



## KANGEMA NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND

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PROPOSED CONSTRUCTION OF TWO CLASSROOMS STOREYED BLOCK (SUB STRUCTURE WORKS  
AND GROUND FLOOR) AT HOLY ROSARY PRIMARY SCHOOL

Invitation to Tender (ITT) No: KGN/NG-CDF/HOLY ROSARY PRIMARY SCHOOL/2022-2023/01

### **TENDER DOCUMENT**

<b>CLIENT:</b>	<b>USER</b>
Kangema NG~CDF P.O Box 22~10202 <a href="mailto:kangemacdf@gmail.com">kangemacdf@gmail.com</a>	PMC Holy Rosary primary school P.O Box 277~10202

## INVITATION TO TENDER

**PROCURING ENTITY: KANGEMA NG-CDF, P.O BOX 22-10202 KANGEMA**

**CONTRACT NAME AND DESCRIPTION: *proposed construction of two classrooms storied block (sub structure works and ground floor) at holy rosary primary school***

KangemaNG-CDF invites sealed tenders for the construction of classrooms at Holy rosary primary school at Kangema.

1. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
2. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours, *i.e. 0800 to 1600 hours* at the address given below.
3. A complete set of tender documents may be purchased or obtained by interested tenderers upon payment of a non- refundable fee of 1,000 ksh cash or Banker's Cheque and payable to the address given below. Tender documents may be obtained electronically from the Website, <https://kangema.ngcdf.go.ke/>. Tender documents obtained electronically will be free of charge.
4. Tender documents may be viewed and downloaded for free from the website <https://kangema.ngcdf.go.ke/>. Tenderers who download the tender document must forward their particulars immediately to [Kangemacdf@gmail.com](mailto:Kangemacdf@gmail.com) to facilitate any further clarification or addendum.
5. Tenders shall be quoted be in **Kenya Shillings and shall include all taxes**. Tenders shall remain valid for 120 days from the date of opening of tenders.
6. All Tenders must be accompanied by a Tender-Securing Declaration.
7. Tenderers to serialize all pages of the tender documents submitted.
8. Completed tenders must be delivered to the address below on or before **5<sup>th</sup> June 2023 at 10:00 am EAT**. **Electronic Tenders Will Not** be permitted.
9. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.

10. Late tenders will be **rejected**.
10. The addresses referred to above are:
- A. Address for obtaining further information and for purchasing tender documents, Submission and opening of tenders.

**KANGEMA NG-CDF**

**KANGEMA TOWN, NEXT TO THE SUB-COUNTY HEADQUARTERS.**

**P.O BOX- 22-10202 Kangema.**

**Telephone number:0735698857/0718455797.**

**E-mail address:kangemacdf@gmail.com**

**FUND ACCOUNT MANAGER  
NG - CDF KANGEMA  
P.O. BOX 22 - 10202  
KANGEMA**

**Name: Caroline W. Kiama**

**Designation: Fund account manager**

**Signature:.....**

**Date:.....**

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# **PART 1: TENDERING PROCEDURES**

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## SECTION I: INSTRUCTIONS TO TENDERERS

### A General Provisions

#### 1. Scope of Tender

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

#### 2. Fraud and Corruption

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

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

2.3 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the **Data Sheet** and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

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

#### 3. Eligible Tenderers

3.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.7 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. Public employees and their close relatives (*spouses, children, brothers, sisters and uncles and aunts*) are not eligible to participate in the tender. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS**.

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

- 3.3 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:
- a) Directly or indirectly controls, is controlled by or is under common control with another tenderer; or
  - b) Receives or has received any direct or indirect subsidy from another tenderer; or
  - c) Has the same legal representative as another tenderer; or
  - d) Has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process; or
  - e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender; or
  - f) any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer for the Contract implementation; or
  - g) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contract specified in this Tender Document or
  - h) Has a close business or family relationship with a professional staff of the Procuring Entity who:
    - i) are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or
    - ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.
- 3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved any of these practices shall be automatically disqualified.
- 3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.
- 3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.
- 3.7 Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA [www.ppra.go.ke](http://www.ppra.go.ke).
- 3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are accredited by PPRA to be (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to

any commercial enterprise to enable it compete with firms in the private sector on an equal basis.

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

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

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

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

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

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

3.14 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

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

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

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

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

5.1 The tenderer shall bear all costs associated with the preparation and submission of his/her

tender, and the Procuring Entity will in no case be responsible or liable for those costs.

- 5.2 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.
- 5.3 The Tenderer and any of its personnel or agents will be granted permission by the Procuring Entity to enter upon its premises and lands for the purpose of such visit. The Tenderer shall indemnify the Procuring Entity against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the inspection.
- 5.4 The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

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

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

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

#### **PART 1 Tendering Procedures**

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

#### **PART 2 Works Requirements**

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

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

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

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

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

### **7. Site Visit**

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

of visiting the Site shall be at the Tenderer's own expense.

## **8. Pre-Tender Meeting**

- 8.1 The Procuring Entity shall specify in the **TDS** if a pre-tender meeting will be held, when and where. The Procuring Entity shall also specify in the **TDS** if a pre-arranged pretender site visit will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 8.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.
- 8.3 Minutes of the pre-Tender meeting and the pre-arranged pretender site visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.
- 8.4 The Procuring Entity shall also promptly publish anonym ized (*no names*) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

## **9. Clarification and amendments of Tender Documents**

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

## **10. Amendment of Tendering Document**

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

## **C. Preparation of Tenders**

### **11. Cost of Tendering**

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

## **12. Language of Tender**

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

## **13. Documents Comprising the Tender**

13.1 The Tender shall comprise the following:

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

13.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.

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

## **14 Form of Tender and Schedules**

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

## **15. Alternative Tenders**

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

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

15.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction

methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the Procuring Entity. When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**, as will the method for their evaluating, and described in Section VII, Works' Requirements.

## **16. Tender Prices and Discounts**

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

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

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

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

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

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

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

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

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

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

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

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

- 19.1 Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility in accordance with ITT 4.
- 19.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tender Forms.
- 19.3 A margin of preference will not be allowed. Preference and reservations will be allowed, individually or in joint ventures. Applying for eligibility for Preference and reservations shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 33.1.
- 19.4 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a contractor or group of contractors qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.
- 19.5 The purpose of the information described in ITT 19.4 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.
- 19.6 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
- 19.7 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.
- 19.8 If a tenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
- 19.9 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:
- i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
  - ii) if the contract has been awarded to that tenderer, the contract award will be set aside,
  - iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

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

## 20. Period of Validity of Tenders

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

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

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

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

## 21. Tender Security

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

21.2 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:

- i. an unconditional Bank Guarantee issued by reputable commercial bank); or
- ii. an irrevocable letter of credit;
- iii. a Banker's cheque issued by a reputable commercial bank; or
- iv. another security specified **in the TDS**,

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

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

21.5 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security and any other documents required in the **TDS**. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined

nonresponsive or a bidder declines to extend tender validity period.

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

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

- v. if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension thereto provided by the Tenderer; or
- vi. if the successful Tenderer fails to:
  - 1. Sign the Contract in accordance with ITT 50; or
  - 2. Furnish a Performance Security and if required in the **TDS**, and any other documents required in the **TDS**.

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

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

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

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

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

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

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

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

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

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

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

23.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed

envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

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

The inner envelopes or packages or containers shall:

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

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

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

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

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

#### **25. Late Tenders**

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

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

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

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

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

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

## 27. Tender Opening

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

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

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

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

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

27.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the Procuring Entity to sign shall be specified in the **TDS**.

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

27.8 The Procuring Entity shall prepare minutes of the Tender Opening that shall include, as a **minimum**:

- i. the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
- ii. the Tender Price, per lot (contract) if applicable, including any discounts;
- iii. any alternative Tenders;
- iv. the presence or absence of a Tender Security, if one was required.
- v. number of pages of each tender document submitted.

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

## E. Evaluation and Comparison of Tenders

## 28. Confidentiality

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

## 29. Clarification of Tenders

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

## 30. Deviations, Reservations, and Omissions

- 30.1 During the evaluation of tenders, the following definitions apply:
- i. "Deviation" is a departure from the requirements specified in the tender document;
  - ii. "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document; and
  - iii. "Omission" is the failure to submit part or all of the information or documentation required in the Tender document.

