Information
- (c) Conditions of Contract
- (d) Appendix to Conditions of Contract
- (e) Specifications
- (f) Drawings
- (g) Bills of Quantities
- (h) Forms of Securities

2.2 The tenderer shall examine all Instructions, Forms to be filled and Specifications in the tender documents. Failure to furnish all information required by the tender documents, or submission of a tender not substantially responsive to the tendering documents in every respect will be at the tenderer's risk and may result in rejection of his tender.

2.3 A prospective tenderer making an inquiry relating to the tender documents may notify the Employer in writing at the address indicated in the letter of invitation to tender. The Employer will only respond to requests for clarification received earlier than seven days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.

2.4 Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing to all tenderers. Prospective tenderers shall acknowledge receipt of each addendum in writing to the Employer.

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2.5 To give prospective tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend, as necessary, the deadline for submission of tenders, in accordance with Clause 4.2 here below.

### **3. Preparation of Tenders**

3.1 All documents relating to the tender and any correspondence shall be in English language.

3.2 The tender submitted by the tenderer shall comprise the following:

- (a) These Instructions to Tenderers, Form of Tender, Conditions of Contract, Appendix to Conditions of Contract and Specifications;
  - (b) Tender Security;
  - (c) Priced Bill of Quantities;
  - (d) Qualification Information Form and Documents;
  - (e) Alternative offers where invited; and
  - (f) Any other materials required to be completed and submitted by the tenderers.
- 3.3 The tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause relevant to the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the tenderer.
- 3.4 The rates and prices quoted by the tenderer shall only be subject to adjustment during the performance of the Contract if provided for in the Appendix to Conditions of Contract and provisions made in the Conditions of Contract.
- 3.5 The unit rates and prices shall be in Kenya Shillings.
- 3.6 Tenders shall remain valid for a period of **335 days** from the date of submission. However, in exceptional circumstances, the Employer may request that the tenderers extend the period of validity for a specified additional period. The request and the tenderers' responses shall be made in writing. A tenderer may refuse the request without forfeiting the Tender Security. A tenderer agreeing to the request will not be required or permitted to otherwise modify the tender, but will be required to extend the validity of Tender Security for the period of the extension, and in compliance with Clause 3.7 - 3.11 in all respects.
- 3.7 The tenderer shall furnish, as part of the tender, a Tender Security in the amount and form specified in the appendix to invitation to tenderers. This shall be in the amount not exceeding 2 percent of the tender price

- 3.8 The format of the Tender Security should be in accordance with the form of Tender Security included in Standard forms or any other form acceptable to the Employer. Tender Security shall be valid for 30 days beyond the validity of the tender.
- 3.9 Any tender not accompanied by an acceptable Tender Security shall be rejected.
- 3.10 The Tender Securities of unsuccessful tenderers will be returned within 28 days of the end of the tender validity period specified in Clause 3.6.
- 3.11 The Tender Security of the successful tenderer will be discharged when the tenderer has signed the Contract Agreement and furnished the required Performance Security.
- 3.12 The Tender Security may be forfeited
- (a) if the tenderer withdraws the tender after tender opening during the period of tender validity;
  - (b) if the tenderer does not accept the correction of the tender price, pursuant to Clause 5.7;
  - (c) in the case of a successful tenderer, if the tenderer fails within the specified time limit to
    - (i) sign the Agreement, or
    - (ii) furnish the required Performance Security.
- 3.13 Tenderers shall submit offers that comply with the requirements of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. Alternatives will not be considered, unless specifically allowed in the invitation to tender. If so allowed, tenderers wishing to offer technical alternatives to the requirements of the tendering documents must also submit a tender that complies with the requirements of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. In addition to submitting the basic tender, the tenderer shall provide all information necessary for a complete evaluation of the alternative, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated tender conforming to the basic technical requirements shall be considered.

- 3.14 Bidders to note that the **COMBINED TECHNICAL AND FINANCIAL** proposal shall be submitted through the KRA eProcurement web portal. The bidder shall submit combined technical and financial proposals electronically via the supplier portal in the Notes and attachment Section of the RFX (Tender).
- 3.15 The tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the tenderer, pursuant to Clause 1.5 (a) or 1.6 (b), as the case may be. All pages of the tender where alterations or additions have been made shall be initialized by the person or persons signing the tender.
- 3.16 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 3.17 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.
- 3.18 The tender security shall be in the amount of **Kshs 500,000.00** and valid for **365 days**

#### 4. Submission of Tenders

- 4.1 Bidders to note that the **COMBINED TECHNICAL AND FINANCIAL** proposal shall be submitted through the KRA supplier portal. The bidder shall submit Combined technical and financial proposals electronically via the supplier portal in the Notes and attachment Section of the RFX (Tender)
- 4.2 The Authority shall not accept Hard copy tenders.
- 4.3 Any tender received after the deadline prescribed in clause 4.2 will be returned to the tenderer un-opened.

The tenderer may modify the tender after submission and resubmit to the respective folders. All prior submissions cannot be deleted or overwritten. Tenderer to note that the latest submission shall be considered as the final version and all prior submissions shall be disregarded. No tender may be modified after the deadline for submission of tenders.

- 4.4 Withdrawal of a tender between the deadline for submission of



tenders and the expiration of the period of tender validity specified in the invitation to tender or as extended pursuant to Clause 3.6 may result in the forfeiture of the Tender Security pursuant to Clause 3.11.

- 4.5 Tenderers may only offer discounts to, or otherwise modify the prices of their tenders by submitting tender modifications in accordance with Clause 4.4..

## **5. Tender Opening and Evaluation**

- 5.1 The tenders will be opened by the Employer, including modifications made pursuant to Clause 4.4, in the presence of the tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender. Tenderers may modify or withdraw their tenders after submission and resubmit to the respective folders. All prior submissions cannot be deleted or overwritten. Tenderer to note that the latest submissions shall be considered as the final version and all prior submissions shall be disregarded. No tender may be modified after the deadline for submission of tenders.. Bidders willing to **"WITHDRAW"** their bids shall do that before the tender closure time and date.

