

TEACHERS SERVICE COMMISSION



NATIONAL OPEN TENDER

SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF ULTRA-FILTRATION SYSTEM

TSC/T/018/2020-2021

EMPLOYER

Teachers Service Commission
Upper Hill, Kilimanjaro Road
Private Bag, 00100
Nairobi
Email: ddprocuremnet@tsc.go.ke
Website: www.tsc.go.ke

PROJECT ENGINEER

Water Secretary
Ministry of Water & SAN and IRRIG
P.O Box 49720-00100
Nairobi

CLOSING DATE: WEDNESDAY, 27TH JANUARY, 2021 AT 9.00AM.

TABLE OF CONTENTS

		<u>PAGE</u>
INTRODUCTION.....		3
SECTION I -	INVITATION FOR TENDERS.....	4
SECTION II -	LOCATION OF THE PROJECT SITES, SCOPE OF WORK AND BOREHOLE DATA	5
	INSTRUCTIONS TO TENDERERS.....	4 – 21
	APPENDIX TO INSTRUCTIONS TO TENDERERS	22
SECTION III -	CONDITIONS OF CONTRACT, PART I -GENERAL CONDITIONS.....	
SECTION IV-	CONDITIONS OF CONTRACT, PART II -CONDITIONS OF PARTICULAR APPLICATION	
SECTION V -	SPECIFICATIONS.....	
SECTION VI -	DRAWINGS.....	
SECTION VII -	BILLS OF QUANTITIES.....	
SECTION VIII -	STANDARD FORMS.....	

SECTION I

INVITATION FOR TENDERS

TENDER REFERENCE NO: TSC/T/18/2020-2021

TENDER NAME. SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF ULTRA-FILTRATION SYSTEM.

- 1.1 Teachers Service Commission invites sealed tenders for the Supply, Delivery, Installation and Commissioning of an Ultra Filtration System.
- 1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at the Supply Chain Management Services - SCMS, Teachers Service Commission House 2nd Floor Podium Wing During normal working hours 8.00 am to 4.00 pm on working days.
- 1.3 A complete tender document may be obtained by interested candidates upon payment of a non- refundable fee of Kshs. 1,000 paid to the Teachers Service Commission at National Bank of Kenya Account No. 01001000905000, Harambee Avenue Branch or Bankers Cheer and present the bank slip to TSC Cash office for official receipt. Alternatively, the document may be downloaded for free from www.tsc.go.ke or www.tenders.go.ke.
- 1.4 Prices quoted should be net inclusive of all taxes, must be in Kenya shillings and shall remain valid for 120 days from the closing date of tender.
- 1.5 Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and be deposited in the tender box provided at TSC House, Podium wing, third floor, or be addressed and posted to The Secretary, Teachers Service Commission, P.O. Box Private Bag-00100, Nairobi to be received on or before **WEDNESDAY, 27TH JANUARY, 2021 AT 9.00AM**
- 1.6 Tenders will be opened immediately thereafter in the presence of the candidates or their representatives who choose to attend at TSC House 3rd Floor Podium Wing.
- 1.7 There shall be site visit and pretender meeting on **Tuesday 19th January 2022 at 10.00am at** Teachers Service Commission Headquarter Building, Kilimanjaro Road Upper Hill.

COMMISSION SECRETARY/ CHIEF EXECUTIVE

LOCATION OF THE PROJECT AREA, THE SCOPE OF WORK

1.1 LOCATION OF THE PROJECT AREA

At the Teachers Service Commission, located along Kilimanjaro Road – Upper Hill.

1.2 BOREHOLE DATA BOREHOLE No C – 15242

The Ultra-Filtration system shall be served with water from a Borehole within the site compound and whose specifications is as shown below: -

- *Tested yield = 10.28 m³/hr*
- *Recommended yield = 7.2 m³/hr*
- *Static water level = 173.35 m*
- *Dynamic water level = 190.3 m*
- *Maximum drawdown = 16.95 m*
- *Borehole Total Depth = 300 m*
- *Casing Diameter = 152 mm*
- *Pump intake depth = 273.00 m*

1.3 SCOPE OF WORK

The scope of works shall include but not limited to;

- a) Supply and delivery of the Ultra-Filtration System as described in the technical specifications provided in this tender document.
- b) Installation of 1 No unit – Ultra Filtration System to accommodate purification of 6 M³/hr
- c) Construction of plinth for the installation of Ultra Filtration System
- d) Installation and interconnection of GI pipes to an existing water purification /Reverse Osmosis Plant and the basement tank to facilitate use of the existing reticulation system.
- e) Construction of plinth for the installation of 10,000 Litre Tank and supply of 10,000 Litre PVC Tank
- f) Maintenance of the system shall be for a period of one hundred eighty (180) days.

SECTION II - INSTRUCTIONS TO TENDERERS

TABLE OF CLAUSES

<u>CLAUSE NUMBERS</u>	<u>PAGE</u>
<u>GENERAL</u>	
1. Definitions	6
2. Eligibility and Qualification Requirements	6
3. Cost of Tendering	7
4. Site Visit	8
<u>TENDER DOCUMENT</u>	
5. Tender Documents	8
6. Clarification of Tender Documents	9
7. Amendment of Tender Documents	9
<u>PREPARATION OF TENDER</u>	
8. Language of Tender	10
9. Documents Comprising the Tender	10
10. Tender Prices	10
11. Currencies of Tender and Payment	11
12. Tender Validity	12
13. Tender Surety	12
14. No Alternative Offers	13
15. Pre-tender meeting	13
16. Format and Signing of Tenders	14
<u>SUBMISSION OF TENDERS</u>	
17. Sealing and Marking of Tenders	14
18. Deadline and Submission of Tenders	15
19. Modification and Withdrawal of Tenders	15
<u>TENDER OPENING AND EVALUATION</u>	
20. Tender Opening	16
21. Process to be Confidential	16
22. Clarification of Tenders	17

23.	Determination of Responsiveness	17
24.	Correction of Errors	18
25.	Conversion to Single Currency	18
26.	Evaluation and Comparison of Tenders	19

AWARD OF CONTRACT

27.	Award Criteria	20
28.	Notification of Award	20
29.	Performance Guarantee	21
30.	Advance Payment	21
	Appendix to Instructions to Tenderers	21

SECTION II - INSTRUCTION TO TENDERERS

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

GENERAL

1. Definitions

- (a) “Tenderer” means any persons, partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.
- (b) “Successful tenderer” means the tenderer who has been successfully awarded the contract by the Employer
- (c) “Employer” In this context it means Teachers Service Commission.

2. Eligibility and Qualification Requirements

2.1 Eligibility requirements

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

2.2 Qualification Requirements

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

- (a) Details of experience and past performance of the tenderer on the works of a similar nature and details of current work on hand and other contractual commitments.
- (b) The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site.
- (c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plant in good working order and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plant, equipment and material to be imported for the purpose of the Contract, giving details of make, type, origin and CIF value as appropriate.

- (d) Details of sub contractors to whom it is proposed to sublet any portion of the Contract and for whom authority will be requested for such subletting in accordance with clause 4 of the Condition of Contract.
- (e) A draft Program of Works in the form of a bar chart and Schedule of Payment which shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Engineer.
- (f) Details of any current litigation or arbitration proceedings in which the tenderer is involved as one of the parties.

2.3 Joint Ventures

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

- (a) The tender, and in case of a successful tender, the Form of Agreement, shall be signed so as to be legally binding on all partners
- (b) One of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners
- (c) The partner in charge shall be authorized to incur liabilities and receive instructions for an on behalf of any and all partners of the joint venture and the entire execution of the Contract including payment shall be done exclusively with the partner in charge.
- (d) All partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Form of Tender and the Form of Agreement (in case of a successful tender)
- (e) A copy of the agreement entered into by the joint venture partners shall be submitted with the tender.

3. Cost of Tendering

- 3.1 The Tenderer shall bear all costs associated with the preparation and submission of his tender and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 3.2 The price to be charged for the tender document shall not exceed Kshs.5,000/=
- 3.3 The procuring entity shall allow the tenderer to view the tender document free of charge before purchase.

4. Site Visit

- 4.1. The tenderer is advised to visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own responsibility
- 4.2. The tenderer and any of his personnel or agents will be granted permission by the Employer to enter upon premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Employer from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.
- 4.3. The Employer shall organize a site visit at a date to be notified. A representative of the Employer will be available to meet the intending tenderers at the Site. Tenderers must provide their own transport. The representative will not be available at any other time for site inspection visits.

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

TENDER DOCUMENTS

5 Tender Documents

- 5.1 The Tender documents comprise the documents listed here below and should be read together with any Addenda issued in accordance with Clause 7 of these instructions to tenderers.
 - a. Form of Invitation for Tenders
 - b. Instructions to Tenderers
 - c. Form of Tender
 - d. Appendix to Form of Tender
 - e. Form of Tender Surety
 - f. Statement of Foreign Currency Requirements
 - g. Tender and Confidential Business Questionnaires
 - h. Details of Sub contractors
 - i. Schedules of Supplementary Information
 - j. General Conditions of Contract – Part I
 - k. Conditions of Particular Application – Part II
 - l. Specifications
 - m. Bills of Quantities
 - n. Drawings
 - o. Declaration Form
- 5.2 The tenderer is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the tender documents. Failure to comply with the requirements for tender submission will be at the tenderer's own risk. Pursuant to clause 22 of Instructions to Tenderers, tenders which are not substantially responsive to the requirements of the tender documents will be rejected.