## 31. Determination of Responsiveness

- 31.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 13.
- 31.2 A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation, **reservation, or omission. A material deviation, reservation, or omission is one that, if accepted, would:**
- i. affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
  - ii. limit in any substantial way, inconsistent with the tender document, the Procuring Entity's rights or the tenderer's obligations under the proposed contract; or
  - iii. if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.
- 31.3 The Procuring Entity shall examine the technical aspects of the tender submitted in accordance with ITT 18, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.
- 31.4 If a tender is not substantially responsive to the requirements of the tender document, it

shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

### **32. Non-material Non-conformities**

- 32.1 Provided that a tender is substantially responsive, the Procuring Entity may waive any non-conformities in the tender.
- 32.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the tenderer submit the necessary information or documentation, within a reasonable period, to rectify nonmaterial non-conformities in the tender related to documentation requirements. Requesting information or documentation on such non- conformities shall not be related to any aspect of the price of the tender. Failure of the tenderer to comply with the request may result in the rejection of its tender.
- 32.3 Provided that a tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the **TDS**.

### **33. Arithmetical Errors**

- 33.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.
- 33.2 Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:
- i. Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
  - ii. Any errors in the submitted tender arising from a miscalculation of unit price, quantity, and subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
  - iii. if there is a discrepancy between words and figures, the amount in words shall prevail
- 33.3 Tenderers shall be notified of any error detected in their bid during the notification of a ward.

### **34. Currency provisions**

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

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

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

### **36. Nominated Subcontractors**

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

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

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

### **37. Evaluation of Tenders**

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

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

- i. price adjustment due to discounts offered in accordance with ITT 16;
- ii. converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 39;
- iii. price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 30.3; and
- iv. any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

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

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

### **38. Comparison of Tenders**

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

### **39. Abnormally Low Tenders**

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

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

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

### **40. Abnormally High Tenders**

40.1 An abnormally high price is one where the tender price, in combination with other

constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.

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

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

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

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

41.1 If in the Procuring Entity's opinion, the Tender that is evaluated as the lowest evaluated price is seriously unbalanced and/or front loaded, the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with the scope of works, proposed methodology, schedule and any other requirements of the Tender document.

41.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may as appropriate:

- i. accept the Tender; or
- ii. require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or
- iii. agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works; or
- iv. reject the Tender,

#### **42. Qualifications of the Tenderer**

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

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

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

that Tenderer's qualifications to perform satisfactorily.

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

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

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

#### **43. Best Evaluated Tender**

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

- i. Most responsive to the Tender document; and
- ii. The lowest evaluated price.

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

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

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

#### **45. Award Criteria**

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

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

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

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

#### **47. Standstill Period**

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

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

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

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

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

#### **49. Letter of Award**

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

#### **50. Signing of Contract**

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

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

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

#### **51. Appointment of Adjudicator**

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

#### **52. Performance Security**

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

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

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

### **53. Publication of Procurement Contract**

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

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

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

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

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

**SECTION II - TENDER DATA SHEET (TDS)**

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

The following specific data shall complement. Supplement or amend the provision in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT	
<b>ITT Reference</b>	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
	<b>A. General</b>
<b>ITT 1.1</b>	The name of the contract is <b>PROPOSED CONSTRUCTION OF TWO CLASSROOMS STORYED BLOCK (SUB STRUCTURE WORKS AND GROUND FLOOR) AT HOLY ROSARY PRIMARY SCHOOL</b>  The reference number of the Contract is <b>KGN/NG-CDF/HOLY ROSARY PRIMARY SCHOOL/2022-2023/01</b>
	<b>B. Contents of Tender Document</b>
<b>8.1</b>	(A) Pre-Tender conference <i>shall not</i> take place. (B) A pre-arranged pretender visit of the site of the works <i>shall not</i> take place.
<b>ITT 8.2</b>	The Tenderer will submit any questions in writing, to reach the Procuring Entity not later than 29 <sup>th</sup> May 2023
<b>ITT 9.1</b>	For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the Procuring Entity's address is: <b>KANGEMA NG-CDF KANGEMA TOWN NEXT TO SUB COUNTY HEADQUARTERS P.O BOX 22 KANGEMA Phone:0718455797/0735698857 Email: KANGEMACDF@gmail.com</b>
	<b>C. Preparation of Tenders</b>
<b>ITT 15.1</b>	Alternative Tenders <i>shall not be</i> considered.
<b>ITT 15.2</b>	Alternative times for completion " <i>shall not be</i> permitted.
<b>ITT 16.5</b>	The prices quoted by the Tenderer shall be Fixed
<b>ITT 20.1</b>	The Tender validity period shall be 120 <i>days</i> .
<b>ITT 21.1</b>	A Tender Security <i>shall not be</i> required. A Tender-Securing Declaration <i>shall be</i> required.
	<b>D. Submission and Opening of Tenders</b>
<b>ITT 24.1</b>	For <u>Tender submission purposes</u> only, the Procuring Entity's address is: <b>KANGEMA NG-CDF P.O BOX 22 KANGEMA</b> Date and time for submission of Tenders... <b>22<sup>ND</sup> MAY 2023-5<sup>TH</sup> JUNE 2023 Before 10.00AM.</b> Tenders <b>shall not be submitted</b> electronically.
<b>ITT 27.1</b>	The Tender opening shall take place at the time and the address for Opening of Tenders provided below: <b>KANGEMA NG-CDF KANGEMA NG-CDF OFFICE CONFERENCE HALL.</b> <b>Date and Time of Tender Opening: 5<sup>TH</sup> JUNE 2023 AT 10.30AM.</b>
<b>ITT 27.6</b>	The number of representatives of the Procuring Entity to sign shall be three (3)
	<b>E. Evaluation, and Comparison of Tenders</b>
<b>ITT 32.3</b>	The adjustment shall be based on the[insert "average" or "highest"} price of the item or

The following specific data shall complement. Supplement or amend the provision in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT	
ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	Component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate
ITT 35.2	The invitation to tender is extended to the following group that qualify for Reservations (These groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be; describe precisely which group qualifies).
ITT 36.1	At this time, the Procuring Entity <i>does not intend</i> to execute certain specific parts of the Works by subcontractors selected in advance.
ITT 37.2 (d)	Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT 54.1	The procedures for making a Procurement-related Complaints are detailed in the “Regulations” available from the PPRA Website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a> . If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to: <b>THE FUND ACCOUNT MANAGER</b> <b>KANGEMA NG-CDF</b> <b>P.O BOX 22 KANGEMA</b> In summary, a Procurement-related Complaint may challenge any of the following: (i) The terms of the Tender Documents; and (ii) The procuring entity’s decision to award the contract

## SECTION III - EVALUATION AND QUALIFICATION CRITERIA

### 1. General Provisions

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

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

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

#### **Evaluation and contract award Criteria**

**After tender opening, the tenders will be evaluated in 5 stages, namely:**

- i) Determination of Responsiveness.
- ii) Detailed Technical Examination.
- iii) Financial Evaluation.
- iv) Combination of Technical, Tender Sums Comparison and Financial Score.

Post qualification: Due diligence.

#### **STAGE 1- DETERMINATION OF RESPONSIVENESS**

##### ***PRELIMINARY EXAMINATION***

This stage of evaluation shall involve examination of the pre-qualification conditions as set out in the Tender Advertisement Notice or Letter of Invitation to Tender and any other conditions stated in the bid document.

These conditions shall include, among other things, the following:

- i) Certificate of Registration/Incorporation.
- ii) Valid Tax Compliance Certificate.
- iii) Certificate of Confirmation of Directors and Shareholding (CR 12) for Limited company (where applicable).
- iv) Certificate of Registration with National Construction Authority in the relevant category.
- v) Dully filled, signed and stamped/sealed Form of Tender.
- vi) Dully filled, signed and stamped/sealed Confidential Business Questionnaire (S33).
- vii) Any other conditions included in the advertisement notice/Invitation letter.

The client may seek further clarification/confirmation if necessary to confirm authenticity/compliance of any condition of the tender.

***The tenderers who do not satisfy any of the above requirements shall be considered Non-Responsive and their tenders will not be evaluated further.***

#### ***STAGE 2 - COMPLETENESS OF TENDER DOCUMENT***

The tender document shall be examined based on clause 2.2 of the Instruction to Tenderers, which states as follows:

The tenderers will be required to provide evidence for eligibility of the award of the tender by satisfying the employer of their eligibility under sub clause 2.1 of Instruction to Tenderers and adequacy of resources to effectively carry out the subject contract. The tenderers shall be required to fill the Standards Forms provided for the purposes of providing the required information. The tenderers may also attach the required information if they so desire.