- 5.2 The tenderers' names, the tender prices, the total amount of each tender and of any alternative tender (if alternatives have been requested or permitted), any discounts, tender modifications and withdrawals, the presence or absence of Tender Security, and such other details as may be considered appropriate, will be announced by the Employer at the opening. Minutes of the tender opening, including the information disclosed to those present will be prepared by the Employer.

- 5.3 Information relating to the examination, clarification, evaluation, and comparison of tenders and recommendations for the award of Contract shall not be disclosed to tenderers or any other persons not officially concerned with such process until the award to the successful tenderer has been announced. Any effort by a tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.

- 5.4 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may ask any tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing but no change in the price and no correction of arithmetic errors.

- 5.5 Bids must meet all the mandatory requirements

- 5.6 If a tender is not substantially responsive, it will be rejected, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.
- 5.7 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
- (a) where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
  - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
  - (c) **In the event of a discrepancy between the tender amount as stated in the Form of Tender and the tender figure in the main summary of the Bill of Quantities, the amount as stated in the Form of Tender shall prevail.**
  - (d) No correction of errors. Bids with arithmetic errors shall be disqualified.
- 5.8 The Employer will evaluate and compare only the tenders determined to be substantially responsive in accordance with Clause 5.5.
- 5.9 In evaluating the tenders, the Employer will determine for each tender the evaluated tender price:
- 5.10 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 5.11 The tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

5.12 There shall be no preference.

## 6. Award of Contract

6.1 Subject to Clause 6.2, the award of the Contract will be made to the tenderer whose tender has been determined to be substantially responsive to the tendering documents and who has offered the lowest evaluated tender price, provided that such tenderer has been determined to be (a) eligible in accordance with the provision of Clauses 1.2, and (b) qualified in accordance with the provisions of clause 1.7 and 1.8.

6.2 Notwithstanding clause 6.1 above, the Employer reserves the right to accept or reject any tender, and to cancel the tendering process and reject all tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the action.

6.3 The tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum (hereinafter and in all Contract documents called the "Contract Price") that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. At the same time the other tenderers shall be informed that their tenders have not been successful.

The contract shall be formed on the parties signing the contract.

6.4 The Agreement will incorporate all agreements between the Employer and the successful tenderer.

6.5 The successful tenderer shall deliver to the Employer a Performance Security of 10%

6.6 Failure of the successful tenderer to comply with the requirements of clause 6.5 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender Security.

- 6.7 Upon the furnishing by the successful tenderer of the Performance Security, the Employer will promptly notify the other tenderers that their tenders have been unsuccessful.
- 6.8 Variation shall not be allowed for contracts not exceeding one year (12 months)
- 6.9 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 6.10 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 6.11 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 6.12 Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.
- 6.13 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.
- 6.14 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 6.15 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 6.16 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **7. Corrupt and Fraudulent practices**

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

SECTION IV

CONDITIONS OF CONTRACT

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## CONDITIONS OF CONTRACT

### 1. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

## 2. Interpretation

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning in English Language unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2 If sectional completion is specified in the Appendix to Conditions of Contract, reference in the Conditions of Contract to the Works, the Completion Date and the Intended Completion Date apply to any section of the Works (other than references to the Intended Completion Date for the whole of the Works).
- 2.3 The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;
- (1) Agreement,
  - (2) Letter of Acceptance,
  - (3) Contractor’s Tender,
  - (4) Appendix to Conditions of Contract,

- (5) Conditions of Contract,
- (6) Specifications,
- (7) Drawings,
- (8) Bill of Quantities,
- (9) Any other documents listed in the Appendix to Conditions of Contract as forming part of the Contract.

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

### **3. Language and Law**

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

### **4 Project Manager's Decisions**

- 4.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

### **5 Delegation**

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

## **6 Communications**

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

## **7 Subcontracting**

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

## **8 Other Contractors**

- 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities etc. as listed in the Appendix to Conditions of Contract and also with the Employer, as per the directions of the Project Manager. The Contractor shall also provide facilities and services for them. The Employer may modify the said List of Other Contractors etc., and shall notify the Contractor of any such modification.

## **9 Personnel**

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

## **10 Works**

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

## 11 Safety and Temporary Works

- 11.1 The Contractor shall be responsible for the design of temporary works. However before erecting the same, he shall submit his designs including specifications and drawings to the Project Manager and to any other relevant third parties for their approval. No erection of temporary works shall be done until such approvals are obtained.
- 11.2 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary works and all drawings prepared by the Contractor for the execution of the temporary or permanent Works, shall be subject to prior approval by the Project Manager before they can be used.
- 11.3 The Contractor shall be responsible for the safety of all activities on the Site.

## 12. Discoveries

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

## 13. Work Program

- 13.1 Within the time stated in the Appendix to Conditions of Contract, the Contractor shall submit to the Project Manager for approval a program showing the general methods, arrangements, order, and timing for all the activities in the Works. An update of the program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining Work, including any changes to the sequence of the activities.

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

Manager again at any time. A revised program shall show the effect of Variations and Compensation Events.

#### **14. Possession of Site**

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

#### **15. Access to Site**

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

#### **16. Instructions**

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

#### **17. Extension or Acceleration of Completion Date where applicable**

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

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

## 18. Management Meetings

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

## 19. Early Warning

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

## 20. Defects

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

- 20.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Project Manager's notice. If the Contractor has not corrected a defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

## **21. Bills of Quantities**

- 21.1 The Bills of Quantities shall contain items for the construction, installation, testing and commissioning of the Work to be done by the Contractor. The Contractor will be paid for the quantity of the Work done at the rate in the Bills of Quantities for each item.
- 21.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 21.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bills of Quantities.