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

6 Inquiries by tenderers

- 6.1 A tenderer making an inquiry relating to the tender document may notify the Employer in writing or by telex, cable or facsimile at the Employer’s mailing address indicated in the Invitation to Tender. The Employer will respond in writing to any request for clarification which he receives earlier than 7 days prior to the deadline for the submission of tenders. Written copies of the Employer’s response (including the query but without identifying the source of the inquiry) will be sent to all prospective tenderers who have purchased the tender documents.
- 6.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

7 Amendment of Tender Documents

- 7.1 At any time prior to the deadline for submission of tenders the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective tenderer, modify the tender documents by issuing Addenda.
- 7.2 Any Addendum will be notified in writing or by cable, telex or facsimile to all prospective tenderers who have purchased the tender documents and will be binding upon them.
- 7.3 In order to allow prospective tenderers reasonable time in which to take the Addendum into account in preparing their tenders, the Employer may, at his discretion, extend the deadline for the submission of tenders.

PREPARATION OF TENDERS

8 Language of Tender

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

9 Documents Comprising the Tender

- 9.1 The tender to be prepared by the tenderer shall comprise:
- the Form of Tender and Appendix thereto,
 - a Tender Security
 - the Priced Bills of Quantities and Schedules
 - the information on eligibility and qualification
 - any other materials required to be completed and submitted in accordance with the Instructions to Tenderers.

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

10 Tender Prices

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

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

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

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

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

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

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

10.5 The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract only in accordance with the Provisions of the Conditions of Contract. The tenderer shall complete the schedule of basic rates and shall submit

with his tender such other supporting information as required under clause 70 of the Conditions of Contract Part II.

- 10.6 Contract price variations shall not be allowed within the first 12 months of the contract.
- 10.7 Where quantity contract variation is allowed, the variation shall not exceed 15% of the original contract quantity.
- 10.8 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

11 Currencies of Tender and Payment

- 11.1 Tenders shall be priced in Kenya Shillings and the tender sum shall be in Kenya Shillings.
- 11.2 Tenderers are required to indicate in the Statement of Foreign Currency Requirements, which forms part of the tender, the foreign currency required by them. Such currency should generally be the currency of the country of the tenderer's main office. However, if a substantial portion of the tenderer's expenditure under the Contract is expected to be in countries other than his country of origin, then he may state a corresponding portion of the contract price in the currency of those other countries. However, the foreign currency element is to be limited to two (2) different currencies and a maximum of 30% (thirty percent) of the Contract Price.
- 11.3 The rate or the rates of exchange used for pricing the tender shall be the selling rate or rates of the Central Bank ruling on the date thirty (30) days before the final date for the submission of tenders.
- 11.4 Tenderers must enclose with their tenders, a brief justification of the foreign currency requirements stated in their tenders.

12 Tender Validity

- 12.1 The tender shall remain valid and open for acceptance for a period of sixty (60) days from the specified date of tender opening or from the extended date of tender opening (in accordance with clause 7.4 here above) whichever is the later.
- 12.2 In exceptional circumstances prior to expiry of the original tender validity period, the Employer may request the tenderer for a specified extension of the period of validity. The request and the responses thereto shall be made in writing or by cable, telex or facsimile. A tenderer may refuse the request without forfeiting his Tender Surety. A tenderer agreeing to the request will not be required nor permitted to modify his tender, but will be required to extend the validity of his Tender Surety correspondingly.

13 Tender Security

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

- 13.2 The tender security shall not exceed 2 percent of the tender price.
- 13.3 The Tender Security shall be valid at least thirty (30) days beyond the tender validity period.
- 13.4 Any tender not accompanied by an acceptable Tender Surety will be rejected by the Employer as non-responsive.
- 13.5 The Tender Sureties of unsuccessful tenderers will be returned as promptly as possible but not later than twenty-eight (28) days after expiration of the tender validity period. The Tender Surety of the successful tenderer will be returned upon the tenderer executing the Contract and furnishing the required Performance Security.
- 13.6 The Tender Surety may be forfeited:
- a) if a tenderer withdraws his tender during the period of tender validity: or
 - b) in the case of a successful tenderer, if he fails, within the specified time limit
 - i. to sign the Agreement, or
 - ii. to furnish the necessary Performance Security
 - c) if a tenderer does not accept the correction of his tender price pursuant to clause 23.

14 No Alternative Offers

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

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

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

15 Pre-tender Meeting

- 15.1 If a pre-tender meeting is convened, the tenderer's designated representative is invited to attend at the venue and time in the Invitation to Tender. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 15.2 The tenderer is requested as far as possible to submit any questions in writing or by cable, to reach the Employer not later than seven (7) days before the meeting.

It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following:

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

16 Format and Signing of Tenders

- 16.1 The tenderer shall prepare his tender as outlined in clause 9 above and mark appropriately one set “ORIGINAL” and the other “COPY”.
- 16.2 The copy of the tender and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer. All pages of the tender where amendments have been made shall be initialed by the person or persons signing the tender.
- 16.3 The complete tender shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

SUBMISSION OF TENDERS

17 Sealing and Marking of Tenders

- 17.1 The tenderer shall seal the original and copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer separate envelope.
- 17.2 The inner and outer envelopes shall be addressed to the Employer at the address stated in the Appendix to Instructions to Tenderers and bear the name and identification of the Contract stated in the said Appendix with a warning not to open before the date and time for opening of tenders stated in the said Appendix.
- 17.3 The inner envelopes shall each indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”, while the outer envelope shall bear no mark indicating the identity of the tenderer.
- 17.4 If the outer envelope is not sealed and marked as instructed above, the Employer will assume no responsibility for the misplacement or premature opening of the tender. A tender opened prematurely for this cause will be rejected by the Employer and returned to the tenderer.

18 Deadline for Submission of Tenders

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

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

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

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

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

19 Modification and Withdrawal of Tenders

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

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

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

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

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

TENDER OPENING AND EVALUATION

20 Tender Opening

- 20.1 The Employer will open the tenders in the presence of the tenderers' representatives who choose to attend at the time and location indicated in the Letter of Invitation to Tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 20.2 Tenders for which an acceptable notice of withdrawal has been submitted, pursuant to clause 19, will not be opened. The Employer will examine the tenders to determine whether they are complete, whether the requisite Tender Sureties have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.
- 20.3 At the tender opening, the Employer will announce the tenderer's names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Surety and such other details as the Employer, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.
- 20.4 The Employer shall prepare minutes of the tender opening including the information disclosed to those present.
- 20.5 Tenders not opened and read out at the tender opening shall not be considered further for evaluation, irrespective of the circumstances.

21 Process to be Confidential

- 21.1 After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.
- 21.2 Any effort by a tenderer to influence the Employer in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.

22 Clarification of Tenders

- 22.1 To assist in the examination, evaluation and comparison of tenders, the Employer may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered by the employer during the evaluation of the tenders in accordance with clause 24.
- 22.2 No tenderer shall contact the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. If the tenderer wishes to bring additional information to the notice of the Employer, he shall do so in writing.

23 Determination of Responsiveness

- 23.1 Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is substantially responsive to the requirements of the tender documents.
- 23.2 For the purpose of this clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the tenderer under the Contract, or which limits in any substantial way, inconsistent with the tender documents, the Employer's rights or the tenderers obligations under the Contract and the rectification of which would affect unfairly the competitive position of other tenderers who have presented substantially responsive tenders.
- 23.3 Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like. Should a tender be seriously unbalanced in relation to the Employer's estimate of the works to be performed under any item or groups of items, the tender shall be deemed not responsive.
- 23.4 A tender determined to be not substantially responsive will be rejected by the Employer and may not subsequently be made responsive by the tenderer by correction of the non-conforming deviation or reservation.

24 Correction of Errors

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

- (a) Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will govern.
- (b) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case adjustment will be made to the entry containing that error.
- (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bills of Quantities, the amount as stated in the Form of Tender shall prevail.
- (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a

percentage of the corrected builder's work (i.e. corrected tender sum less Prime Cost and Provisional Sums.

- (e) The Error Correction Factor shall be applied to all builder's work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuations of variations.
- (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and, with concurrence of the tenderer, shall be considered as binding upon the tenderer. If the tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security may be forfeited in accordance with clause 13.

25 Conversion to Single Currency

- 25.1 For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya ruling on the date twenty-one (21) days before the final date for the submission of tenders.
- 25.2 The Employer will convert the amounts in various currencies in which the tender is payable (excluding provisional sums but including Dayworks where priced competitively) to Kenya Shillings at the selling rates stated in clause 25.1.

26 Evaluation and Comparison of Tenders

- 26.1 The Employer will evaluate only tenders determined to be substantially responsive to the requirements of the tender documents in accordance with clause 23.
- 26.2 In evaluating tenders, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:
 - a) Making any correction for errors pursuant to clause 24.
 - b) Excluding Provisional Sums and provision, if any, for Contingencies in the Bills of Quantities, but including Day works where priced competitively.
- 26.3 The Employer reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in tender evaluation.
- 26.4 Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in tender evaluation.
- 26.5 If the lowest evaluated tender is seriously unbalanced or front loaded in relation to the Employer's estimate of the items of work to be performed under the Contract, the Employer may require the tenderer to produce detailed price analyses for any

or all items of the Bills of Quantities, to demonstrate the relationship between those prices, proposed construction methods and schedules. After evaluation of the price analyses, the Employer may require that the amount of the Performance Security set forth in clause 29 be increased at the expense of the successful tenderer to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful tenderer under the Contract.

- 26.6 Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding provisional sums to a non-indigenous sub-contractor.
- 26.7 Preference where allowed in the evaluation of tenders shall not exceed 15%
- 26.8 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 26.9 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 26.10 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.
- 26.11 Poor past performance shall not be used as an evaluation criterion unless specifically provided for in the appendix.

27 **AWARD OF CONTRACT**

Award Criteria

- 27.1 Subject to Sub-clause 27.2, the Employer will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works as required in Sub-clause 2.1 and 2.2 hereabove.
- 27.2 The Employer reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for the Employer's action.