The award of points for the **STANDARD FORMS** considered in this section shall be as shown below

*CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF-DECLARATION OF THE TENDERER*

	<u>PARAMETER</u>	<u>MAXIMUM POINTS</u>
(i)	Form Of Tender	1.5
(ii)	Tender Questionnaire	2.5
(iii)	Confidential Business Questionnaire and Certificate of Independent Tender Determination and The Self Declaration of the Tenderer	2.5
(iv)	Key personnel	7.5
(v)	Contracts Completed in the last Five (5) years	15
(vi)	Schedules of on-going projects	5
(vii)	Schedules of contractor's equipment	5
(viii)	Audited Financial Report for the last 3 years	5
(ix)	Evidence of Financial Resources	2.5
(x)	Name, Address and Telephone of Banks (Contractor to provide)	2.5
(xi)	Litigation History	1
(xii)	Sanctity of the tender document as in accordance with clause 5 of instruction to tenderer	5
	<b>TOTAL</b>	<b>50</b>

The detailed scoring plan shall be as shown in table 1 below: -

*TABLE 1*

Item	Description	Point Scored	Max. Point
	<b>Statement of Compliance</b> <ul style="list-style-type: none"> <li>• Signed and Stamped .....1.5</li> <li>• Signed but not stamped and vice versa.....1</li> <li>• Not Signed Not Stamped ..... 0</li> </ul>		1.5
	<b>Tender Questionnaire Form, Certificate of Independent Tender Determination and The Self Declaration of the Tenderer</b> <ul style="list-style-type: none"> <li>• Completely .....2.5</li> <li>• Partially Filled ..... 1.5</li> <li>• Not Filled .....0</li> </ul>		2.5

	<b>Key Personnel (</b> Attach Evidence) CVs and copies of Academic Certificates for staff. The site staff shall possess minimum levels set below:		
	<b>Director of the Firm</b> <ul style="list-style-type: none"> <li>• Holder of degree or diploma in relevant technical field .....2</li> <li>• Holder of certificate in relevant technical field.....1.5</li> <li>• Holder of trade test certificate in relevant technical field.....1</li> <li>• No relevant certificate.....0.5</li> </ul>		2.0
	<b>At least 1No. degree/diploma of key personnel in relevant technical field</b> <ul style="list-style-type: none"> <li>• With over 10 years' relevant experience 2</li> <li>• With over 5 years' relevant experience 1.5</li> <li>• With under 5 years' relevant experience 0.5</li> </ul>		2.0
	<b>At least 1No certificate holder of key personnel in relevant technical field</b> <ul style="list-style-type: none"> <li>• With over 10 years relevant experience 1.5</li> <li>• With over 5 years relevant experience 1</li> <li>• With under 5 years relevant experience 0.5</li> </ul>		1.5
	<b>At least 2No artisan (trade test certificate in relevant technical field)</b> <ul style="list-style-type: none"> <li>• Artisan with over 10 years' relevant experience 2</li> <li>• Artisan with under 10 years' relevant experience 1.5</li> <li>• Non skilled worker with over 10 years relevant experience ..1</li> </ul>		2.0
	<b>Contract completed in the last five (5) years (Max of 5 No. Projects)</b> <ul style="list-style-type: none"> <li>• Project of similar nature, complexity and magnitude..... 7.5</li> <li>• Project of similar nature but of lower value than the one in consideration.....5</li> <li>• No completed project of similar nature.....2.5</li> </ul>		7.5
	<b>On-going projects (Max of 5 No. Projects)</b> <ul style="list-style-type: none"> <li>• Project of similar nature, complexity and magnitude.....5</li> <li>• Project of similar nature but of lower value than the one in consideration.....4</li> <li>• No ongoing project of similar nature .....2.5</li> </ul>		5.0
	<b>Schedule of contractor's equipment and transport (proof or evidence of ownership or Lease )</b> <ul style="list-style-type: none"> <li>• Means of transport (Vehicle) 2</li> <li>• No means of transport ----- 1</li> </ul>		2.0
	For each specific equipment required in the installation of the Work being tendered for.  (Maximum No. of equipment to be considered – 3 No.) 2		3.0
	<b>Financial report</b>		5.0
	<b>Audited financial report (last three (3) years)</b> <ul style="list-style-type: none"> <li>• Turn over greater or equal to 2 times the cost of the project ....5</li> <li>• Turn over greater or equal to the cost of the project.....3</li> <li>• Turn over below the cost of the project.....1</li> </ul>		

	<b>Evidence of Financial Resources (cash in hand, lines of credit, over draft facility etc)</b> <ul style="list-style-type: none"> <li>• Has financial resources equal to 20%of the cost of the project-- 5</li> <li>• Has financial resources below 20% of the cost of the project...2.5 <ul style="list-style-type: none"> <li>• Has not indicated sources of financial resources 0</li> </ul> </li> </ul>		5.0
	<b>Name, Address and Telephone of Banks (Contractor to provide)</b> <ul style="list-style-type: none"> <li>• Provided ..... 2.5</li> <li>• Not provided .....0</li> </ul>		2.5
	<b>Litigation History</b> <ul style="list-style-type: none"> <li>• Provided----- 1</li> <li>• Not provided-----0</li> </ul>		1.0
	<b>Sanctity of the tender document</b> <ul style="list-style-type: none"> <li>• Having the document intact (not tempered with in anyway) .....15</li> <li>• Having mutilated or modified the tender document..... 0</li> </ul>		5.0
	<b>Total</b>		50

**Any bidder who scores 70 points and above shall be considered for further evaluation**

### **STAGE 3 - FINANCIAL EVALUATION**

The evaluation shall be in two sections

1. Preliminary examinations and
2. Tender sum Comparisons

#### ***A) PRELIMINARY EXAMINATIONS***

The preliminary examination in the Financial Evaluation shall be in accordance with clause 26 of Instruction to Tenderers.

The parameter to be considered under this section includes the following:

- a) Arithmetic errors and comparison of rates

##### **a) Arithmetic Errors**

The bid shall be checked for arithmetic errors based on the rates and the total sums indicated in the bills of quantities.

Confirmation shall be sought in writing from the tenderers whose tender sums will be determined to have a significant arithmetic error to their disadvantage, to confirm whether they stand by their tender sums. The error shall be treated as per **clause 24 of Instructions to Tenderers**.

Noncompliance with the above shall lead to **automatic disqualification from further evaluation**.

- b) Comparison of rates

The evaluation committee will compare rates from different bidders and note consistency of rates and front loading. The evaluation committee will judge and make an appropriate decision giving evidence.

#### ***B. TENDER SUMS COMPARISONS***

In this section, tender sums will be compared to the average of all sums for bidders who have qualified from **STAGE 3A** and score awarded to a maximum of 20 as shown below.

1 Preliminary Average

- i. The tender sums of various binders, who qualify at **STAGE 3A** and the engineer's estimates, shall be reduced by omitting PC sums, provisional sums and contingency from the respectful amounts. The **average** of the adjusted tender sums so obtained shall be calculated.
- ii. Any tenderer whose tender percentage deviation is 20% higher or lower than the average obtained above, will be deemed to be unreasonably high or low and shall not be included in determining the mean in table 3, However their bids will still be evaluated further. The Engineer's estimate will also be subjected to the same treatment.

**2. Working mean**

The detailed scoring plan shall be as shown in table 3 below:

*TABLE 3*

Item	Description	Score	Max. score
i	<p>Tender Sums: (The tender sums of binders, who qualify at STAGE 3A and the engineer's estimates, shall be reduced by omitting PC sums, provisional sums and contingency from the respectful amounts. The average of the adjusted tender sums so obtained shall be calculated. The deviation of the reduced amounts in respect of each bidder from the average shall then be worked out as a percentage of the average (Rounded off to one (1) decimal point) and scores allocated as follows :-)</p> <ul style="list-style-type: none"> <li>o Deviation of between 0% and 1%.....30</li> <li>o Deviation of between 1.1% and 2%.....28.5</li> <li>o Deviation of between 2.1% and 3%.....27</li> <li>o Deviation of between 3.1% and 4%.....25.5</li> <li>o Deviation of between 4.1% and 5%.....24</li> <li>o Deviation of between 5.1% and 6%.....22.5</li> <li>o Deviation of between 6.1% and 7%.....21</li> <li>o Deviation of between 7.1% and 8%.....19.5</li> <li>o Deviation of between 8.1% and 9%.....18</li> <li>o Deviation of between 9.1% and 10%.....16.5</li> <li>o Deviation of between 10.1% and 11%.....15</li> <li>o Deviation of between 11.1% and 12%.....13.5</li> <li>o Deviation of between 12.1% and 13%.....12</li> <li>o Deviation of between 13.1% and 14%.....10.5</li> <li>o Deviation of between 14.1% and 15%.....9</li> <li>o Deviation of between 15.1% and 16%.....7.5</li> <li>o Deviation of between 16.1% and 17%.....6</li> <li>o Deviation of between 17.1% and 18%.....4.5</li> <li>o Deviation of between 18.1% and 19%.....3</li> <li>o Deviation of between 19.1% and 20%.....1.5</li> <li>o Deviation of 20.1% and above.....0</li> </ul>		30
	<b>TOTAL</b>		<b>30</b>