## **22. Variations**

- 22.1 All variations applicable ( for contract exceeding one year) shall be included in updated programs produced by the Contractor.
- 22.2 The Contractor shall provide the Project Manager with a quotation for carrying out the variations when requested to do so. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period as may be stated by the Project Manager and before the Variation is ordered.
- 22.3 If the work in the variation corresponds with an item description in the Bills of Quantities and if in the opinion of the Project Manager, the quantity of work is not above the limit stated in Clause 21.2 or the timing of its execution does not cause the cost per unit of quantity to change, the rate in the Bills of Quantities shall be used to calculate the value of the variation. If the cost per unit of quantity changes, or  
if the nature or timing of the work in the variation does not correspond with items in the Bills of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.

- 22.4 If the Contractor's quotation is unreasonable, the Project Manager may order the variation and make a change to the Contract price, which shall be based on the Project Manager's own forecast of the effects of the variation on the Contractor's costs.
- 22.5 If the Project Manager decides that the urgency of varying the Work would prevent a quotation being given and considered without delaying the Work, no quotation shall be given and the variation shall be treated as a Compensation Event.
- 22.6 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- 22.7 When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast.

### **23. Payment Certificates, Currency of Payments and Advance Payments**

- 23.1 The Contractor shall submit to the Project Manager monthly applications for payment giving sufficient details of the Work done and materials on Site and the amounts which the Contractor considers himself to be entitled to. The Project Manager shall check the monthly application and certify the amount to be paid to the Contractor within 14 days. The value of Work executed and payable shall be determined by the Project Manager.
- 23.2 The value of Work executed shall comprise the value of the quantities of the items in the Bills of Quantities completed, materials delivered on Site, variations and compensation events. Such materials shall become the property of the Employer once the Employer has paid the Contractor for their value. Thereafter, they shall not be removed from Site without the Project Manager's instructions except for use upon the Works.
- 23.3 Payments shall be adjusted for deductions for retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate.
- 23.4 If an amount certified is increased in a later certificate or as a result of an award by an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.



- 23.5 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.
- 23.6 The Contract Price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya Shillings and foreign currency in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate of exchange for the calculation of the amount of foreign currency payment shall be the rate of exchange indicated in the Appendix to Conditions of Contract. If the Contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services the Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services. The Employer and the Project Manager shall be notified promptly by the Contractor of an changes in the expected foreign currency requirements of the Contractor during the execution of the Works as indicated in the Schedule of Foreign Currency Requirements and the foreign and local currency portions of the balance of the Contract Price shall then be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.
- 23.7 The Authority does not encourage advance payment. In the event that an advance payment is granted, the following shall apply:-
- a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of 10% (ten percent) of the original amount of the Contract. The advance shall not be subject to retention money.
  - b) No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.
  - c) Reimbursement of the lump sum advance shall be made by deductions from the Interim payments and where applicable from the balance owing to the Contractor. Reimbursement shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

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

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

80 - 20

Where:

R = the amount to be reimbursed

A = the amount of the advance which has been granted

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

X<sup>11</sup> = the amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

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

## 24. Compensation Events

24.1 The following issues shall constitute Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Appendix to Conditions of Contract.
- (b) The Employer modifies the List of Other Contractors, etc., in a way that affects the Work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue drawings, specifications or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon the Work, which is then found to have no defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.

- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to tenderers (including the Site investigation reports), from information available publicly and from a visual inspection of the Site.
  - (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer or additional work required for safety or other reasons.
  - (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
  - (i) The effects on the Contractor of any of the Employer's risks.
  - (j) The Project Manager unreasonably delays issuing a Certificate of Completion.
  - (k) Other compensation events described in the Contract or determined by the Project Manager shall apply.
- 24.2 If a compensation event would cause additional cost or would prevent the Work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 24.3 As soon as information demonstrating the effect of each compensation event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 24.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having co-operated with the Project Manager.
- 24.5 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Appendix to Conditions of Contract.

- 24.6 The Contractor shall give written notice to the Project Manager of his intention to make a claim within thirty days after the event giving rise to the claim has first arisen. The claim shall be submitted within thirty days thereafter.

Provided always that should the event giving rise to the claim of continuing effect, the Contractor shall submit an interim claim within the said thirty days and a final claim within thirty days of the end of the event giving rise to the claim.

## **25. Price Adjustment**

- 25.1 The Project Manager shall adjust the Contract Price if taxes, duties and other levies are changed between the date 30 days before the submission of tenders for the Contract and the date of Completion. The adjustment shall be the change in the amount of tax payable by the Contractor.
- 25.2 The Contract Price shall be deemed to be based on exchange rates current at the date of tender submission in calculating the cost to the Contractor of materials to be specifically imported (by express provisions in the Contract Bills of Quantities or Specifications) for permanent incorporation in the Works. Unless otherwise stated in the Contract, if at any time during the period of the Contract exchange rates shall be varied and this shall affect the cost to the Contractor of such materials, then the Project Manager shall assess the net difference in the cost of such materials. Any amount from time to time so assessed shall be added to or deducted from the Contract Price, as the case may be.
- 25.3 Unless otherwise stated in the Contract, the Contract Price shall be deemed to have been calculated in the manner set out below and in sub-clauses 25.4 and 25.5 and shall be subject to adjustment in the events specified thereunder;
- (i) The prices contained in the Contract Bills of Quantities shall be deemed to be based upon the rates of wages and other emoluments and expenses as determined by the Joint Building Council of Kenya (J.B.C.) and set out in the schedule of basic rates issued 30 days before the date for submission of tenders. A copy of the schedule used by the Contractor in his pricing shall be attached in the Appendix to Conditions of Contract.
  - (ii) Upon J.B.C. determining that any of the said rates of wages or other emoluments and expenses are increased or decreased, then the Contract

Price shall be increased or decreased by the amount assessed by the Project Manager based upon the difference, expressed as a percentage, between the rate set out in the schedule of basic rates issued 30 days before the date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of labour incorporated within the amount of Work remaining to be executed at the date of publication of such increase or decrease.