28 **Notification of Award**

- 28.1 Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer will notify the successful tenderer by cable, telefax or telex and confirmed in writing by registered letter that his tender has been accepted. This letter (hereinafter and in all Contract documents called "Letter of Acceptance")

shall name the sum (hereinafter and in all Contract documents called “the Contract Price”) which the Employer will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.

- 28.2 At the same time that the Employer notifies the successful tenderer that his tender has been accepted, the Employer shall notify the other tenderers that the tenders have been unsuccessful.
- 28.3 Within fourteen [14] days of receipt of the Form of Contract Agreement from the Employer, the successful tenderer shall sign the form and return it to the Employer together with the required Performance Security.
- 28.4 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

29 Performance Guarantee

- 29.1 Within twenty-eight [28] days of receipt of the notification of award from the Employer, the successful tenderer shall furnish the Employer with a Performance Security in the amount stated in the Appendix to Instructions to Tenderers and in the format stipulated in the Conditions of Contract.
- 29.2 The Performance Security to be provided by the successful tenderer shall be an unconditional Bank Guarantee issued at the tenderer’s option by a reputable Bank approved by the Employer and located in the Republic of Kenya and shall be divided into two elements namely, a performance security payable in foreign currencies (based upon the exchange rates determined in accordance with clause 60(5) of the Conditions of Contract) and a performance security payable in Kenya Shillings. The value of the two securities shall be in the same proportions of foreign and local currencies as requested in the form of foreign currency requirements.
- 29.3 Failure of the successful tenderer to lodge the required Performance Security shall constitute a breach of Contract and sufficient grounds for the annulment of the award and forfeiture of the Tender Security and any other remedy under the Contract. The Employer may award the Contract to the next ranked tenderer.

30 Advance Payment

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

31 Corrupt or fraudulent practices

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

APPENDIX TO INSTRUCTIONS TO TENDERERS

Notes on the Appendix to Instructions to Tenderers

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

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
1	<p>Definitions.</p> <p>a) Tenderer means any persons, partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.</p> <p>b) Employer means Teachers Service Commission.</p>
2	<p>Eligibility and Qualification Requirements</p>
2.1	<p>Eligibility requirements</p> <p>This invitation to tender is open to all tenderers who meet and conform to the tender document requirements including evaluation criteria.</p>
2.2	<p>Qualification Requirements</p> <p>To be qualified for an award of Supply, Delivery, Installation and Commission of Ultra-Filtration System at the TSC HQ, the tenderer shall provide satisfactory evidence to the Teachers Service Commission of their eligibility to perform the intended works and demonstrate their capability and adequacy of resources to effectively perform the Supply, Delivery, Installation and Commissioning of the Ultra-Filtration System of the subject Contract. To this end, the tenderer shall be required to demonstrate the following capacity: -</p> <p>(a) Details of experience and past performance of the tenderer on the works of a similar nature and magnitude, and details of the current works on hand and other contractual commitments.</p> <p>(b) The qualifications and experience of key personnel proposed for implementation and execution of the contract, both on and off site.</p> <p>(c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plant in good working order and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plant, equipment and material to be imported for the purpose of the Contract, giving details of make, type, origin and CIF</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
	<p>value as appropriate.</p> <p>(d) Details of sub-contractors to whom it is proposed to sublet any portion of the of the Contract and for whom Commission will be requested for such subletting in accordance with clause 4 of Conditions of Contract or the Conditions of Contract Part II.</p> <p>(e) A Program of Works in the form of a bar chart and Schedule of Payment shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Commission.</p> <p>(f) Details of any current litigation or arbitration proceedings in which the tenderer is involved as one of the parties shall be disclosed.</p>
<p>2.3</p>	<p>Joint Ventures</p> <p>Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements: -</p> <p>(a) The tender, and in case of a successful tender, the Form of Agreement, shall be signed by all partners to be legally binding. Failure by one partner to sign the form of agreement shall lead to automatic disqualification.</p> <p>(b) One partner shall be nominated by all partners as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners</p> <p>(c) The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture and the entire execution of the Contract including payment shall be done exclusively with the partner in charge.</p> <p>(d) All partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Form of Tender and the Form of Agreement (in case of a successful tender)</p> <p>(e) A copy of the agreement entered into by the joint venture partners shall be submitted with the tender.</p>
<p>3 3.1 3.2</p>	<p>Cost of Tendering</p> <p>The Tenderer shall bear all costs associated with the preparation and submission of his tender for the supply, delivery, Installation and Commissioning of Ultra-Filtration System and Teachers Service Commission will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
3.3	<p>The price to be charged for the tender document shall be Kshs. 1,000. Alternatively bidders are advised to download the tender document in both TSC Website: www.tsc.go.ke or www.tenders.go.ke</p> <p>Teachers Service Commission shall allow the tenderers to view the tender document free of charge before purchase at TSC House Procurement Office Located at second floor Podium Wing during working hours from 9.00 am to 3.00 pm</p>
<p>4.</p> <p>4.1</p> <p>4.2</p> <p>4.3</p> <p>4.4</p>	<p>Site Visit</p> <p>The tenderers are advised to visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own responsibility.</p> <p>The tenderer and any of his personnel or agents will be granted permission by the Commission to enter in to the building for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Commission from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.</p> <p>Teachers service Commission shall organize a site visit on <i>Tuesday 19th January, 2021 at 10.00 am at the TSC Headquarters Kilimanjaro Road Upper Hills.</i> The Commission's Representative will be available to meet the interested tenderers at the Site. Tenderers shall provide their own transport. The TSC representative will not be available at any other time for site inspection visits.</p> <p>Each tenderer shall complete the Certificate of Tenderer's Visit to the Site, at the time of the organized site visit and the original site visit certificate shall be attached to the tender document during submission of the tender. Failure by the tenderer to attached the signed site visit certificate shall lead to disqualification.</p> <p><i>Tenderers who shall not have come for the tender site visit need not to apply since their bid documents shall be disqualified.</i></p>
<p>5</p> <p>5.1</p>	<p>Tender Documents</p> <p>The Tender documents comprise the documents listed here below and should be read together with any Addenda issued in accordance with Clause 7 of these instructions to tenderers.</p> <ol style="list-style-type: none"> a. Form of Invitation for Tenders b. Instructions to Tenderers c. Form of Tender d. Appendix to Form of Tender e. Form of Tender Surety f. Statement of Foreign Currency Requirements g. Tender and Confidential Business Questionnaires Details of Sub contractors i. Schedules of Supplementary Information

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
<p>5.2</p> <p>5.3</p>	<p>j. General Conditions of Contract – Part I</p> <p>k. Conditions of Particular Application – Part II</p> <p>l. Specifications</p> <p>m. Bills of Quantities</p> <p>n. Drawings</p> <p>o. Declaration Form</p> <p>The tenderer is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the tender documents. Failure to comply with the requirements for tender submission will be at the tenderer’s own risk. Pursuant to clause 22 of Instructions to Tenderers, tenders which are not substantially responsive to the requirements of the tender documents will be rejected.</p> <p>All recipients of the documents for the proposed Contract for the purpose of submitting a tender (whether they submit a tender or not) shall treat the details of the documents as “private and confidential”.</p>
<p>6</p> <p>6.1</p> <p>6.2</p>	<p>Inquiries by tenderers</p> <p>A tenderer making an inquiry relating to the tender document may notify Teachers Service Commission in writing by email to ddprocurement@tsc.go.ke or by Post addressed to The Secretary Teachers Service Commission P.O BOX Private Bag-00100 Nairobi Within Seven (7) Days from the date of Tender advertisement. Any inquiry made less than three days to the date of tender opening shall be rejected.</p> <p>Teachers Service Commission shall reply to any clarifications sought by a tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender. If the inquiry may change the substance of the tender, the Commission shall develop an addendum and circulate the same to all bidders through the print media and may also consider extended the date of tender opening.</p>
<p>7</p> <p>7.1</p> <p>7.2</p> <p>7.3</p>	<p>Amendment of Tender Documents</p> <p>At any time prior to the deadline for submission of tenders the Commission may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective tenderer, modify the tender documents by issuing Addenda.</p> <p>Any Addendum will be notified in writing and through the print media and will be posted in the TSC Website to all prospective tenderers who have purchased or downloaded the tender documents and the content of the addenda shall be legally binding.</p> <p>In order to allow prospective tenderers reasonable time in which to take the Addendum into account in preparing their tenders, the Commission may, at his discretion, extend the deadline for the submission of tenders.</p>
<p>8</p> <p>8.1</p>	<p>Language of Tender</p> <p>The tender and all correspondence and documents relating to the tender exchanged between the tenderer and Teachers Service Commission shall be written in the English language. Supporting documents and printed literature furnished by the tenderer with the tender may be in another language provided they are accompanied by an appropriate translation of pertinent passages in the</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
	above stated language. For the purpose of interpretation of the tender, the English language shall prevail.
<p>9</p> <p>9.1</p> <p>9.2</p>	<p>Documents Comprising the Tender</p> <p>The tender to be prepared by the tenderer shall comprise:</p> <ol style="list-style-type: none"> i. Form of Tender and Appendix thereto, ii. Tender Security iii. Priced Bills of Quantities and Schedules of requirements iv. Information on eligibility and qualification v. All other documents required for preliminary and technical evaluation. <p>The Forms, Bills of Quantities and Schedules provided in the tender documents shall be used without exception (subject to extensions of the schedules in the same format provided) and tenderers are advised not change, modify or improve the documents. Changing the format shall lead to disqualification.</p>
<p>10</p> <p>10.1</p> <p>10.2</p> <p>10.3</p> <p>10.4</p> <p>10.5</p>	<p>11 Tender Prices</p> <p>All the insertions made by the tenderer shall be in INK and the tenderer shall clearly form the figures. The relevant space in the Form of Tender and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the tenderer in which case the erasures and interlineations shall be initialed by the person or persons signing the tender.</p> <p>A price or rate shall be inserted by the tenderer for every item in the Bills of Quantities whether the quantities are stated or not. Items against which no rate or price is entered by the tenderer will not be paid for by Teachers Service Commission when executed and shall be deemed covered by the rates for other items and prices in the Bills of Quantities.</p> <p>The prices and unit rates in the Bills of Quantities are to be the full [all-inclusive] value of the Work described under the items, including all costs and expenses which may be necessary and all general risks, liabilities and obligations set forth or implied in the documents on which the tender is based. All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause prior to the deadline for submission of tenders, shall be included in the rates and prices and the total Tender Price submitted by the tenderer.</p> <p>Each price or unit rate inserted in the Bills of Quantities should be a realistic estimate for completing the activity or activities described under that particular item and the tenderer is advised against inserting a price or rate against any item contrary to this instruction.</p> <p>Every rate entered in the Bills of Quantities, whether or not such rate be associated with a quantity, shall form part of the Contract. The Commission shall have the right to call for any item of work contained in the Bills of Quantities, and such items of work to be paid for at the rate entered by the tenderer and it is the intention of the Commission to take full advantage of unbalanced low rates.</p> <p>Unless otherwise specified the tenderer must enter the amounts representing</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
10.6	10% of the sub-total of the summary of the Bills of Quantities for Contingencies payments in the summary sheet and add them to the sub-total to arrive at the tender amount.
10.7	The tenderer shall furnish with his tender written confirmation from his suppliers or manufacturers of basic unit rates for the supply of items listed in the Conditions of Contract clause 70 where appropriate. Teachers Service Commission may require the tenderer to justify such rates so obtained from the suppliers or manufacturers.
10.8	The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract only in accordance with the Provisions of the Conditions of Contract. The tenderer shall complete the schedule of basic rates and shall submit with his tender such other supporting information as required under clause 70 of the Conditions of Contract Part II.
10.9	Contract price variations shall not be allowed within the first 12 months of the contract.
10.10	Where quantity contract variation is allowed, the variation shall not exceed 15% of the original contract quantity.
10.11	Price variation requests shall be processed by the Commission within 30 days of receiving the request.
11 11.1	Currencies of Tender and Payment Tenders shall be priced in Kenya Shillings and the tender sum shall be in Kenya Shillings only.
12 12.1 12.2	Tender Validity The tender shall remain valid and open for acceptance for a period of 120 days from the specified date of tender opening Wednesday, 27th January, 2021 at 9.00am or from the extended date of tender opening (in accordance with clause 7.4 here above) whichever is the later. In exceptional circumstances prior to expiry of the original tender validity period, Teachers Service Commission may request the tenderer for a specified extension of the period of validity. During the tender validity period, tenderers will not be required nor permitted to modify his tender, but will be required to extend the validity of his Tender Surety correspondingly.
13 13.1 13.4 13.5	Tender Security The tenderer shall furnish as part of his tender document, a Tender Security of Kshs. 30,000 valid for 150 days from the date of tender opening. Any tender not accompanied by an acceptable Tender Surety will be rejected by Teachers Service Commission as non-responsive. The Tender Sureties of unsuccessful tenderers will be returned as promptly as