The Tender sum score will be carried forward to **STAGE 4**

**FINANCIAL SCORE**

The financial score (Fs) will be determined by comparing tender sums from all responsive bidders using the formulae below. The financial score will be allocated a maximum of 20%.

$$Fs = 20 \times Fm/F$$

Where Fs is the financial score, Fm is the lowest priced responsive financial bid and F is the price of the bid under consideration

**STAGE 4 - FINAL SCORE**

The total score will be combined sums of Technical, Tender Sums Comparison and Financial marks As below:

Technical (Ts) + Tender Sums Comparison (TSC) +Financial (Fs) =  
Ts+TSC+Fs

**RECOMMENDATION**

The lowest responsive bidder who score 75% and above may be recommended for award.

**STAGE 4 - COMBINATION OF TECHNICAL, TENDER SUMS COMPARISON AND FINANCIAL SCORE.**

Evaluation shall combine the technical evaluation score, Tender Sum Comparison and financial score in order to obtain the Final scores as shown below:

Technical Evaluation Score (TEs) + Tender sums Comparison Score (TSCs) + Financial Score (Fs) + ALL SCORES = TEs + TSCs + Fs = 50% + 20% + 30%

**STAGE 5 - POST-QUALIFICATION**

An evaluation committee may, after tender evaluation, but prior to the award of the tender, conduct due diligence and present the report in writing to confirm and verify the qualifications of the tenderer who submitted the lowest evaluated responsive tender to be awarded the contract in accordance with this Act.

The conduct of due diligence may include obtaining confidential references from persons with whom the tenderer has had prior engagement.

To acknowledge that the report is a true reflection of the proceedings held, each member who was part of the due diligence by the evaluation committee shall-

- a) initial each page of the report; and
- b) append his or her signature as well as their full name and designation.

**1. FORM PER - 1**

**Contractor's Representative and Key Personnel Schedule**

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

**Contractor' Representative and Key Personnel**

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

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

**2. FORM PER-2:**

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

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

<b>Name of Tenderer</b>		
Position:		
Personnel information	Name: <span style="float: right;">Date of birth:</span>	
	Address: <span style="float: right;">E-mail:</span>	
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency:	
Details	Address of Procuring Entity:	
	Telephone: 0720923860 <span style="float: right;">Contact (manager / personnel officer):</span>	
		Caroline W. Kiama
	Job title: <span style="float: right;">Years with present Procuring Entity:</span>	
	Fund Account manager <span style="float: right;">Two (2) year</span>	

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

Project	Role	Duration of involvement	Relevant experience

Declaration

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

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

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

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

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

Name of Contractor's Representative or Key Personnel:

.....

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

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

Countersignature of authorized representative of the Tenderer:

Signature:.....Date: (day month year).....



**3. TENDERER'S QUALIFICATION WITHOUT PRE-QUALIFICATION**

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

**4.1 FORM ELI -1.1**

**Tenderer Information Form**

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

ITT No.....

Title:.....

Tenderer's name:
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.6 2. Included are the organizational chart and a list of Board of Directors.

**4.2 FORM FIN – 3.1:**

**Financial Situation and Performance**

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

**4.4.1. Financial Data**

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

**4.4.2 Sources of Finance**

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

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

#### 4.4.3 Financial documents

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

- (a) Reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).
  - (b) Be independently audited or certified in accordance with local legislation.
  - (c) Be complete, including all notes to the financial statements.
  - (d) Correspond to accounting periods already completed and audited.
- Attached are copies of financial statements for the *one-year* required above; and complying with the requirement

#### **FORM FIN – 3.2:**

##### Average Annual Construction Turnover

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

Annual turnover data (construction only)			
Year	Amount Currency	Exchange rate	Kenya Shilling equivalent
Average Annual Construction Turnover *			

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

#### **4.3 FORM FIN – 3.3:**

##### Financial Resources

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

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

3		

**FORM FIN – 3.4:**

**Current Contract Commitments / Works in Progress**

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

**Current Contract Commitments**

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

**FORM EXP ~ 4.1**

**General Construction Experience**

Tenderer's Name:.....

Date:.....

ITT No: .....

Title:.....

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

	Tenderer:..... Amount of contract:..... Name of Procuring Entity: ..... Address: _____	
	Contract name:..... ..... Brief Description of the Works performed by the Tenderer:..... Amount of contract:..... Name of Procuring Entity: ..... Address: _____	

**FORM EXP - 4.2 (a)**

**Specific Construction and Contract Management Experience**

Tenderer's Name:.....

Date:.....

ITT No. and title:.....

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

**4.4 FORM EXP - 4.2 (a) (cont.)**

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

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

**FORM EXP - 4.2 (b)**

**Construction Experience in Key Activities**

Tenderer's Name:.....

Date:.....

ITT No. and title:.....

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III,

Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One: \_

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

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

## OTHER FORMS

### 4. FORM OF TENDER

#### *INSTRUCTIONS TO TENDERERS*

To: ..... *[Insert complete name of Procuring Entity]*

Dear Sir (s) / Madam (s),

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the **sum of Kenya Shilling 5,700,000 Kenya Shillings Five Million, seven hundred thousand**.
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.
3. We agree to adhere by this tender until **19<sup>th</sup> June 2023** and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.
5. We, the undersigned, further declare that:
  - i) We have examined and have no reservations to the tender document, including Addenda issued in accordance with ITT 28;
  - ii) We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;
  - iii) We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing or Proposal-Securing Declaration in the Procuring Entity's Country in accordance with ITT 19.8;
  - iv) We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works:  
*[insert a brief description of the Works]*
  - v) Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period; We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;
  - vi) We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
  - vii) We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed

- viii) We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive;
- ix) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption
- x) Collusive practices: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Tender Determination” attached below.
- xi) We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from \_\_\_\_\_ (*website*) during the procurement process and the execution of any resulting contract.

**Beneficial Ownership Information:** We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.

We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:

- a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
- b) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
- c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
- d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal

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

Name of the Tenderer: .....

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

.....

Title of the person signing the Tender: .....

Signature of the person named above: ..... Date signed .....

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

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

**Instruction to Tenderer**

Tender is instructed to complete the particulars required in this Form. Tenderer is further reminded that it is an offence to give false information on this Form.

**(a) Tenderer's details**

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

General and Specific Details

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

NAME

IN

FULL.....

.....

NATIONALITY:

.....

.....

AGE:

.....

.....

COUNTRY

OF

ORIGIN:

.....

.....

CITIZENSHIP:.....

.....

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

	Names of Partners	Nationality	Citizenship	%
1				
2				
3				

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

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

ii) State the nominal and issued capital of the Company\_\_\_\_\_

Nominal Kenya Shillings (Equivalent).....

Issued Kenya Shillings (Equivalent).....

iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

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

- i) Are there any person/persons in .....who has/have an interest or relationship in this firm? Yes/No.....

If yes, provide details as follows.

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

ii) **Conflict of interest disclosure**

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

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

**f) Certification**

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

Full Name \_\_\_\_\_

Title or Designation \_\_\_\_\_

**Signature:**..... **Date:**

.....

**B. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION**

I, the undersigned, in submitting the accompanying Letter of Tender to the

.....

.....

.....for: .....in response to  
the request for tenders made by:.....do hereby

make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of \_\_\_\_\_ that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;

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

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

**C. SELF - DECLARATION FORMS**

**FORM SD1**

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

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

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ..... (*insert name of the Company*) who is a Bidder in respect of Tender No. .... for ..... (*insert tender title/description*) for ..... (*insert name of the Procuring entity*) and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

Name:.....  
Title:.....

Signature:.....  
Date:.....

Bidder Official  
Stamp.....

FORM SD2

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

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

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

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

Bidder's Official Stamp

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

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

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

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

Position.....  
.....

Office address.....

Telephone..... E-  
mail.....  
...

Name of the Firm/Company.....