(iii) No adjustment shall be made in respect of changes in the rates of wages and other emoluments and expenses which occur after the date of Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.

25.4 The prices contained in the Contract Bills of Quantities shall be deemed to be based upon the basic prices of materials to be permanently incorporated in the Works as determined by the J.B.C. and set out in the schedule of basic rates issued 30 days before the date for submission of tenders. A copy of the schedule used by the Contractor in his pricing shall be attached in the Appendix to Conditions of Contract.

25.5 Upon the J.B.C. determining that any of the said basic prices are increased or decreased then the Contract Price shall be increased or decreased by the amount to be assessed by the Project Manager based upon the difference between the price set out in the schedule of basic rates issued 30 days before the date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of the relevant materials which have not been taken into account in arriving at the amount of any interim certificate under clause 23 of these Conditions issued before the date of publication of such increase or decrease.

25.6 No adjustment shall be made in respect of changes in basic prices of materials which occur after the date for Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.

25.7 The provisions of sub-clause 25.1 to 25.2 herein shall not apply in respect of any materials included in the schedule of basic rates.

## **26. Retention**

26.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the Appendix to Conditions of Contract until Completion of the whole of the Works. On Completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and the remaining half when the Defects Liability

Period has passed and the Project Manager has certified that all defects notified to the Contractor before the end of this period have been corrected.

## **27. Liquidated Damages**

- 27.1 The Contractor shall pay liquidated damages to the Employer at the rate stated in the Appendix to Conditions of Contract for each day that the actual Completion Date is later than the Intended Completion Date. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not alter the Contractor's liabilities.
- 27.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rate specified in Clause 23.30

## **28. Securities**

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

## **29. Dayworks**

- 29.1 If applicable, the Dayworks rates in the Contractor's tender shall be used for small additional amounts of Work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 29.2 All work to be paid for as Dayworks shall be recorded by the Contractor on Forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the Work being done.
- 29.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

### 30. Liability and Insurance

30.1 From the Start Date until the Defects Correction Certificate has been issued, the following are the Employer's risks:

- (a) The risk of personal injury, death or loss of or damage to property (excluding the Works, Plant, Materials and Equipment), which are due to;
  - (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works, or
  - (ii) negligence, breach of statutory duty or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
- (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in Employer's design, or due to war or radioactive contamination directly affecting the place where the Works are being executed.

30.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is the Employer's risk except loss or damage due to;

- (a) a defect which existed on or before the Completion Date.
- (b) an event occurring before the Completion Date, which was not itself the Employer's risk
- (c) the activities of the Contractor on the Site after the Completion Date.

30.3 From the Start Date until the Defects Correction Certificate has been issued, the risks of personal injury, death and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risk are Contractor's risks.

The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts stated in the Appendix to Conditions of Contract for the following events;

- (a) loss of or damage to the Works, Plant, and Materials;

- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract, and
- (d) personal injury or death.

30.4 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation required to rectify the loss or damage incurred.

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

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

### **31. Completion and taking over**

31.1 Upon deciding that the Works are complete, the Contractor shall issue a written request to the Project Manager to issue a Certificate of Completion of the Works. The Employer shall take over the Site and the Works within seven [7] days of the Project Manager's issuing a Certificate of Completion.

### **32. Final Account**

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



### 33. Termination

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

### 34. Payment Upon Termination

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

### 35. Release from Performance

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

### 36. Corrupt gifts and payments of commission

The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for the Employer or for showing or forbearing to show favour or disfavor to any person in relation to this or any other contract for the Employer.
- (b) Enter into this or any other contract with the Employer in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Employer.

Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement Regulations issued under The Exchequer and Audit Act Cap 412 of the Laws of Kenya.

### 37. Settlement of Disputes

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

Arbitrator shall be appointed by the Chairman or Vice Chairman of any of the following professional institutions;

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

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

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

37.3 Provided that no arbitration proceedings shall be commenced on any dispute or difference where notice of a dispute or difference has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

37.4 Notwithstanding the issue of a notice as stated above, the arbitration of such a dispute or difference shall not commence unless an attempt has in the first instance been made by the parties to settle such dispute or difference amicably with or without the assistance of third parties. Proof of such attempt shall be required.

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

37.5.1 The appointment of a replacement Project Manager upon the said person ceasing to act.

- 37.5.2 Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
- 37.5.3 Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- 37.5.4 Any dispute or difference arising in respect of war risks or war damage.
- 37.6 All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Employer and the Contractor agree otherwise in writing.
- 37.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
- 37.8 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 37.9 The award of such Arbitrator shall be final and binding upon the parties.

SECTION V

APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Authorised Representative: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

The Project Manager is

Name:

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

The name (and identification number) of the Contract is  KRA\_\_\_\_\_

\_\_\_\_\_

The Works consist of \_\_\_\_\_ interior renovation  
works \_\_\_\_\_

\_\_\_\_\_

The Start Date shall be \_\_\_\_\_ to be  
determined \_\_\_\_\_

The Intended Completion Date for the whole of the Works shall be: to be determined.

\_\_\_\_\_

The following documents also form part of the Contract: tender award, bill of quantities

---

---

The Contractor shall submit a revised program for the Works within 14 days of delivery of the Letter of Acceptance.

The Site Possession Date shall be (shall be communicated to the winning bidder).