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
13.6	<p>possible but not later than twenty-eight (28) days after expiration of the tender validity period. The Tender Surety of the successful tenderer will be returned upon the tenderer executing the Contract and furnishing the required Performance Security.</p> <p>The Tender Surety may be forfeited:</p> <ul style="list-style-type: none"> a) if a tenderer withdraws his tender during the period of tender validity: or b) in the case of a successful tenderer, if he fails, within the specified time limit <ul style="list-style-type: none"> i. to sign the Agreement, or ii. to furnish the necessary Performance Security
14	<p>No Alternative Offers</p> <p>14.1 The tenderer shall submit an offer which complies fully with the requirements of the tender documents. Only one tender may be submitted by each tenderer either by himself or as partner in a joint venture. A tenderer who submits or participates in more than one tender will be disqualified.</p> <p>14.2 The tenderer shall not attach any conditions of his own to his tender. The tender price must be based on the tender documents. The tenderer shall not be required to submit an alternative construction options and shall use without exception, the Bills of Quantities as provided, with the amendments as notified in tender notices, if any, for the calculation of his tender price. Any tenderer who fails to comply with this clause will be disqualified.</p>
15	<p>Pre-tender Meeting</p> <p>15.1 There shall be a pre-tender meeting on 19th January, 2020 at 10.00am. Tenderer's designated representative is invited to attend at the venue and at the time in the Invitation to Tender. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.</p> <p>15.2 The tenderer is requested to submit any questions in writing or by e-mail, to reach the Commission not later than seven (7) days before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following:</p> <ul style="list-style-type: none"> a) Minutes of the meeting, including the text of the questions raised and the responses given together with any responses prepared after the meeting, will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in –which may become necessary as a result of the pre-tender meeting shall be made by the Commission exclusively through the issue of a tender notice pursuant to Clause 7 and not through the minutes of the pre-tender meeting.
16	<p>Format and Signing of Tenders</p> <p>16.1 The tenderer shall prepare his tender as outlined in clause 9 above and mark appropriately one set “ORIGINAL” and the other “COPY”.</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
16.2	The copy of the tender and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer. All pages of the tender where amendments have been made shall be initialed by the person or persons signing the tender.
16.3	The complete tender shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.
17 17.1 17.2 17.3 17.4	<p>Sealing and Marking of Tenders</p> <p>The tenderer shall seal the original and copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer separate envelope.</p> <p>The inner and outer envelopes shall be addressed to The Secretary Teachers Service Commission P.O BOX Private Bag -00100 Nairobi</p> <p>Tender No. TSC/T/18/2020-2020 Tender Name. SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF ULTRA-FILTRATION SYSTEM.</p> <p>The inner envelopes shall each indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”, while the outer envelope shall bear no mark indicating the identity of the tenderer.</p> <p>If the outer envelope is not sealed and marked as instructed above, Teachers Service Commission will assume no responsibility for the misplacement or premature opening of the tender. A tender opened prematurely for this cause will be rejected by the Commission and returned to the tenderer.</p>
18 18.1 18.2 18.3	<p>Deadline for Submission of Tenders</p> <p>Tenders must be received by Teachers Service Commission and deposited in the tender box provided at TSC HOUSE Podium Wing 3rd Floor or be Posted to The Secretary Teachers Service Commission, Private Bag -00100 Nairobi not later than Wednesday, 27th January, 2021 at 9.00am</p> <p>Teachers Service Commission may, at his discretion, extend the deadline for the submission of tenders through the issue of an Addendum in accordance with clause 7, in which case all rights and obligations of the Commission and the tenderers previously subject to the original deadline shall thereafter be subject to the new deadline as extended.</p> <p>Any tender received by Teachers Service Commission after the prescribed deadline for submission of tender will be returned unopened to the tenderer. Therefore, it is the obligation of the tenderers to ensure that tenders are deposited as prescribed in clause 18.1. TSC will not be held responsible for loss or wrong designation of a tender/s</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
<p>19</p> <p>19.1</p> <p>19.2</p> <p>19.3</p> <p>19.4</p> <p>19.5</p>	<p>Modification and Withdrawal of Tenders</p> <p>The tenderer may modify or withdraw his tender after tender submission, provided that written notice of the modification or withdrawal is received by the Commission prior to prescribed deadline for submission of tenders.</p> <p>The tenderer’s modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions for the submission of tenders, with the inner and outer envelopes additionally marked “MODIFICATION” or “WITHDRAWAL” as appropriate.</p> <p>No tender may be modified after the deadline for submission of tenders.</p> <p>No tender may be withdrawn in the interval between the deadline for submission of tenders and the period of tender validity specified on the tender form. Withdrawal of a tender during this interval will result in the forfeiture of the Tender Surety.</p> <p>Subsequent to the expiration of the period of tender validity prescribed by the Commission, and the tenderer having not been notified by the Commission of the award of the Contract or the tenderer does not intend to conform with the request of the Commission to extend the period of tender validity, the tenderer may withdraw his tender without risk of forfeiture of the Tender Surety.</p>
<p>20</p> <p>20.1</p> <p>20.2</p> <p>20.3</p> <p>20.4</p> <p>20.5</p>	<p>Tender Opening</p> <p>Teachers Service Commission will open the tenders in the presence of the tenderers’ representatives who choose to attend at TSC House Third Floor Podium Wing. The tenderers’ representatives who are present shall sign a register evidencing their attendance.</p> <p>Tenders for which an acceptable notice of withdrawal has been submitted, pursuant to clause 19, will not be opened. Teachers Service Commission will examine the tenders to determine whether they are complete, whether the requisite Tender Sureties have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.</p> <p>At the tender opening, Teachers Service Commission will announce the tenderer’s names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Security and such other details as Teachers Service Commission at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.</p> <p>Teachers Service Commission shall prepare minutes of the tender opening including the information disclosed to those present.</p> <p>Tenders not opened and read out at the tender opening shall not be considered further for evaluation, irrespective of the circumstances.</p>
<p>21</p>	<p>Process to be Confidential</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
21.1 21.2	<p>After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.</p> <p>Any effort by a tenderer to influence Teachers Service Commission in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.</p>
22 22.1 22.2	<p>Clarification of Tenders</p> <p>To assist in the examination, evaluation and comparison of tenders, Teachers Service Commission may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by e-mail, but no change in the price or substance of the tender shall be sought, offered or permitted.</p> <p>No tenderer shall contact Teachers Service Commission on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. If the tenderer wishes to bring additional information to the notice of the Commission, he shall do so in writing.</p>
23 23.1 23.2 23.3 23.4	<p>Determination of Responsiveness</p> <p>During the detailed evaluation of tenders, Teachers Service Commission will determine whether each tender is substantially responsive to the requirements of Preliminary and Technical Evaluation.</p> <p>For the purpose of this clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the tenderer under the Contract, or which limits in any substantial way, inconsistent with the tender documents, the Employer's rights or the tenderers obligations under the Contract and the rectification of which would affect unfairly the competitive position of other tenderers who have presented substantially responsive tenders.</p> <p>Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like.</p> <p>A tender determined to be not substantially responsive will be rejected by the Commission and may not subsequently be made responsive by correction of the non-conforming deviation or reservation.</p>
24 24.1 24.2	<p>Correction of Errors</p> <p>There shall be <i>NO CORRECTION</i> of arithmetic errors by anybody whatsoever. Tender prices as read during tender opening shall be absolute and final.</p> <p>Tenders determined to be substantially responsive shall be checked by the</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
	Commission for any arithmetic errors in the Computations and summations. Tenders with arithmetic errors shall be disqualified.
<p>25</p> <p>25.1</p> <p>25.2</p>	<p>Conversion to Single Currency</p> <p>For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya before the final date for the submission of tenders.</p> <p>Teachers Service Commission will convert the amounts in various currencies in which the tender is payable (excluding provisional sums but including Dayworks where priced competitively) to Kenya Shillings at the selling rates provided by CBK on the date of the tender opening.</p>
<p>26</p> <p>26.1</p> <p>26.2</p> <p>26.3</p> <p>26.4</p> <p>26.6</p> <p>26.7</p> <p>26.8</p> <p>26.9</p> <p>26.10</p> <p>26.11</p>	<p>Evaluation and Comparison of Tenders</p> <p>Teachers Service Commission will evaluate all tenders opened to determine whether they are substantially responsive to the requirements of the tender documents in accordance with clause 23.</p> <p>In evaluating tenders, the Commission will determine for each tender the evaluated tender price by including all tender price as follows:</p> <p>a) Including Provisional Sums and provision, if any, Contingencies in the Bills of Quantities, including Day works where priced competitively.</p> <p>Teachers Service Commission reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to the Commission, shall not be taken into account in tender evaluation.</p> <p>Price adjustment provisions shall not be applied during tender evaluation.</p> <p>This tender is reserved only for firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital.</p> <p>Preference allowed in the evaluation of tenders shall not exceed 15%</p> <p>Teachers Service Commission may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.</p> <p>Teachers Service Commission shall give prompt notice of the termination to the tenderers and the reasons for termination on the date of issuing letters of termination.</p> <p>A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be referred to PPRA for debarment from participating in future public procurement.</p> <p>Poor past performance may be used as an evaluation criterion as may be provided for in the post qualification criteria.</p>
<p>27</p> <p>27.1</p>	<p>Award Criteria</p> <p>Subject to Sub-clause 27.2, Teachers Service Commission will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works as required in Sub-clause 2.1 and 2.2 here above.</p>