Date..... (Company Seal/  
Rubber Stamp where applicable)

Witness  
Name ..... Sign.....  
Date.....

**TENDER-SECURING DECLARATION FORM**

Date:.....

Tender No.:.....

To:.....I/We, the undersigned, declare that:

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

Signed:..... Capacity / title (director or partner or sole proprietor, etc.)..... Name:

..... Duly authorized to sign the bid for and on behalf of:.....

Dated on ..... day of ..... Seal or stamp

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**PART 2: WORK REQUIREMENTS**

**BILL OF QUANTITIES**

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**PROPOSED CONSTRUCTION OF TWO CLASSROOMS STORIED BLOCK (SUB STRUCTURE WORKS AND GROUND FLOOR) AT HOLY ROSARY PRIMARY SCHOOL**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>CLASSROOM BLOCK</u></b>				
	<b><u>ELEMENT NO.1</u></b>				
	<b><u>DEMOLITIONS</u></b>				
	<b>ROOF</b>				
A	Carefully demolish the existing pitched roofing comprising corrugated iron sheets on timber purlings,timber trusses consisting of rafters,ties,struts and ceiling joints:including all rainwater goods: fascia boards and eaves roof over hangs ( <b>Appx 181 SM</b> ) making good disturbed surfaces and remove the arising from site or as directed by the client.	181	SM		
	<b>WALLS</b>				
B	Carefully demolish existing 200mm thick solid natural stone walling plastered and painted internally to allow for underpinning (14NO. Columns) and beam (250 X 600mm) making good disturbed surfaces and remove the arising from site or as directed by the client.	188	SM		
	<b>WINDOWS</b>				
C	Carefully demolish existing timber windows making a good distributed surfaces and cart away debris unless otherwise specified.	12	NO		
	<b>DOORS</b>				
D	Carefully demolish existing timber double door making a good distributed surfaces and cart away debris unless otherwise specified.	5	NO		
	<b>SLAB</b>				
E	Carefully demolish existing 100mm thick floor slab making a good distributed surfaces and cart away debris unless otherwise specified.	133	SM		
	<b>DEMOLITIONS CARRIED TO SUMMARY</b>				