The Site is located at **Ushuru Pension Towers Building, Elgon Road, Upper Hill, Nairobi** and is defined in drawings (Attached drawings)

The Defects Liability period is 6 months

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

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

The minimum insurance covers shall be;

1. The minimum cover for insurance of the Works and of Plant and Materials in respect of the Contractor's faulty design is \_\_\_ to be determined \_\_\_\_\_

2. The minimum cover for loss or damage to Equipment is 5Million \_\_\_\_\_

3. The minimum for insurance of other property is \_\_\_\_\_ 5Million \_\_\_\_\_

4. The minimum cover for personal injury or death insurance

- For the Contractor's employees is \_\_\_\_\_ 5Million \_\_\_\_\_

- And for other people is \_\_\_\_\_5 million\_\_\_\_\_

The following events shall also be Compensation Events:

1. \_\_\_\_\_based on  
contract\_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

The period between Program updates is 90 days.

The amount to be withheld for late submission of an updated Program is \_\_\_pending valuation

\_\_\_\_\_

The proportion of payments retained 10% percent.

The Price Adjustment Clause shall not apply

The liquidated damages for the whole of the Works is Kshs. 60,000 (per day)

The Performance Security shall be for the following minimum amounts equivalent as a percentage of the Contract Price 10% percent.

The Completion Period for the Works is\_\_\_to be determined\_ [Weeks]

The rate of exchange for calculation of foreign currency payments is \_\_\_CBK Forex rate

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

Advance Payment shall not be granted.



The declaration of No Conflict of Interest is incorporated in the Confidential Business Questionnaire

Bidders are advised to download free of charge a soft copy from the KRA website.

Tender Validity Period is **335 days** from the date of tender opening.

Tender prices are to be quoted in Kenya Shillings or any other freely convertible currency.

The bill of quantities and drawing attached and named **appendix 1 and 2 respectively**.

The bidder must provide an appropriate written power of attorney establishing the authorization of the signatory to the tender documents to bind the bidder.

Combined technical and financial proposal shall be submitted electronically via KRA E-Procurement Portal  
A bid security of **Kshs 500,000.00** and valid for **365 days** from the date of tender opening.

*Opening of Technical and financial Proposals will be done in public at the time of closing the tender.*

*Bidders will be evaluated using the criteria set out on **page 78-80**.*

*Bidders are expected to examine all instructions, forms, terms, specifications, and other information in the Bidding Documents.*

*Failure to furnish all information required by the Bidding Documents or to submit a bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in the rejection of its bid.*

## SECTION VI

### SPECIFICATIONS

#### Notes for preparing Specifications

- 1.0 Specifications must be drafted to present a clear and precise statement of the required standards of materials, and workmanship for tenderers to respond realistically and competitively to the requirements of the Employer and ensure responsiveness of tenders. The Specifications should require that all materials, plant, and other supplies to be permanently incorporated in the Works be new, unused, of the most recent or current models, and incorporating all recent improvements in design and materials unless provided otherwise in the Contract. Where the Contractor is responsible for the design of any part of the permanent Works, the extent of his obligations must be stated.
- 1.1 Specifications from previous similar projects are useful and may not be necessary to re-write specifications for every Works Contract.
- 1.2 There are considerable advantages in standardizing **General Specifications** for repetitive Works in recognized public sectors, such as highways, urban housing, irrigation and water supply. The General Specifications should cover all classes of workmanship, materials and equipment commonly involved in constructions, although not necessarily to be used in a particular works contract. Deletions or addenda should then adapt the General Specifications to the particular Works.
- 1.3 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.
- 1.4 The Employer should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in tender documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential tenderers.

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

Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the Employer, including drawings, design calculations, technical specifications,

breakdown of prices, proposed construction methodology, and other relevant details. Technical alternatives permitted in this manner shall be considered by the Employer each on its own merits and independently of whether the tenderer has priced the item as described in the Employer's design included with the tender documents.

**SECTION VII**

**BILL OF QUANTITIES AND DRAWINGS**

Attached separately and marked as Appendix 2

SECTION VIII

BILL OF QUANTITIES

Notes for preparing Bills of Quantities

The bill of quantities are attached separately and marked as **appendix 1**

1.0 The objectives of the Bills of Quantities are;

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

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

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

(a) **Preliminaries.**

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

The number of preliminary items to be priced by the tenderer should be limited to tangible items such as site office and other temporary works, otherwise items such as security for the Works which are primarily part of the Contractor's obligations should be included in the Contractor's rates.

(b) **Work Items**

- (i) The items in the Bills of Quantities should be grouped into sections to distinguish between those parts of the Works which by nature, location, access, timing, or any other special characteristics may give rise to different

methods of construction, or phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities.

- (ii) Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage or waste. Quantities should be rounded up or down where appropriate.
- (iii) The following units of measurement and abbreviations are recommended for use.

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

- (iv) The commencing surface should be identified in the description of each item for Work involving excavation, boring or drilling, for which the commencing surface is not also the original surface. The excavated surface should be identified in the description of each item for Work involving excavation for which the excavated surface is not also the final surface. The depths of Work should be measured from the commencing surface to the excavated surface, as defined.

**(c) Daywork Schedule**

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

- (i) a list of the various classes of labour, and materials for which basic Day work rates or prices are to be inserted by the tenderer, together with a statement

of the conditions under which the Contractor will be paid for Work executed on a Day work basis; and

- (ii) a percentage to be entered by the tenderer against each basic Day work Subtotal amount for labour, materials and plant representing the Contractor's profit, overheads, supervision and other charges.

**(d) Provisional Quantities and Sums**

- (i) Provision for quantity contingencies in any particular item or class of Work with a high expectation of quantity overrun should be made by entering specific "Provisional Quantities" or "Provisional Items" in the Bill of Quantities, and not by increasing the quantities for that item or class of Work beyond those of the Work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a "Provisional Sum" in the Summary of the Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a "Provisional Sum" in the Summary of the Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises.
- (ii) Provisional sums to cover specialized works normally carried out by Nominated Sub Contractors should be avoided and instead Bills of Quantities of the specialised Works should be included as a section of the main Bills of Quantities to be priced by the Main Contractor. The Main Contractor should be required to indicate the name (s) of the specialised firms he proposes to engage to carry out the specialized Works as his approved domestic sub-contractors. Only provisional sums to cover specialized Works by statutory authorities should be included in the Bills of Quantities.