CLAUSE	APPENDIX TO INSTRUCTIONS TO TENDERERS
27.2	Teachers Service Commission reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for the Employer's action.
28 28.1 28.2 28.3 28.4	<p data-bbox="435 456 740 488">Notification of Award</p> <p data-bbox="435 495 1485 745">Prior to the expiration of the period of tender validity (120) Commission will notify the successful tenderer by e-mail or writing by registered letter that his/her tender has been accepted. This letter (hereinafter and in all Contract documents called "Letter of Acceptance") shall name the sum (hereinafter and in all Contract documents called "the Contract Price") which Teachers Service Commission will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.</p> <p data-bbox="435 786 1485 891">At the same time that Teachers Service Commission notifies the successful tenderer that his tender has been accepted, Teachers Service Commission shall notify the other tenderers that their tenders have been unsuccessful.</p> <p data-bbox="435 931 1485 1077">Within fourteen [14] days of receipt of the Form of Contract Agreement from the Commission, the successful tenderer shall sign the form and return it to the Commission together with the required Performance Security in form of bank guarantee.</p> <p data-bbox="435 1117 1485 1182">The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.</p>
29 29.1	<p data-bbox="435 1189 772 1220">Performance Guarantee</p> <p data-bbox="435 1261 1485 1326">The Successful Contractor shall NOT be required to furnish the Teachers Service Commission with Performance Security in accordance to PPADR 2020</p>
30	<p data-bbox="435 1375 691 1406">Advance Payment</p> <p data-bbox="435 1413 1485 1480">Teachers Service Commission shall NOT make any advance payment to the contractor.</p>
31	<p data-bbox="435 1487 879 1518">Corrupt or fraudulent practices</p> <p data-bbox="435 1525 1485 1664">Teachers Service Commission requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.</p>

CONDITIONS OF CONTRACT, PART I – GENERAL CONDITIONS

The Conditions of Contract, Part I – General Conditions, shall be forming Part I of the “Conditions of Contracts for Water Engineering Works. The Conditions are subject to variations and additions set out in Part II hereof entitled “Conditions of Contract, Part II - Conditions of Particular Application”.

Note

- i. The standard text of the General Conditions of Contract must be retained intact to facilitate its reading and interpretation by tenderers. Any amendments and additions to the General Conditions, specific to a given Contract, should be introduced in the Conditions of Particular Application or in the Appendix to Form of Tender.
- ii. The Conditions of Particular Application take precedence over the General Conditions of Contract.

**SECTION IV
CONDITIONS OF CONTRACT PART II
(CONDITIONS OF PARTICULAR APPLICATION)**

TABLE OF CLAUSES

CLAUSE NUMBERS	DESCRIPTION	PAGE
1.	Definitions and interpretation.....	24
2.	Engineer's Duties and Authority.....	24
4.	Assignment and sub-contracting	
5.	Contract Document	25
10	Performance security	26
11	Inspection of Site	27
14	Programme to be submitted	27
15	Contractor's superintendence	28
16	Engineers at liberty to object.....	
19	Safety, security and profession of the environment ...	29
21	Insurance of works and contractors equipment.....	30
23	Third Party Insurance	30
25	Insurance notices	31
26	Compliance with statutes and regulations	31
28	Royalties	32
29	Interference with traffic and Adjoining properties	32
34	Labour	32
41	Commencement and delays	34
42	Possession of site	35
45	Working hours	35
47	Liquidated damage	36
49	Defects liability	36
52	Variations	36
54	Plant, Temporary works and materials	36
55	Quantities	37
56	Measurements	37
58	Provisional sums	38
60	Certificate and payments	40
63	Remedies	46
65	Special Risks	46
67	Settlement of Disputes	46
68	Notices	47
69	Default of Employer	47
70	Changes in cost and legalization	48
73	Declaration Against waiver	50
74	Bribery and collusion	50
75	Contract Confidential	51
76	Employer's officers	51
77	Taxes and duties	51
78	Joint Ventures	52

SECTION IV
CONDITIONS OF CONTRACT PART II – CONDITIONS OF PARTICULAR APPLICATION

GENERAL

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

Clause No.

Definitions and Interpretation

1.1 (a)(i) The said “**Employer**” shall be

**The Commission Secretary/ Chief Executive officer
Teachers Service Commission
P.O Box Private Bag-00100
Nairobi.**

(ii) Project manager or Engineer shall be

**Water Secretary,
Ministry of Water, Sanitation and Irrigation
P.O. BOX 49720-00100
Nairobi.**

(iii) **Employer’s Representative**” This shall mean the **Director Administration Services** and shall be **the Chairman, Contract Implementation Team**

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

Add the following sub-clause;

Project Managers Duties and Authority

2.1 (b) The Project Manager shall obtain specific approval of the Teachers Service Commission before taking any of the following actions specified in Part I:

- (i) Consenting to the sub-letting of any part of the Works under clause 4.
- (ii) Certifying additional cost determined under Clause 12
- (iii) Determining an extension of time under Clause 44
- (iv) Issuing a variation under Clause 51 except in an emergency situation as reasonably determined by the Engineer.

- (v) Fixing rates or prices under clause 52

4 Assignment and Subcontracting

Delete the second and third sentence and substitute:

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

5 Contract Documents

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

The “Ruling Language” which shall be used to interpret this Contract shall be English. Communication between the Contractor and the Commission Engineer/Engineer’s representative shall be in English.

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

- 5.2 Delete the documents listed 1-6 and substitute with the following:

- (1) The Contract Agreement;
- (2) The Notification of Award;
- (3) Tender and Appendix to Form of Tender;
- (4) The Conditions of Contract Part II;
- (5) The Conditions of Contract;
- (6) The Special Specifications;
- (7) The Standard Specifications provided for Ultra-filtration Unit
- (8) Clarifications and rectifications accepted by the Employer; and
- (9) The Drawings;
- (10) The priced Bills of Quantities; and
- (11) Schedules and other documents forming part of the Contract.

8.1 Add to sub clause 8.1 the following:

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

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

10.1 Performance Security

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

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

The Performance Security of 10% of the contract price shall be issued by a Bank incorporated in Kenya. The amount of guarantee shall be as stated in the Appendix to Form of Tender.

The bank guarantee, shall be issued by an established and reputable bank approved by the Employer and located in Kenya. The performance security shall be in Kenyan currencies only and shall be valid for duration of the contract.