**PROPOSED CONSTRUCTION OF TWO CLASSROOMS STOREYED BLOCK (SUB STRUCTURE WORKS AND GROUND FLOOR) AT HOLY ROSARY PRIMARY SCHOOL**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
A	<p><b><u>ELEMENT NO.2: SUBSTRUCTURES</u></b>  <b><u>(ALL PROVISIONAL)</u></b>  <b>NOTE; (I) All work measured under this element is up to and including the floor slab but excluding the finishes thereon.</b></p> <p>Clear the site of all bush scrub undergrowth and small trees grub up roots and cart away or burn all arising (approx. area sq. sm)</p> <p><b><u>Excavations and earthworks</u></b></p>				
B	Excavate for column bases along existing slab occurring not exceeding 1.5metres deep commencing from the slab level	81	CM		
C	Excavate oversite average 200mm deep to remove vegetable soil load up to wheel deposit about 100m away and later spread and level on site where directed	130	SM		
D	Excavate for strip foundation trenches including in the hard ground occurring not exceeding 1.5m deep commencing from reduced levels.	78	CM		
E	Allow for keeping excavations free from mud and all water including spring and running water by pumping pailing or other approved means.		ITEM		
F	Allow for planking and strutting to sides of excavations				
	<b>Carried to Collections</b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
A	<b><u>Disposal</u></b> Load surplus excavated material and cart away	86	CM		
B	<b><u>Filling</u></b> Return fill and ram selected excavated material around foundations. <b><u>Hardcore as described</u></b>	75	CM		
C	300mm Thick layer of imported hardcore filling including levelling and consolidating in 150mm layers <b><u>Blinding</u></b>	200	SM		
D	50mm Thick Quarry dust blinding to the surface of hardcore;rolled smooth to receive polythene sheeting(m.s) <b><u>Insecticide treatment</u></b>	200	SM		
E	<b>"TERMIDOL" or other equal and approved</b> chemical insecticide treatment prepared and applied according to the manufacturer's printed instructions. <b><u>Damp proof membrane</u></b>	200	SM		
F	500 Gauge polythene or other equal and approved plastic sheet damp proof membrane laid over blinding(measured nett - allow for laps) <b><u>In-situ concrete work</u></b>	200	SM		
G	<b><u>Mass concrete (1:3:6/38-38mm aggregate)</u></b>				
H	50mm Thick blinding under strip foundations	64	SM		
J	50mm Thick blinding under column bases <b><u>Vibrated reinforced concrete (1:2:4/20-20mm aggregate) as described in:</u></b>	35	SM		
K	Strip foundation	8	CM		
L	Column bases	22	CM		
M	Sub-columns	1.5	CM		
N	150 mm thick ground floor slab	200	SM		
	<b>Carried to Collections</b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>Steel reinforcement</b> <b>Supply and fix bars reinforcement including bending, hooks, tyingwire, cutting spacers and supporting all in position as described</b> <b>High tensile square twisted bars to B.S. 4461</b>				
A	8 mm Diameter	82	KG.		
B	10 mm Diameter	78	KG.		
C	12 mm Diameter	392	KG.		
D	16 mm Diameter	198	KG.		
E	20 mm Diameter	352	KG.		
	<b>B,R.C mesh reinforcement</b>				
F	Fabric mesh reinforcement to B.S. 4483 Ref. A142 including laps tyingwire and spacer blocks . <b>Sawn formwork as described to:</b>	200	SM		
G	Vertical sides of Column bases	54	SM		
H	Vertical sides of Columns	32	SM		
J	Vertical sides for strip foundation	21	SM		
K	Edges of floor slab and raisers 75-150mm girth high	60	LM		
	<b>Foundation walling</b>				
L	200mm Thick rough chisel dressed natural stone walling bedded and jointed in cement and sand (1:3) mortar and reinforced with and including 20swg x 25mm wide hoopiron in every alternate course	87	SM		
	<b>Plinth area finishes</b>				
M	12mm Thick cement and sand (1:3) wood float render to plinth area	30	SM		
N	Prepare and apply three coats black bitumastic paint to rendered area	30			
	<i>Carried to collection</i>				
	<b>COLLECTION</b>				
	Brought Forward from Page No. BW		SM		
			2		
	Brought Forward from Page No. BW		3		
	Brought Down from Page No. BW		4		
			Above		
	<b>TOTAL FOR ELEMENT NO. 2</b>				
	<b>SUBSTRUCTURES</b>				
	<b>CARRIED TO SUMMARY</b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>ELEMENT NO.3</u></b>				
	<b>SUPERSTRUCTURES</b>				
	<b><u>REINFORCED CONCRETE FRAME (ALL PROVISIONAL)</u></b>				
	<b><u>Vibrated reinforced concrete (1:2:4/20 ~ 20mm aggregate ) as described in:-</u></b>				
A	Beam	11	CM		
B	Columns	7	CM		
C	Staircases; generally	6	CM		
D	150 mm thick suspended slabs/ landings	198	SM		
	<b><u>Steel reinforcement</u></b>				
	<b><u>Supply and fix steel bars reinforcement including bending, hooks, tying wire, cutting, spacer blocks and supporting all in position</u></b>				
	<b><u>High tensile square twisted bars to B.S. 4461 as described in ;</u></b>				
E	8 mm Diameter	762	KG.		
F	10 mm Diameter	2856	KG.		
G	12 mm Diameter	398	KG.		
H	16 mm Diameter	724	KG.		
J	20 mm Diameter	512	KG.		
K	25 mm Diameter	1672	KG.		
	<b><u>Sawn formwork as described to ;</u></b>				
L	Sides and soffits of beam	114	SM		
M	Sides of columns	62	SM		
N	Staircases; generally	14	SM		
P	Soffittes of slabs / landings	198	SM		
Q	Edges of suspended slab and raisers 75-150mm girth high	53	LM		
	<b><u>TOTAL FOR ELEMENT NO. 3</u></b>				
	<b><u>R.C. SUPERSTRUCTURE</u></b>				
	<b><u>CARRIED TO SUMMARY</u></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>ELEMENT NO. 4</u></b>				
	<b><u>WALLING (ALL PROVISIONAL)</u></b>				
	<b><u>Fine chiselled natural stone walling bedded and jointed in cement and sand (1:3) mortar and reinforced with and including 20swg x 25mm wide hoop iron in alternate courses; with horizontal keys externally; internally left plain ready for plaster (m.s)</u></b>				
A	200mm Thick reinforced in every third course	105	SM		
	<b><u>Fine machine cut natural stone walling bedded and jointed in cement and sand (1:3) mortar and reinforced with and including 20swg x 25mm wide hoop iron; with horizontal external keys externally;internally left plain ready for plaster (m.s)</u></b>				
B	200mm Thick External wall reinforced in every third course	30	SM		
	<b><u>Horizontal damp proof course ; one layer of 3 - ply bituminous felt or other equal and approved (measured nett - allow for laps)</u></b>				
C	200mm Wide levelled and bedded in cement and sand (1:3) mortar under walls	62	LM		
	<b><u>Steel Columns</u></b>				
D	75mm diameter x 3mm CHS mild steel columns anchored onto concrete at the bottom and to timber trusses at top with and including holder brackets each 3000mm high;primed painted in 3 coats gloss oil paint to approval	0	NO		
	<b><u>TOTAL FOR ELEMENT NO.4 WALLING CARRIED TO SUMMARY</u></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>ELEMENT NO. 5</u></b> <b><u>FINISHES</u></b>				
	<b><u>EXTERNAL WALL FINISHES</u></b> <b>(ALL PROVISIONAL)</b>				
	12mm thick cement,sand render,with wood float finish , as described to:-				
A	Concrete surfaces of columns and beams	98	SM		
	<b><u>Painting and decorations</u></b>				
	<b><u>Prepare and apply one undercoat and two finishing coats "Permacoat" or equivalent exterior quality emulsion paint on:-</u></b>				
B	Fair faced surfaces of concrete beams and columns	98	SM		
	<b><u>INTERNAL WALL FINISHES</u></b>				
C	Hack out joints and apply 12mm thick gauged lime plaster (1:2:9) in two coats finished with steel trowel on natural stone walling and beams	195	SM		
	<b><u>Painting and decorations</u></b>				
	<b><u>Prepare and apply one undercoat and two finishing coats plastic Vinyl matt or equivalent emulsion paint on:-</u></b>				
D	Plastered surfaces	195	SM		
	<b><u>TOTAL FOR ELEMENT NO.5</u></b> <b><u>WALL FINISHES</u></b> <b><i>CARRIED TO SUMMARY</i></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL (SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>ELEMENT NO.6</b>				
	<b><u>FLOOR FINISHES</u></b>				
	<b><u>Insitu cement and sand ( 1:3) screeded beds ,with steel trowelled finish, on concrete</u></b>				
A	25 mm to receive ceramic floor tiles	148	SM		
B	25 mm to receive terazzo to landings	17	SM		
C	25 mm to receive terazzo to verandah lobby	44	SM		
D	25 mm to receive terazzo to 150mm high riser	53	LM		
E	25 mm to receive terazzo to 300mm wide treads	44	LM		
	<b><u>600 *300 *8mm thick floor tiles as "Saj" or equal and approved manufacturer jointed and pointed with matching white cement;</u></b>				
F	Tiling	148	SM		
G	Ditto 100 mm high skirting	67	LM		
	<b><u>Terrazzo (1:3) with approved coloured chippings, ground and polished smooth, including approved plastic dividing strips and non slip carborandums on staircase treads and ramps:</u></b>				
H	20 mm thick paving and landings	17	SM		
J	Ditto 100 mm high skirting	33	LM		
K	Ditto 300mm wide treads	44	LM		
L	Dittp 150mm high riser	53	LM		
M	20 mm thick paving in verandah	44	SM		
	<b><u>Plaster</u></b>				
	<b><u>12mm thick cement/lime/sand/(1:1:6) plaster in:</u></b>				
N	Horizontal soffits of landing	17	SM		
P	Sloping soffits of waist	14	SM		
Q	sides of waist 350mm wide (extreme)	23	LM		
	<b><u>Prepare and apply three coats plastic emulsion or equivalent paint to; plastered soffits of landing</u></b>	17	SM		
	plastered sloping soffits of waist	14	SM		
	plastered sides of waist	23	LM		
	<b><u>TOTAL FOR ELEMENT NO. 6</u></b>				
	<b><u>FINISHES</u></b>				
	<b><u>CARRIED TO SUMMARY</u></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>RATE</b>	<b>KSHS</b>
	<b>ELEMENT 7</b> <b><u>CEILING FINISHES</u></b>				
<b>A</b>	<b><u>Insitu cement sand lime (1:1:6) plaster,with steel trowelled finish,on concrete</u></b> 12mm thick plaster trowelled smooth	148	SM		
<b>B</b>	<b><u>Knot prime and stop and prepare and apply three coats first quality Vinyl matt or equivalent emulsion paint to :</u></b> Soffittes of plastered concrete slabs	148	SM		
	<b><u>TOTAL FOR ELEMENT NO. 7</u></b> <b><u>CEILING FINISHES</u></b> <b><i>CARRIED TO SUMMARY</i></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>RATE</b>	<b>KSHS</b>
	<b><u>ELEMENT NO. 8</u></b>				
	<b><u>BALUSTRADING (ALL PROVISIONAL)</u></b>				
	<b><u>Mild Steel:</u></b>				
<b>A</b>	Mild steel balustrading 900 mm high overall in 50 x 25 x 3 mm RHS framing; 25 x 25 x 3 mm RHS sections at 150 mm centres; including all the necessary welds and priming	24	LM		
	<b><del>Prepare and Apply Three Coats of Gloss Oil Paint to:-</del></b>				
<b>B</b>	Steel balustrading general surfaces (both sides measured)	24	SM		
	<b><u>TOTAL FOR ELEMENT NO. 8</u></b>				
	<b><u>BALUSTRADING</u></b>				
	<b><i>CARRIED TO SUMMARY</i></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>ELEMENT NO. 9</u></b> <b><u>WINDOWS</u></b> <b><u>(ALL PROVISIONAL)</u></b>				
A	and throated <b><u>Steel Casement Windows</u></b> <del>Purpose made steel window casements in 25 mm</del> <b><u>thick z - sections, T-sections and flat bars;</u></b> <b><u>complete with hinges, stays, fasteners, permanent</u></b> <b><u>vent with</u></b>	18	LM		
B	mosquito gauze and sheet metal hood etc assembled Window Size 1500 x 1500 mm high <b><u>GLASS &amp; GLAZING TO METAL WITH</u></b> <b><u>PUTTY</u></b> <b><u>Clear sheet Glass</u></b>	5	NO		
C	4 mm thick clear and one way tinted in selected areas <b><u>Obscure sheet Glass</u></b>	12	SM		
D	5 mm thick <b><u>coat gloss oil paint to;</u></b>	0	SM		
E	Steel window surfaces / grilles; measured generally	12	SM		
	<b><u>TOTAL FOR ELEMENT NO. 9</u></b> <b><u>WINDOWS</u></b> <b><u>CARRIED TO SUMMARY</u></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>ELEMENT 10</b>				
	<b>DOORS</b>				
	<b>(ALL PROVISIONAL)</b>				
	<b>Steel Casement Doors</b>				
	Standard door complete with hinges, permanent vent with mosquito gauze and sheet metal hood etc assembled and fixed to opening including cutting and pinning lugs to concrete or blockwork surround and bedding frame in cement and sand mortar (1:4) (Grille, 3 lever "Union" or approved equivalent steel lock and Glazing included )				
A	Door Overall size 1200 x 2400 mm high; Single door	2	NO		
	<del>Prepare and Apply Three Coats of Gloss Oil Paint to:-</del>				
B	Steel door general surfaces	12	SM		
	<b><u>TOTAL FOR ELEMENT NO. 10</u></b>				
	<b><u>DOORS</u></b>				
	<b><i>CARRIED TO SUMMARY</i></b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>GROUND FLOOR GROUND FLOOR SUMMARY</b>				
		<b>PAGE</b>	<b>NO</b>		
1	DEMOLITIONS	BW	1		
2	SUBSTRUCTURES	BW	4		
3	R.C SUPERSTRUCTURES	BW	5		
4	WALLING	BW	6		
5	WALL FINISHES	BW	7		
6	FINISHES	BW	8		
7	CEILING FINISHES	BW	9		
8	BALUSTRADING	BW	10		
9	WINDOWS	BW	11		
10	DOORS	BW	12		
	<b>TOTAL FOR SUBSTRUCTURES AND GROUND FLOOR CARRIED TO GRAND SUMMARY</b>				