**(e) Summary**

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

**SECTION IX**

**STANDARD FORM**

- (i) Form of Invitation for Tenders
- (ii) Form of Tender
- (iii) Letter of Acceptance
- (iv) Form of Agreement
- (v) Form of Tender Security
- (vi) Performance Bank Guarantee
- (vii) Bank Guarantee for Advance Payment
- (viii) Qualification Information
- (ix) Tender Questionnaire
- (x) Confidential Business Questionnaire
- (xi) Statement of Foreign Currency Requirement
- (xii) Details of Sub-Contractors
- (xiii) Request for Review Form



FORM OF INVITATION FOR TENDERS

\_\_\_\_\_ [date]

To: \_\_\_\_\_ [name of Contractor]  
\_\_\_\_\_ [address]  
\_\_\_\_\_  
\_\_\_\_\_

Dear Sirs:

**RE: PROPOSED OFFICE FIT-OUT AND RENOVATION WORKS AT USHURU PENSION TOWERS BUILDING, ELGON ROAD, UPPER HILL, NAIROBI**

You have been prequalified to tender for the above project.

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

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

\_\_\_\_\_  
[mailing address, cable/telex/facsimile numbers].

All tenders must be submitted on or before 21<sup>st</sup> October 2020 at 11:00am

\_\_\_\_\_  
[address and location]

Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Yours faithfully,

\_\_\_\_\_ Authorised Signature

\_\_\_\_\_ Name and Title

8.1 FORM OF TENDER

Date  
Tender No.

To: KENYA REVENUE AUTHORITY  
P. O. BOX 48240 - 00100 NAIROBI.

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. .... [Insert numbers].the receipt of which is hereby duly acknowledged, we, the undersigned, carry out work for the proposed Office Fit-Out and Renovation Works at Ushuru Building, Elgon Road, Upper Hill, Nairobi) KRA/HQS/NCB-011/2020-2021 in conformity with the said tender documents for the sum of ..... (total tender amount in words and figures) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted carry out the works in accordance with the work plan specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to 10% percent of the Contract Price for the due performance of the Contract , in the form prescribed by Kenya Revenue Authority

4. We agree to abide by this Tender for a period of 335 days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.

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

Dated this day of 20

[signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of

LETTER OF ACCEPTANCE

\_\_\_\_\_ [date]

To: \_\_\_\_\_  
[name of the Contractor]

\_\_\_\_\_  
[address of the Contractor]

Dear Sir,

This is to notify you that your Tender dated \_\_\_\_\_  
for the execution of \_\_\_\_\_  
[name of the Contract and identification number, as given in the Tender documents] for the Contract  
Price of Kshs. \_\_\_\_\_ [amount in figures][Kenya  
Shillings \_\_\_\_\_ (amount in words) ] in accordance with the Instructions  
to Tenderers is hereby accepted.

You are hereby instructed to proceed with the execution of the said Works in accordance with the  
Contract documents.

Authorized Signature .....

Name and Title of Signatory .....

Attachment : Agreement

FORM OF AGREEMENT

THIS AGREEMENT, made the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_  
between \_\_\_\_\_ of [or whose registered office is  
situated at] \_\_\_\_\_  
(hereinafter called “the Employer”) of the one part AND  
\_\_\_\_\_ of [or whose registered office is  
situated at] \_\_\_\_\_  
(hereinafter called “the Contractor”) of the other part.

WHEREAS THE Employer is desirous that the Contractor executes

\_\_\_\_\_   
(name and identification number of Contract ) (hereinafter called “the Works”) located  
at \_\_\_\_\_ [Place/location of the Works] and the Employer has accepted  
the tender submitted by the Contractor for the execution and completion of such Works and the  
remedying of any defects therein for the Contract Price of  
Kshs \_\_\_\_\_ [Amount in figures], Kenya  
Shillings \_\_\_\_\_ [Amount in words].

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
  - (i) Letter of Acceptance
  - (ii) Form of Tender
  - (iii) Conditions of Contract Part I
  - (iv) Conditions of Contract Part II and Appendix to Conditions of Contract
  - (v) Specifications
  - (vi) Drawings

(vii) Priced Bills of Quantities

3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
  
4. The Employer 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 thereto have caused this Agreement to be executed the day and year first before written.

The common Seal of \_\_\_\_\_

Was hereunto affixed in the presence of \_\_\_\_\_

Signed Sealed, and Delivered by the said \_\_\_\_\_

Binding Signature of Employer \_\_\_\_\_

Binding Signature of Contractor \_\_\_\_\_

In the presence of (i) Name \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

[ii] Name \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

FORM OF TENDER SECURITY

WHEREAS .....(hereinafter called “the Tenderer”) has submitted his tender dated ..... for the construction of .....  
..... (name of Contract)

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

THE CONDITIONS of this obligation are:

1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers  
Or
2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
  - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
  - (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

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

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

\_\_\_\_\_  
[date]

\_\_\_\_\_  
[signature of the Bank]

\_\_\_\_\_  
[witness]

\_\_\_\_\_  
[seal]

PERFORMANCE BANK GUARANTEE

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

TO: The Kenya Revenue Authority  
P.O. Box 4824 - 00100 GPO  
Nairobi, Kenya

Dear Sir,

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

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

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

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

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

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

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

SIGNATURE AND SEAL OF THE GUARANTOR \_\_\_\_\_

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

**BANK GUARANTEE FOR ADVANCE PAYMENT**

To: \_\_\_\_\_ [name of Employer] \_\_\_\_\_ (Date)  
\_\_\_\_\_ [address of Employer]

Gentlemen,

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

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

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

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

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

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



Yours faithfully,

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

Name of the Bank or financial institution \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

Witness: Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

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

**QUALIFICATION INFORMATION**

**1. Individual Tenderers or Individual Members of Joint Ventures**

1.1 Constitution or legal status of tenderer (attach copy or Incorporation Certificate);

Place of registration: \_\_\_\_\_

Principal place of business \_\_\_\_\_

Power of attorney of signatory of tender \_\_\_\_\_

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

Year	Volume	
	Currency	Value

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

Project name	Name of client and contact person	Type of work year of completion	Value of performed and Contract

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

Item of Equipment	Description, Make and age (years)	Condition(new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)

_____	_____	_____	
_____	_____	_____	
_____ (etc.)			

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data.