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

10.3 Delete sub-clause 10.3

11.1 Inspection of Site

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

Delete the last paragraph completely and replace with the following:

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

14.1 **Programme to be Submitted**

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

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

New Year's Day	(1st January)
Good Friday	
Easter Monday	
Labour Day	(1 st May)
Madaraka Day	(1 st June)
Idd-UI-Fitr	
Moi Day	(10 th October)
Kenyatta Day	(20 th October)
Jamhuri Day	(12 th December)
Christmas Day	(25 th December)
Boxing Day	(26 th December)

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

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

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

14.3 **Cash Flow Estimate to be Submitted**

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

15 Contractor's Superintendence

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

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

Add the following sub-clause 15.2:

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

16.2 **Engineer at Liberty to object**

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

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

Safety, Security and Protection of the Environment

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

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

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

- (i) All queries and borrow pits shall be filled and landscaped to their original state after extraction of construction material
- (ii) Soil erosion due to surface runoff or water from culverts or other drainage structures should be avoided by putting in place proper erosion control measures that shall include, but not limited to grassing, planting of trees, gabions etc.
- (iii) Long traffic diversion roads shall be avoided so as to minimize the effect of dust on the surrounding environment. In any case all diversions shall be kept damp and dust free at the Contractor's expense.
- (iv) Spillage of oils, fuels and lubricants shall be avoided and if spilt, shall be collected and disposed off in such a way as not to adversely affect the environment.

- (v) Rock blasting near settlement areas shall be properly coordinated with the relevant officers of the Government so as to minimize noise pollution and community interference.
- (vi) Dumping shall be done only at designated dumping areas and not haphazardly on surroundings.

Insurance of Works & Contractor’s Equipment

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

“Prior to commencement of the Works, the Contractor shall without limiting his or the Employer’s obligations and responsibilities under Clause 20, insure to the satisfaction of the Employer.”
- (b) Add the following words at the end of sub - paragraph (a) and immediately before the last word in (b)

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

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

- 21.2 (a) Delete the words “from the start of Work at the Site” and substitute with the words “from the first working day after the commencement date”
- (c) Add the following sub-clause: “It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract”.

23.1 Third Party Insurance

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

“Prior to commencement of the Works

23.2 Minimum Amount of Insurance

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

“..... with no limits to the number of occurrences.”

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

Add the following sub-clauses 25.5 to 25.7

25.5 Insurance Notices

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

25.6 **Re-insurance in Kenya**

The risks against which the Contractor is obliged to insure under the Contract shall be insured through established and reputable companies approved by the Employer and located in Kenya and any cover against risks which the Contractor may enjoy shall be reinsured in Kenya by an approved Kenyan Insurance Company in respect of the Contractor's obligations under the Contract.

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

26. **Compliance with Statutes, Regulations**

Add the following sub-clause 26.2; -

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

Royalties

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

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

Interference with Traffic and Adjoining Properties

29.2 Add new sub-clause 29.2;

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

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

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

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

LABOUR

34.2 Conditions of Employment of Labour

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

34.3 Fair Wages

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

- (a) The Contractor shall pay the rates of wages, observe hours of labour and provide conditions, housing amenities and facilities not less favorable than those required by the Regulation of wages (Building and Construction Industry) Order 1998, and any subsequent amendments thereto, or in any ministry of labour or other government department in consultation with the district whose general circumstances in the trade or industry in which the Contractor is engaged are similar. The Contractor shall at all times during the continuation of the Contract display, for the information of his employees, a notice setting out the general rates of wages, hours and conditions of labour of his employees and a copy of this clause.
- (b) In the absence of any rates for wages, hours or conditions of labour so established, the Contractor shall pay rates or wages and observe hours and conditions for labour which are not less favourable than the general circumstances in the trade or industry in which the Contractor is engaged.
- (c) Where the absence of established rates of wages, hours and conditions of labour or the dissimilarity of the general circumstances in the trade or industry in which the Contractor is engaged prevent the Contractor from observing rates of wages, hours and conditions of labour ascertained under sub-paragraph (a) or (b) above, the Contractor in fixing the rates of wages, hours and conditions of labour of his employees shall be guided by the advice of the labour department.
- (d) The Contractor shall recognize the freedom of his employees to be members of trade unions.
- (e) The Contractor shall maintain records of the times worked by, and the wages paid to his employees. The Contractor shall furnish to the Employer, if called upon so to do, particulars of the rates of wages, hours and conditions of labour as the employer may direct.

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

34.4 Breach of Fair Wages Clause

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

34.5 Recruitment of Unskilled Labour

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

34.6 Compensation for injury

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

34.7 Labour Standards

- a) The Contractor shall comply with the existing local labour laws, regulations and labour standards.
- b) The Contractor shall formulate and enforce an adequate safety program with respect to all Work under this Contract, whether performed by the Contractor or his sub-contractors. The Contractor has assurance from the Employer of cooperation where the implementation of these safety measures requires joint cooperation.
- c) Upon written request of the Employer the Contractor will remove or replace any of his employees employed under this Contract.

34.8 Recruitment

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

35 Add the following sub-clauses 35.2 and 35.3: -

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

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

41.1 **Commencement and Delays**

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

41.2 **Definition of Commencement**

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

- a) The approved competent and authorized agent or representative of the Contractor is resident in the project area and is giving his whole time to the superintendence of the Works.
- b) The provision by the Contractor of evidence that all insurances required by the Contract are in force.
- c) The Contractor has an established office in the project area with postal address for receipt of correspondence.
- d) The principal items of constructional plant have been brought to Site and put to work in the execution of the permanent Works.

42.4 **Possession of Site and Access Thereto**

Add the following to this clause 42.4;

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

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

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

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

45 **Working Hours**

Delete sub-clause 45.1 and substitute:

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

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

47.2 **Reduction of Liquidated Damages**

There shall be no reduction in the amount of liquidated damages in the event that a part or a section of the Works within the Contract is certified as completed before the whole of the Works comprising that Contract.

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

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

Defects Liability

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

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

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

52 **Variations**

52.1 Add the following final sentence to this sub-clause: -

There shall be no price variation within the twelve (12) months from the date of contract signed.

52.4 Daywork

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

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

54 Plant, Temporary Works and Materials

Delete Sub-Clauses 54.3 to 54.4 entirely.

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

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

Quantities

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

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

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

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

55.2 Add as a new sub-clause:

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

Measurement

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

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

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

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

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

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

Provisional Sums

58.4 **Prime Cost sum**

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

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

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

Certificates and Payment

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

60.1 Advance Payment

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

- a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of 10% (ten percent) of the original amount of the Contract. The advance shall not be subject to retention money.
- b) No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or of a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.
- c) Reimbursement of the advance shall be effected by deductions from monthly interim payments.
- d) Reimbursement of the lump sum advance shall be made by deductions from the Interim payments and where applicable from the balance owing to the Contractor. Reimbursement shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

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

$$R = \frac{A (x^1 - x^{11})}{80 - 20}$$

Where:

R = the amount to be reimbursed

A = the amount of the advance which has been granted

X¹ = the amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will not exceed 20%

X¹¹ = The amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

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

60.2 Interim Payment Certificate

The Contractor shall submit to the Engineer, in the manner required by the Engineer after the end of each month a statement showing the estimated total value of permanent Work properly executed and materials or goods for permanent works brought to Site up to the end of the previous month (if the value shall justify the issue of an interim certificate) together with any adjustments under clause 70 and any outstanding claims

and sums the Contractor considers may be due to him. The Contractor shall amend or correct his estimate as directed by the Engineer and the latter shall not accept it until he is satisfied that it is fair and reasonable. With respect to the said materials and goods, no payment for them shall be made unless: -

- (i) The materials are in accordance with the specifications for the Works;
- (ii) The materials have been delivered to Site and are properly stored and protected against loss, damage or deterioration;
- (iii) The Contractor's record of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records are available for inspection by the Engineer;
- (iv) The Contractor has submitted a statement of his cost of acquiring and delivering the materials and goods to the Site, together with such documents as may be required for the purpose of evidencing such cost;
- (v) The materials are to be used within a reasonable time.

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

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

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

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

60.3 Final Account and Final Payment Certificate

As soon as possible after the issue of Taking - Over Certificate or the termination of the Contract and not later than the time of issue of Defects Liability Certificate, the Contractor shall prepare and submit to the Engineer (with a copy to the Employer), a

Statement of Final Account showing in detail the total value of work done in accordance with the Contract together with all sums paid in previous payments. Within thirty (30) days after receipt of such further information as may be reasonably required from the Contractor for its verification, the Engineer shall check the said statement, prepare and submit a Final Payment Certificate to the Employer (with a copy to the Contractor).

The Final Payment Certificate shall state;

- (a) The (final) total value of all Work done in accordance with the Contract;
- (b) After giving credit to the Employer for all amounts previously paid to the Contractor, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer, as the case may be.

Unless the Contractor notifies the Engineer of his objection to the Final Payment Certificate within twenty-eight [28] days of delivery thereof, he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Payment Certificate as full settlement for all work done under the Contract including any claims, variations and omissions thereof.

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

- a) to the extent that fraud or dishonesty relates to or affects any matter dealt with in the Certificate, or
- b) if any arbitration or court proceedings under the Contract have been commenced by either party before the expiry of 84 days after the issue of the Final Certificate of Payment.

60.4 Payment of Certificates

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

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

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

60.5 Payment of Retention Money

One half of the retention money shall become due upon the issue of a Taking – Over Certificate and shall be paid to the Contractor when the Engineer shall certify in writing that the last section of the whole of the Works has been substantially completed and the other half shall be paid to the Contractor after the expiration of the Defects Liability

Period and the issue of a Certificate under Clause 62. Provided always that if such time there shall remain to be executed by the Contractor any Works ordered during such period pursuant to Clauses 49 and 50 thereof, the Employer

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

60.6 Currency of Payment

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

60.7 Overdue Payments

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

60.8 Correcting and With-holding

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

60.9 Completion by Sections.

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

60.10 Proportion of Foreign Currency

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

- a) For all measured Work, the percentages of foreign currency for the appropriate section of the Bill of Quantities as stated in the schedule of foreign currency requirements shall be applied.
- b) Variations in the cost of imported materials shall be paid in foreign currency.
- c) Variations in the cost of locally purchased materials and those due to changes of legislation shall be paid in local currency.
- d) For Day works labour and plant, the respective percentages of foreign currency stated in the schedule shall be applied.
- e) For Day works materials and materials on site, payment in foreign currency will only be made for imported materials.
- f) The provisions for the deduction and release of Retention Money and the payment of interest shall be applied similarly to both the local and foreign portions.
- g) The advance mobilization loan, its repayment thereof and liquidated damages shall all be apportioned on the basis of the ration between local and foreign currency indicated in the Contract Price.
- h) In the event that the payment is for an item not covered in the foregoing paragraphs, the Engineer shall determine the proportion of foreign and local currency based on the information given in the Schedule of Foreign Currency Requirements, together with any additional information he may request the Contractor to provide.