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>PROVISIONAL SUMS</u></b>				
A	Allow a provisional Sum of (180,000) for Project Management Expenses				180,000.00
B	Allow a provisional Sum of (150,000) for Contigencies to be expended at the project manangers discretion.				150,000.00
C	Allow a provisional sum of (ksh 150,000) for electrical installation				150,000.00
D	Allow a provisional Sum of (150,000) for PMC				150,000.00
	<b>TOTAL FOR PROVISIONAL SUMS CARRIED TO GRAND SUMMARY</b>				<b>630,000.00</b>

**PROPOSED CONSTRUCTION OF 2 NO. CLASSROOM BLOCK FOR HOLY ROSARY PRIMARY SCHOOL  
(SUBSTRUCTURES AND GROUND FLOOR).**

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b><u>GRAND SUMMARY</u></b>				
		<b>PAGE</b>	<b>OFFICIAL USE</b>		<b>TENDERER'S USE</b>
	<b><u>PRELIMINARIES</u></b>				
1	Particular and General Preliminaries				
	<b><u>BUILDERS WORKS</u></b>				
2	Builders Works	BW/10			
	<b><u>PRIME COST AND PROVISIONAL SUMS</u></b>				
3	Prime Cost and Provisional Sums	BW/23 KSHS.			
	Sub - Total 1				
		KSHS.			
	<b><i>GRAND TOTAL CARRIED TO FORM OF TENDER</i></b>				

NAME OF  
TENDERER.....

ADDRESS.....

SIGNATURE.....STATUS.....

DATE.....

NAME OF WITNESS.....

ADDRESS.....

SIGNATURE.....

DATE.....

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**PART 3: CONDITIONS OF CONTRACT AND  
CONTRACT FORMS**

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## SECTION VIII

### GENERAL CONDITIONS OF CONTRACT

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

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

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

#### General Conditions of Contract

##### A. General

##### 1. Definitions

1.1 Bold face type is used to identify defined terms.

- a) **The Accepted Contract Amount** means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
- b) **The Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
- c) **The Adjudicator** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.
- d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
- e) **Compensation Events** are those defined in GCC Clause 42 hereunder.
- f) **The Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 53.1.
- g) **The Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.
- h) **The Contractor** is the party whose Bid to carry out the Works has been accepted by the Procuring Entity.
- i) **The Contractor's Bid** is the completed bidding document submitted by the Contractor to the Procuring Entity.
- j) **The Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
- k) **Days** are calendar days; months are calendar months.
- l) **Day works** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- m) **A Defect** is any part of the Works not completed in accordance with the Contract.
- n) **The Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.
- o) **The Defects Liability Period** is the period **named in the SCC** pursuant to Sub-Clause 34.1 and calculated from the Completion Date.
- p) **Drawings** means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract, include calculations and other information provided or approved by the Project

Manager for the execution of the Contract.

- q) **The Procuring Entity** is the party who employs the Contractor to carry out the Works, **as specified in the SCC**, who is also the Procuring Entity.
- r) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- s) **“In writing” or “written”** means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- t) The Initial Contract Price is the Contract Price listed in the Procuring Entity's Letter of Acceptance.
- u) **The Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is **specified in the SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- v) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- w) **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- x) **The Project Manager** is the person **named in the SCC** (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- y) **SCC** means Special Conditions of Contract.
- z) **The Site** is the area of the works as **defined as such in the SCC**.
- aa) **Site Investigation Reports** are those that were included in the bidding document and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- bb) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- cc) **The Start Date** is **given in the SCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- dd) **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.
- ee) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- ff) **A Variation** is an instruction given by the Project Manager which varies the Works.
- gg) **The Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, **as defined in the SCC**.

## 2 Interpretation

- 21 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- 22 If sectional completion is specified in the SCC, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 23 The documents forming the Contract shall be interpreted in the following order of priority:
  - a) Agreement,
  - b) Letter of Acceptance,

- c) Contractor's Bid,
- d) Special Conditions of Contract,
- e) General Conditions of Contract, including Appendices,
- f) Specifications,
- g) Drawings,
- h) Activity schedule, and
- i) Any other document **listed in the SCC** as forming part of the Contract.

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

- 3.1 The language of the Contract is English Language and the law governing the Contract are the Laws of Kenya.
- 3.2 Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in the Procuring Entity's Country when
  - a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
  - b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

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

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

### **5. Delegation**

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

### **6. Communications**

- 6.1 Communications between parties that are referred to in the Conditions 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 Procuring Entity 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, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as **referred to in the SCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

### **9. Personnel and Equipment**

- 9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the

Bid.

- 92 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.
- 93 If the Procuring Entity, Project Manager or Contractor determines, that any employee of the Contractor be determined to have engaged in Fraud and Corruption during the execution of the Works, then that employee shall be removed in accordance with Clause 9.2 above.

#### **10. Procuring Entity's and Contractor's Risks**

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

#### **11. Procuring Entity's Risks**

- 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Procuring Entity's risks:
- a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
    - i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
    - ii) negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity 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 Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Procuring Entity's risk except loss or damage due to
- aa) a Defect which existed on the Completion Date,
  - bb) an event occurring before the Completion Date, which was not itself a Procuring Entity's risk, or
  - cc) the activities of the Contractor on the Site after the Completion Date.

#### **12. Contractor's Risks**

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

#### **13. Insurance**

- 13.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the SCC** for the following events

which are due to the Contractor's risks:

- 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.

- 132 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 133 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 134 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 135 Both parties shall comply with any conditions of the insurance policies.

#### **14 Site Data**

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

#### **15 Contractor to Construct the Works**

- 15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

#### **16 The Works to Be Completed by the Intended Completion Date**

- 16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works 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.

#### **17 Approval by the Project Manager**

- 17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.
- 17.2 The Contractor shall be responsible for design of Temporary Works.
- 17.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 17.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 17.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.

**18 Safety**

18.1 The Contractor shall be responsible for the safety of all activities on the Site.

**19 Discoveries**

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

**20 Possession of the Site**

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

**21 Access to the Site**

21.1 The Contractor shall allow the Project Manager and any person authorized 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.

**22 Instructions, Inspections and Audits**

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

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

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

**23 Appointment of the Adjudicator**

23.1 The Adjudicator shall be appointed jointly by the Procuring Entity and the Contractor, at the time of the Procuring Entity's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 14 days of receipt of such request.

23.2 Should the Adjudicator resign or die, or should the Procuring Entity and the

Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.

## **24 Settlement of Claims and Disputes**

### **24.1 Contractor's Claims**

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

24.1.2 If the Contractor fails to give notice of a claim within such period of 30 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub- Clause shall apply.

24.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

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

24.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- a) this fully detailed claim shall be considered as interim;
- b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
- c) the Contractor shall send a final claim within 30 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

24.1.6 Within 42 days after receiving a Notice of a claim or any further particulars

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

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

24.1.8 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

24.1.9 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

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

24.1.11 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause 24.3.

## **242 Amicable Settlement**

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

## **243 Matters that may be referred to arbitration**

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

- a) The appointment of a replacement Project Manager upon the said person ceasing to act.
- b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
- c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- e) Any dispute arising in respect of war risks or war damage.

- f) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

#### **244 Arbitration**

- 24.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 24.3 shall be finally settled by arbitration.
- 24.4.2 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 24.4.3 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 24.4.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
- 24.4.5 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 24.4.6 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
- 24.4.7 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.
- 24.4.8 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the Works.
- 24.4.9 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

#### **245 Arbitration with National Contractors**

- 24.5.1 If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;
- i) Architectural Association of Kenya
  - ii) Institute of Quantity Surveyors of Kenya

- iii) Association of Consulting Engineers of Kenya
- iv) Chartered Institute of Arbitrators (Kenya Branch)
- v) Institution of Engineers of Kenya

24.5.2 The institution written to first by the aggrieved party shall take precedence over all other institutions.

#### **246 Alternative Arbitration Proceedings**

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

#### **247 Failure to Comply with Arbitrator's Decision**

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

24.7.2 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

#### **248 Contract operations to continue**

- 24.8.1 Notwithstanding any reference to arbitration herein,
- a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
  - b) the Procuring Entity shall pay the Contractor any monies due the Contractor.

### **25. Fraud and Corruption**

25.1 The Government requires compliance with the country's Anti-Corruption laws and its prevailing sanctions policies and procedures as set forth in the Constitution of Kenya and its Statutes.

25.2 The Procuring Entity requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

## **B. Time Control**

### **26. Program**

26.1 Within the time stated in the SCC, after the date of the Letter of Acceptance, 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. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.

26.2 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.

26.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may

withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.

- 264 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

## **27. Extension of the Intended Completion Date**

- 27.1 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.