Position	Name	Years of experience (general)	Years of experience in proposed position
Project Manager			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
(etc.)			

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

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1.10 Proposed program (work method and schedule) for the whole of the Works.

## 2 Joint Ventures

2.4 In a joint venture, all the parties must meet all the mandatory tender requirements except the bid security, site visit, bank reference letter and detailed work plan.

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

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

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

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

### **Indemnity**

The Procuring Entity agrees to indemnify and hold harmless Contractor and its affiliates and each of their respective directors, officers, agents, employees and sub-contractors (each an “indemnitee”), and defend them from and against any and all claims ( whether during or after the term) that may arise or result from the performance of obligations under the contract by or on behalf of Contractor, except to the extent any such claims result from a breach of this contract directly attributable to the gross negligence or wilful misconduct of such indemnitee

TENDER QUESTIONNAIRE

Please fill in block letters.

1. Full names of tenderer

.....

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

.....

3. Telephone number (s) of tenderer

.....

4. Telex address of tenderer

.....

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

.....

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

.....

.....

\_\_\_\_\_  
Signature of Tenderer

Make copy and deliver to: \_\_\_\_\_ (Name of Employer)



**CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM**

You are requested to give the particulars indicated in Part 1; either Part 2(a), 2(b) or 2 (c) whichever applied to your type of business; and Part 3.

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

<b>Part 1 – General</b>	
1.1	<i>Business Name</i> ..... .....
1.2	<i>Location of Business Premises.</i> ..... .....
1.3	<i>Plot No..... Street/Road</i> ..... <i>Postal Address .....</i> <i>Tel No. .... Fax</i> <i>..... Email .....</i>
1.4	<i>Nature of Business ,.....</i> .....
1.5	<i>Registration Certificate No.</i> ..... .....
1.6	<i>Maximum Value of Business which you can handle at any one time – Kshs.</i> .....
1.7	<i>Name of your Bankers ..... Branch</i> .....
<b>Part 2 (a) – Sole Proprietor</b>	
2a.1	<i>Your Name in Full ..... Age</i> .....
2a.2	<i>Nationality ..... Country of Origin</i> ..... <i>Citizenship Details</i> ..... .....
<b>Part 2 (b) Partnership</b>	

2b.1 Given details of Partners as follows:

2b.2	<u>Name</u>	<u>Nationality</u>	<u>Citizenship Details</u>
	<u>Shares</u>		
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....

**Part 2 (c) – Registered Company**

2c.1 Private or Public

.....  
 .....

2c.2 State the Nominal and Issued Capital of Company-

Nominal Kshs. ....  
 Issued Kshs. ....

2c.3 Given details of all Directors as follows

	<u>Name</u>	<u>Nationality</u>	<u>Citizenship Details</u>
	<u>Shares</u>		
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
5.	.....	.....	.....

**Part 3 – Eligibility Status**

3.1 Are you related to an Employee, Committee Member or Board Member of Kenya Revenue Authority? Yes \_\_\_\_\_ No \_\_\_\_\_

3.2 If answer in '3.1' is **YES** give the relationship.

.....  
 .....

.....  
.....  
3.3 Does an Employee, Committee Member, Board Member of Kenya Revenue Authority sit in the Board of Directors or Management of your Organization, Subsidiaries or Joint Ventures? Yes\_\_\_\_\_ No\_\_\_\_\_

3.4 If answer in '3.3' above is **YES** give details.  
.....  
.....

3.5 Has your Organization, Subsidiary Joint Venture or Sub-contractor been involved in the past directly or indirectly with a firm or any of its affiliates that have been engaged by Kenya Revenue Authority to provide consulting services for preparation of design, specifications and other documents to be used for procurement of the goods under this invitation? Yes\_\_\_\_\_ No\_\_\_\_\_

3.6 If answer in '3.5' above is **YES** give details.  
.....  
.....  
.....

3.7 Are you under a declaration of ineligibility for corrupt and fraudulent practices? YES\_\_\_\_\_ No\_\_\_\_\_

3.8 If answer in '3.7' above is **YES** give details:  
.....  
.....

3.9 Have you offered or given anything of value to influence the procurement process? Yes \_\_\_\_\_No\_\_\_\_\_

3.10 If answer in '3.9' above is **YES** give details  
.....  
.....

I DECLARE that the information given on this form is correct to the best of my knowledge and belief.

Date ..... Signature of Candidate  
.....

- If a Kenya Citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or registration.



**STATEMENT OF FOREIGN CURRENCY REQUIREMENTS**

(See Clause 23] of the Conditions of Contract)

In the event of our Tender for the execution of \_\_\_\_\_  
\_\_\_\_\_ (*name of Contract*) being accepted, we would require in  
accordance with Clause 21 of the Conditions of Contract, which is attached hereto, the  
following percentage:

(Figures)..... (Words).....

of the Contract Sum, (Less Fluctuations) to be paid in foreign currency.

Currency in which foreign exchange element is required:

.....

Date: The ..... Day of ..... 20.....

Enter 0% (zero percent) if no payment will be made in foreign currency.

Maximum foreign currency requirement shall be \_\_\_\_\_ (percent) of the Contract  
Sum, less Fluctuations.

\_\_\_\_\_  
(Signature of Tenderer)

**DETAILS OF SUB-CONTRACTORS**

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

Failure to comply with this requirement may invalidate the tender.