60.11 Statement at Completion

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

- (a) The final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate.
- (b) Any further sums which the Contractor considers to be due; and
- (c) An estimate of amounts, which the Contractor considers, will become due to him under the Contract.

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

60.12 Final Statement

Not later than 56 days after the issue of the Defects Liability Certificate, the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail, in the form approved by the Engineer;

- (a) The final value of all work done in accordance with the Contract;
- (b) Any further sums which the Contractor considers to be due to him.

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

60.13 Discharge

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

60.14 Final Payment Certificate

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

- (a) The final value of all work done in accordance with the Contract;
- (b) After giving credit to the Employer for all amounts previously paid by the Employer, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer as the case may be

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

60.15 Cessation of Employer's Liability

Unless the Contractor notifies the Engineer of his objection to the Final Certificate within fourteen days of delivery thereof he shall be deemed to have agreed that he

accepts the total Contract Price as set out in the Final Certificate as full settlement for all work done under the Contract including any variations and omissions thereof.

62.1 Defects Liability Certificate

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

Remedies

63.4 Assignment of Benefit of Agreement

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

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

65 Special Risks

Add sub clause 65.9 as follows:

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

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

Settlement of Disputes

67.3 Arbitration

For the purposes of this Clause, the Arbitrator shall be a person to be agreed between the parties or failing agreement, the Arbitrator shall be appointed by the appointer designated in the Appendix to the Form of Tender.

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

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

Notices

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

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

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

69.1 **Default of Employer**

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

69.4 **Contractor’s Entitlement to Suspend Work**

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

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

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

69.5 **Resumption of Work**

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

Changes in Cost and Legislation

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

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

- (a) The rates contained in the priced Bill of Quantities are based upon the rates of wages and other emoluments and expenses applicable at the site and the date of tender pricing (as defined in sub-clause 70.4 hereinafter);
- (b) If the said rates of wages and other emoluments and expenses shall be increased or decreased by act, statute, decree, regulation and the like after the said date of tender pricing then the net amount of increase the emoluments and expenses shall, as the case may be, paid to or allowed by Contractor;
- (c) The rates contained in the price Bill of Quantities are based upon the rates of the Contractor's compulsory contributions payable at the date of tender under or by virtue of any Act, Statue, Regulations and the like applicable at the site;
- (d) If any of the said rates of contribution becomes payable after that date then the net amount of new statutory contribution becomes payable after that date then the net amount of increase or decrease of the emoluments and expenses shall, as the case may be, be paid to or allowed by the Contractor. Difference between what the Contractor actually pays in respect of work people engaged upon or in connection with the works and what he would have paid in respect of such person had any of the said rates not been increased or decreased or had a new contribution not become payable as aforesaid, shall as the case may be, be paid to or allowed by the Contractor. Provided always that the Engineer and the Contractor may agree a sum, which shall be deemed to be the net amount of the aforesaid difference, and such sum shall be deemed for the purpose of this Contract to be, that which is to be paid to or allowed by the Contractor by the virtue of this sub-paragraph;
- (e) If the market price or any materials or goods specified as aforesaid shall be increased or decreased after the said Date of Tender Pricing, then the net amount of difference between the basic price and the market price payable by the Contractor and current when any such goods and materials are bought shall, as the case may be, be paid to or allowed by the Contractor. Orders for materials and goods listed as aforesaid shall have been placed within a reasonable time after the date at which sufficient information is available for the placing of such orders, and the placing of orders at that time shall be a condition precedent to any payments being made to the Contractor in respect of increased market prices." Substitute and add the following sub-clauses:

- 70.2
- (a) If the Contractor shall decide subject to Clause 4 thereof to sub-let any portion of the work he shall incorporate in the sub-contract provisions to the like effect as those contained in sub-clause (1) of this Clause;
 - (c) If the price payable under a sub-contract as aforesaid is increased above or decreased below the price in such sub-contract by reason of the operation of the incorporated provisions of sub-clause (1) of this clause then the net amount of such increase or decrease shall as the case may be, be paid to or allowed by the Contractor under this Contract.

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

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

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

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

70.5 The materials to which this variation shall applies are:

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

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

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

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

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

70.10 Add the following at the end of this clause.

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

ADDITIONAL CLAUSES

Clause 73 Declaration Against Waiver

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

Clause 74 Bribery and Collusion

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

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

Clause 75 Contract Confidential

The Contractor shall treat the Contract and everything in connection therewith as private and confidential. In particular, the Contractor shall not publish any information, drawings or photographs concerning the Works in any trade or technical paper etc, and shall not use the Site for the purpose of advertising except with the written consent of the Engineer and subject to such conditions as the Engineer may prescribe.

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

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

Clause 77 Taxes and Duties

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

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

- (2) The Contractor will be permitted to import approved spare parts, tires and tubes without payment of customs duty and Value Added Tax for maintenance of any imported vehicles and plant as provided in sub-clause 77.1 above, within a financial limit indicated by himself. However, this limit will not exceed 15% of the Contract Price excluding Contingencies.
- (3) All materials approved by the Engineer to be incorporated into the Works or temporary works, and whose importation into Kenya is agreed to be essential shall be free of customs duties and Value Added Tax. The Contractor shall submit a list of such materials required with the tender. The Contractor shall be required to satisfy the Engineer that such materials have actually been incorporated into the Works.

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

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

Clause 78 Joint Ventures

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

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
1	<p>Definitions and Interpretation</p> <p>Employer” is Commission Secretary / Chief Executive, Teachers Service Commission Private Bag - 00100, <u>Nairobi, Kenya.</u></p> <p>“Project Manager” or “Engineer” is Water Secretary, Ministry of Water, Sanitation and Irrigation P.O. BOX 49720-00100 <u>Nairobi.</u></p> <p>Employer’s Representative” is This shall mean the Director Administration Services</p>
2	<p>Project Manager’s Duties and Authority</p> <p>The Project Manager shall obtain specific approval of Teachers Service Commission before taking any of the following actions specified in Part I:</p> <ol style="list-style-type: none"> i. Consenting to the sub-letting of any part of the Works under Clause 4. ii. Certifying additional cost determined under Clause 12. iii. Determining an extension of time under Clause 44. iv. Issuing a variation under Clause 51 except in an emergency situation as reasonably determined by the Project Manager. v. Fixing rates or prices under clause

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
<p>4</p> <p>4.1</p>	<p>Assignment and Subcontracting</p> <p>Delete the second and third sentence and substitute:</p> <ul style="list-style-type: none"> • No single subcontract may be for more than 10 percent of the Contract Price nor shall the sum of all subcontracts exceed 25 percent of the Contract price. • No one subcontractor may be awarded subcontracts to a total value greater than 10 percent of the Contract Price. • All subcontracts greater than 2 percent of the Contract Price are to have the prior consent of the Engineer. • The Contractor shall however, not have required such consent for purchases of materials or to place contracts for minor details or for any part of the Works of which the manufacturer of supplier is named in the Contract. • Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen
<p>5</p> <p>5.1</p> <p>5.2</p>	<p>Contract Documents</p> <p>The language governing this Contract shall be English.</p> <p>a) The “Ruling Language” which shall be used to interpret this Contract shall be English. Communication between the Contractor and Engineer or Engineer’s representative shall be in English.</p> <p>b) The law applicable to this Contract shall be the laws of the Republic of Kenya. The Kenyan courts shall have exclusive jurisdiction to hear and to determine all actions and proceedings in connection with and arising out of the Contract, and the Contractor shall submit to the jurisdiction of Kenyan courts for the purpose of any such actions and proceedings.</p> <p>The Following documents shall form part of contract.</p> <ol style="list-style-type: none"> 1. The Contract Agreement; 2. The Notification of Award; 3. Instruction to Tenderers and Appendix to the Instruction to Tenderers; 4. The Schedule of Requirements 5. The General Conditions of Contract; 6. The Special Specifications; 7. The Price schedule 8. The Form of Tender 9. The Tender Evaluation Minutes 10. Professional Opinion 11. The technical Specifications for installation of ultra –filtration system. 12. Clarifications and rectifications accepted by the Employer; and 13. The Drawings; 10.The priced Bills of Quantities; and Schedules and other documents forming