- 27.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

## **28. Acceleration**

- 28.1 When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.

- 28.2 If the Contractor's priced proposals for an acceleration are accepted by the Procuring Entity, they are incorporated in the Contract Price and treated as a Variation.

## **29. Delays Ordered by the Project Manager**

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

## **30. Management Meetings**

- 30.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.

- 30.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

### **31. Early Warning**

- 31.1 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.
- 31.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

## **C. Quality Control**

### **32. Identifying Defects**

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

### **33. Tests**

- 33.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

### **34. Correction of Defects**

- 34.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 34.2 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.

### **35. Uncorrected Defects**

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

## **D. Cost Control**

### **36. Contract Price**

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

the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

### **37. Changes in the Contract Price**

- 37.1 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.
- 37.2 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

### **38. Variations**

- 38.1 All Variations shall be included in updated Programs and Activity Schedules produced by the Contractor.
- 38.2 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 38.3 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.
- 38.4 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. The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning
- 38.5 If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 39.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work
- 38.6 Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;
- a) the proposed change(s), and a description of the difference to the existing contract requirements;
  - b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and
  - c) a description of any effect(s) of the change on performance/functionality.
- 38.7 The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

- a) accelerate the contract completion period; or
- b) reduce the Contract Price or the life cycle costs to the Procuring Entity; or
- c) improve the quality, efficiency, safety or sustainability of the Facilities; or
- d) yield any other benefits to the Procuring Entity, without compromising the functionality of the Works.

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

- a) a reduction of the Contract Price; the amount to be paid to the Contractor shall be the **percentage specified in the SCC** of the reduction in the Contract Price; or
- b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in
  - (a) to (d) above, the amount to be paid to the Contractor shall be the full increase in the Contract Price.

### **39. Cash Flow Forecasts**

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

### **40. Payment Certificates**

40.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

40.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

40.3 The value of work executed shall comprise the value of completed activities in the Activity Schedule..

40.4 The value of work executed shall include the valuation of Variations and Compensation Events.

40.5 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

40.6 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (which would be the tender price), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows:  $(\text{corrected tender price} - \text{tender price}) / \text{tender price} \times 100$ .

### **41. Payments**

41.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment

in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

- 41.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 41.3 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.
- 41.4 Items of the Works for which no rate or price has been entered in shall not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

## **42 Compensation Events**

- 42.1 The following shall be Compensation Events:
  - d) The Procuring Entity does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.
  - e) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
  - f) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
  - g) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
  - h) The Project Manager unreasonably does not approve a subcontract to be let.
  - i) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
  - j) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons.
  - k) Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
  - l) The advance payment is delayed.
  - m) The effects on the Contractor of any of the Procuring Entity's Risks.
  - n) The Project Manager unreasonably delays issuing a Certificate of Completion.
- 42.2 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.

- 423 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.
- 424 The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

#### **43. Tax**

- 43.1 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 bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 44.

#### **44. Currency of Payment**

- 44.1 All payments under the contract shall be made in Kenya Shillings

#### **45. Price Adjustment**

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

$$P = A + B I_m / I_o$$

where: P is the adjustment factor for the portion of the Contract Price payable.

A and B are coefficients<sup>13</sup> **specified in the SCC**, representing the non-adjustable and adjustable portions, respectively, of the Contract Price payable and  $I_m$  is the index prevailing at the end of the month being invoiced and  $I_o$  is the index prevailing 30 days before Bid opening for inputs payable.

- 45.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

#### **46. Retention**

- 46.1 The Procuring Entity shall retain from each payment due to the Contractor the proportion stated in the **SCC** until Completion of the whole of the Works.
- 46.2 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 53.1, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project

Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an “on demand” Bank guarantee.

#### **47. Liquidated Damages**

- 47.1 The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day stated in the **SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.
- 47.2 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 rates specified in GCC Sub-Clause 41.1.

#### **48. Bonus**

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

#### **49. Advance Payment**

- 49.1 The Procuring Entity shall make advance payment to the Contractor of the amounts stated in the **SCC** by the date stated in the **SCC**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.
- 49.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 49.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

#### **50. Securities**

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

a Performance Bond.

**51. Dayworks**

- 51.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 51.2 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.
- 51.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

**52. Cost of Repairs**

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

**E. Finishing the Contract**

**53. Completion**

- 53.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

**54. Taking Over**

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

**55. Final Account**

- 55.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that 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.

**56. Operating and Maintenance Manuals**

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

**57. Termination**

- 57.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 57.2 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 authorized 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 Procuring Entity or the Contractor is made 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 Procuring Entity to the Contractor within 84 days of the date of the Project Manager's certificate;
- 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;
- g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as **defined in the SCC**; or
- h) if the Contractor, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2 a of the Appendix A to the GCC, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) days written notice to the Contractor, terminate the Contract and expel him from the Site.

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

574 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.

575 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 GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.

## **58. Payment upon Termination**

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

582 If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the 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, and less advance payments received up to the date of the certificate.

## **59. Property**

59.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated

because of the Contractor's default.

**60. Release from Performance**

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

SECTION IX - SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>A. General</b>	
GCC 1.1 (q)	The Procuring Entity is <i>The fund account manager, KANGEMA NG-CDF</i>
GCC 1.1 (u)	The Intended Completion Date for the whole of the Works shall be <i>October 5<sup>th</sup> 2023</i> .
GCC 1.1 (x)	The Project Manager is <i>Clerk of works, Kangema NG-CDF</i>
GCC 1.1 (z)	The Site is located at <i>Kanyenyaini ward, Holy Rosary primary school</i> .
GCC 1.1 (cc)	The Start Date shall be <i>20<sup>th</sup> June 2023</i>
GCC 1.1 (gg)	The Works consist of <i>Construction of two classrooms storied block (Sub structural works and ground floor)</i>
GCC 2.2	Sectional Completions are <i>sub structure: 21 days, Ground floor 60 days</i> .
GCC 5.1	The Project manager <i>may</i> delegate any of his duties and responsibilities.
GCC 9.1	<p><b>Key Personnel</b> GCC 9.1 is replaced with the following:</p> <p>9.1 Key Personnel are the Contractor’s personnel named in this GCC 9.1 of the Special Conditions of Contract. The Contractor shall employ the Key Personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of Key Personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.</p>
GCC 14.1	Site Data are: <i>Holy rosary primary school</i>
GCC 20.1	The Site Possession Date(s) shall be: <i>20<sup>th</sup> JUNE 2023</i>
<b>B. Time Control</b>	
GCC 26.1	The Contractor shall submit for approval a Program for the Works within <i>14</i> days from the date of the Letter of Acceptance.
<b>C. Quality Control</b>	
GCC 34.1	The Defects Liability Period is <i>12</i> months.
<b>D. Cost Control</b>	
GCC 44.1	The currency of the Procuring Entity’s Country is: <i>[insert name of currency of the Procuring Entity’s Country]</i> .
GCC 45.1	The Contract <i>“is not”</i> subject to price adjustment in accordance with GCC Clause 45.
GCC 46.1	The proportion of payments retained is <i>5%</i>

1. How to request a debriefing

- a) DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (*local time*).
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

*Attention: Fund Account Manager*

*Title/position: Fund Account Manager*

*Agency: Kangema National Government Constituency*

*Development Fund*

*Email address: [kangemacdf@gmail.com](mailto:kangemacdf@gmail.com)*

- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.
- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by **19th July 2023 at 1600 hrs. EAT**
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

**Fund Account Manager**

**Kangema National Government Constituency Development Fund**

**[kangemacdf@gmail.com](mailto:kangemacdf@gmail.com)**

- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information, refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website [info@ppra.go.ke](mailto:info@ppra.go.ke) or [complaints@ppra.go.ke](mailto:complaints@ppra.go.ke).

You should read these documents before preparing and submitting your complaint. e) There are four essential requirements:

- i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
- ii) The complaint can only challenge the decision to award the contract.
- iii) You must submit the complaint within the period stated above.
- iv) You must include, in your complaint, all of the information required to support your complaint.

7. Stand still Period

- i) DEADLINE: The Standstill Period is due to end at midnight on 18<sup>th</sup> June 2023.
- ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.
- iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

If you have any questions regarding this Notification, please do not hesitate to contact us.

On behalf of the Procuring Entity:

Signature:  .....

Name: Caroline W. Kiama .....

Title/position: F A M .....

FUND ACCOUNT MANAGER  
NG - CDF KANGEMA  
P.O. BOX 22 - 10202  
KANGEMA