(1) Portion of Works to be sublet: .....

[i] Full name of Sub-contractor  
and address of head office: .....  
.....

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

(2) Portion of Works to be sublet: .....

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

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

\_\_\_\_\_  
[Signature of Tenderer)

\_\_\_\_\_  
Date

LETTER OF NOTIFICATION OF AWARD

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

TO: The Kenya Revenue Authority  
P.O. Box 4824 - 00100 GPO  
Nairobi, Kenya

RE: Tender No.

Tender Name

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

*(FULL PARTICULARS)*

SIGNED FOR ACCOUNTING OFFICER

FORM RB 1

REPUBLIC OF KENYA

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) of .....dated the...day of .....20.....in the matter of Tender No.....of .....20...

**REQUEST FOR REVIEW**

I/We.....,the above named Applicant(s), of address: Physical address.....Fax No.....Tel. No.....Email ....., hereby request the Public Procurement Administrative Review Board to review the whole/part of the above mentioned decision on the following grounds , namely:-

- 1.
  - 2.
- etc.

By this memorandum, the Applicant requests the Board for an order/orders that: -

- 1.
  - 2.
- etc

SIGNED .....(Applicant)

Dated on.....day of ...../...20...

---

**FOR OFFICIAL USE ONLY**

Lodged with the Secretary Public Procurement Administrative Review Board on ..... day of .....20.....

SIGNED

Board Secretary

**SITE VISIT FORM**

**CONFIRMATION OF PRE-BID SITE VISIT**

Name of Tenderer:

Date of Visit:

Name, position and signature of Tenderer's staff

visiting the site. Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature:

Tenderer's Official Stamp:

Site Visit conducted by **Kenya Revenue**

**Authority Officer's**: Name: \_\_\_\_\_

Designation:

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

## TENDER EVALUATION CRITERIA

After tender opening, the tenders will be evaluated in 3 stages, namely:

1. Preliminary evaluation
2. Technical evaluation
3. Financial Evaluation

### 1.1. PRELIMINARY EVALUATION

S/No	MANDATORY REQUIREMENTS(MR)
1	Valid Copy of certificate of incorporation/ Registration.
2	Valid Copy of current KRA Tax compliance certificate
3	Valid copy of NCA 4 and above registration certificate in the builders works and where a joint venture has been initiated the principal party need to have NCA 4 and above in builders works.
4	Dully filled, stamped and signed Confidential business questionnaire
5	Tender Security of Kshs 500,000.00 (valid for 365 days from the date of Tender Opening) from a reputable Bank or reputable Insurance company as approved by IRA.
6	Current annual contractors practicing license from NCA 4 and for builders works and where a joint venture has been initiated the principal party need to have NCA 4 and above in builders works
7	Dully filled, stamped and signed Form of Tender.
8	Power of attorney {Sole Proprietors Exempted} from the firm duly signed by director{s} and stamped or commissioning of Oaths.
9	Bank reference letter ( valid for the last 6 months)
10.	Mandatory site visit form
11	Detailed work plan

Tender Bid Document submitted without ANY of the above-mentioned Mandatory documents shall be rejected by Evaluation Committee and will therefore not proceed to the technical and financial Evaluation

### N.B.

They Authority may seek further classification/confirmation if necessary, to confirm authenticity or compliance of any condition of the tender.

### 1.2. TECHNICAL EVALUATION

#### (a) Technical/Vendor Evaluation Criteria

The following criteria will be used in the evaluation of all potential suppliers. The documents submitted will be evaluated for suitability and awarded marks. The cut off score shall be 42 and above out of 60

.

<u>Description of Criteria</u>	Maximum Score	Cut off Score
<p>Proof of qualified and experienced technical key personnel (qualifications considered will be Civil/Structural Engineering, Electrical Engineering, Mechanical Engineering, Architecture, Interior design, Quantity Surveying, Construction Management and other equivalent qualifications). Bidders must provide at least a minimum of Four (4) key technical staff to be involved in the project with at least five (5) years' experience. (CVS must be supported by Academic Certificates and submitted together with the bid). <b>The authority reserves the right to determine the authenticity of the academic certificates submitted. Bidders who submit fake certificates shall be blacklisted forthwith.</b></p> <p>CV, 5 years experience and with a Degree .....10            CV, 5 years experience with a Diploma .....8            CV 5 years experience with a Certificate .....6</p> <p><b>Note: No score for unsupported CVs and professional/academic certificate</b></p>	40	32
<p>Proof of having carried out projects of similar nature and magnitude. The bidder to proof that they have carried out at least Four(4) similar projects above KES 50 million in last 10 years. (attach copy of contracts/LSO/award and completion certificates/letter of completion) and include a summary of the services rendered, value of contract, contact person and the email/telephone number. A reference letter from the client will be required to support the information provided. For a complete reference, all the items highlighted above must be presented ( 5 marks for each project)</p> <p>Award Letter /Contracts/LSO (2 marks)            Completion Certificate/letter of completion (2 marks)            Reference letter (1 mark)</p>	20	10
<b>Total Score</b>	60	42

**NB: Bidders will be required to meet the cut off score on every criteria under vendor evaluation in order to qualify for further evaluation**

### 1.3 FINANCIAL EVALUATION

Bids that pass the Technical Evaluation shall be subjected to Financial Evaluation where the BQ shall be checked against arithmetic errors and completeness of the BQ. (Bidders should provide quotes for all line items in the BQ)

NB: Examination of Arithmetic Errors. Bids arithmetic errors shall be disqualified.

According to Section 82 of the Public Procurement and Asset Disposal Act (2015) that 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 or by any person or entity,

#### OVERAL EVALUATION CRITERIA

Criteria	Maximum Score/ Requirement	Cut-off Score
Tender Responsiveness	Mandatory	Provision of all Requirement
Vendor Evaluation	60	42
Financial Evaluation	Lowest evaluated responsive bidder	