CLAUSE	SPECIAL CONDITION OF THE CONTRACT																				
	part of the Contract.																				
8.1	<p>Within 28 days after receipt of the Commission’s order to commence the Works, the Contractor shall establish an office at the Site duly equipped for the Contractor’s representative and his supervisory personnel.</p> <p>The Contractor shall maintain this office throughout the Contract period. The said office shall be the legal domicile of the Contractor, and all correspondence sent to this office shall be deemed to have been sent to the Contractor’s head office.</p> <p>A foreign Contractor or a Kenya-foreign joint venture, if not registered in Kenya under the applicable laws of Kenya, shall undertake registration upon receipt of the letter of acceptance and prior to signing of the Contract.</p>																				
10.1	The Contractor shall NOT furnish the Employer with a Performance Security of 10% of the Contract Sum in accordance to PPADR 2020.																				
11.1	<p>Inspection of Site</p> <p>“The Employer in no way will guarantee completeness nor accuracy of the soil, materials, subsurface and hydrological information made available to the Contractor at the time of tendering or at any other time during the period of the Contract, and the Contractor shall be responsible for ascertaining for himself all information as aforesaid for installation of ultra-filtration system and his tender shall be deemed to have been priced accordingly</p>																				
14.1	<p>Programme to be Submitted</p> <p>The Contractor shall submit work program for the works within seven (7) days of the delivery of the Letter of Acceptance. The detailed Programme shall be based upon the programme submitted by the Contractor as part of his tender and shall, in no material manner, deviate from the said programme.</p> <p>The Contractor shall allow in his Programme for the following 10 public holidays per calendar year in Kenya upon which the Contractor shall not be permitted to work</p> <table data-bbox="411 1339 917 1704"> <tr> <td>New Year’s Day</td> <td>(1st January)</td> </tr> <tr> <td>Good Friday</td> <td></td> </tr> <tr> <td>Easter Monday</td> <td></td> </tr> <tr> <td>Labour Day</td> <td>(1st May)</td> </tr> <tr> <td>Madaraka Day</td> <td>(1st June)</td> </tr> <tr> <td>Idd-UI-Fitr)</td> <td></td> </tr> <tr> <td>Mashujaa Day</td> <td>(20th October)</td> </tr> <tr> <td>Jamhuri Day</td> <td>(12th December)</td> </tr> <tr> <td>Christmas Day</td> <td>(25th December)</td> </tr> <tr> <td>Boxing Day</td> <td>(26th December)</td> </tr> </table> <p>The Contractor should also allow per calendar year for a further 2 unspecified public holidays which may be announced by the Government of Kenya with no prior notification, and upon which he shall not be permitted to work.</p> <p>The Contractor shall submit to the Project Manager for approval within three (3) days after receiving the Commission’s Letter to Commence Work, 4 copies of a detailed Works Program. The work program shall be arranged in the form of a Time-Bar chart OR schedule failure to which clause 14.1 shall be invoked, the</p>	New Year’s Day	(1st January)	Good Friday		Easter Monday		Labour Day	(1 st May)	Madaraka Day	(1 st June)	Idd-UI-Fitr)		Mashujaa Day	(20 th October)	Jamhuri Day	(12 th December)	Christmas Day	(25 th December)	Boxing Day	(26 th December)
New Year’s Day	(1st January)																				
Good Friday																					
Easter Monday																					
Labour Day	(1 st May)																				
Madaraka Day	(1 st June)																				
Idd-UI-Fitr)																					
Mashujaa Day	(20 th October)																				
Jamhuri Day	(12 th December)																				
Christmas Day	(25 th December)																				
Boxing Day	(26 th December)																				

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
14.2	<p>Project Manager shall with-hold certification of any payment until when the program or revision thereof is submitted</p> <p>The amount to be withheld for late submission of the work plan will be 1.0% of the certified amount to be paid to the Contractor.</p>
15	<p>Contractor's Superintendence</p> <p>15.1 The Contractor shall, within seven (7) days of receipt of the Engineer's order to commence the Works, inform the Engineer in writing, the name of the Contractor's representative and the anticipated date of his arrival on Site.</p> <p>15.2 The Contractor's agent or representative on the Site shall be an Engineer registered by the Engineer's Registration Board of Kenya in accordance with the Laws of Kenya cap. 530 or have equivalent status approved by the Engineer and shall be able to read, write and speak English fluently.</p>
16.2	<p>Engineer at Liberty to object</p> <p>The Contractor is encouraged to the extent practicable and reasonable, to employ competent staff and labor with appropriate qualifications who are Kenyan citizens at contractor's own expense.</p>
19.2	<p>Safety, Security and Protection of the Environment</p> <p>The formulation and enforcement of an adequate safety program shall be the obligation of the Contractor with respect to all the Works under this Contract, regardless of whether performed by the Contractor or his subcontractors. The Contractor shall, within 14 days after commencement of the Works, meet the Contract Implementation Team (CIT) to present and discuss his plan for the establishment of such safety measures as may be necessary to provide against accidents, unsafe acts and so forth. Within 28 days after commencement of the Works, the Contractor shall submit a written safety program to the CIT through the Engineer covering the overall Works and based on the laws and regulations of Kenya. In addition, he shall prepare special safety programs for blasting and handling of explosives as stipulated in the General and Special Specifications.</p> <p>Notwithstanding the foregoing, the Contractor shall observe the following measures with a view to reducing or eliminating adverse environmental effects by the Site Works:</p> <ul style="list-style-type: none"> i. All queries and borrow pits shall be filled and landscaped to their original state after extraction of construction material ii. Soil erosion due to surface runoff or water from culverts or other drainage structures should be avoided by putting in place proper erosion control measures that shall include, but not limited to grassing, planting of trees, gabions etc. iii. Long traffic diversion roads shall be avoided so as to minimize the effect of dust on the surrounding environment. In any case all diversions shall be kept damp and dust free at the Contractor's expense.

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	<ul style="list-style-type: none"> iv. Spillage of oils, fuels and lubricants shall be avoided and if spilt, shall be collected and disposed of in such a way as not to adversely affect the environment. v. Rock blasting near settlement areas shall be properly coordinated with the relevant officers of the Government so as to minimize noise pollution and community interference. vi. Dumping shall be done only at designated dumping areas and not haphazardly on surroundings.
21.1	<p>Insurance of Works & Contractor's Equipment</p> <p>(a) Prior to commencement of the Works the Contractor shall, without limiting his or the Employer's obligations and responsibilities under Clause 20, insure his employees to the satisfaction of Teachers Service Commission</p> <p>(b) It is being understood the insurance shall provide for compensation to be payable in the types and proportions of the currencies required to rectify the loss or damage incurred.</p>
21.2	<p>It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract from the first day after the commencement date.</p>
23.1	<p>Third party Insurance</p> <p>The Minimum third-party insurance shall be Kshs. 100,000.00 with no limits of occurrence.</p>
23.2	<p>Minimum Amount of Insurance</p> <p>The minimum amount of insurance shall be Kshs. 100,000. Prior to start the works as the contractor shall submit to the Commission the original copies of the premium paid in respect to the insurance of Works and Work Injury.</p>
25.5	<p>Insurance Notices</p> <p>Each policy of insurance effected by the Contractor for the purpose of the Contract shall include a provision to the effect that the Insurer shall have a duty to give notice in writing to the Contractor and Teachers Service Commission of the date when a premium becomes payable not more than thirty (30) days after the giving of such notice</p>
25.6	<p>Re-insurance in Kenya</p> <p>The risks against which the Contractor is obliged to insure under the Contract shall be insured through established and reputable companies approved by Teachers Service Commission and located in Kenya and any cover against risks which the Contractor may enjoy shall be reinsured in Kenya by an approved Kenyan Insurance Company in respect of the Contractor's obligations under the Contract.</p>
25.7	<p>It shall be the responsibility of the Contractor to notify the insurer under any of the insurances referred to or event which by the terms of such insurances are required to be so notified and the Contractor shall indemnify and keep Teachers Service</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	Commission indemnified against all losses, claims, demands, proceedings, costs, charges and expenses whatsoever arising out of or in consequence of any default by the Contractor in complying with the requirements of this sub clause whether as a result of avoidance of such insurance or otherwise.
26.	<p>Compliance with Statutes, Regulations</p> <p>Teachers Service Commission will repay or allow the Contractor all such sums as the CIT/Engineer shall certify to have been properly payable and paid to the Contractor in respect of such fees. Provided always that, without prejudice to sub clause, nothing contained in this clause shall be deemed to render the Employer liable to all claims which may be considered to fall within the provisions of clause 22.1.</p>
28.2	<p>Royalties</p> <p>The Contractor shall also be liable for all payments or compensation, if any, that are levied in connection with the dumping of part or all of any such material.</p>
29.2	<p>Interference with Traffic and Adjoining Properties</p> <p>The Contractor shall reinstate all properties whether public or private which are damaged in consequence of the installation of ultra-filtration system to a condition at least equal to that prevailing before his first entry on them.</p> <p>If in the opinion of the Commission/Engineer the Contractor shall have failed to take reasonable and prompt action to discharge his obligations in the matter of reinstatement, the Engineer will inform the Contractor in writing of his opinion, in which circumstances Teachers Service Commission reserves the right to employ others to do the necessary work of reinstatement and to deduct the cost thereof from any money due or to become due to the Contractor.</p> <p>The Contractor shall promptly refer to Teachers Service Commission all claims, which may be considered to fall within the provisions of Clause 22.1.</p>
34 34.2 34.3	<p>LABOUR</p> <p>Conditions of Employment of Labour</p> <p>The Contractor shall be responsible for making all arrangements for and shall bear all costs relating to recruitment, obtaining of all necessary visas, permits or other official permission for movements of staff and labour.</p> <p>Fair Wages</p> <p>The Contractor shall, in respect of all persons employed anywhere by him in the execution of the Contract, observe and fulfill the following conditions:</p> <p>(a) The Contractor shall pay the rates of wages, observe hours of labour and provide conditions, housing amenities and facilities not less favorable than those required by the Regulation of wages (Building and Construction Industry) Order 1998, and any subsequent amendments thereto, or in any ministry of labour or other government department in consultation with the district whose general circumstances in the trade or industry in which the Contractor is engaged are similar. The Contractor shall at all times during the continuation of the Contract display, for the information</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
34.4	<p>of his employees, a notice setting out the general rates of wages, hours and conditions of labour of his employees and a copy of this clause.</p> <p>(b) In the absence of any rates for wages, hours or conditions of labour so established, the Contractor shall pay rates or wages and observe hours and conditions for labour which are not less favorable than the general circumstances in the trade or industry in which the Contractor is engaged.</p> <p>(c) Where the absence of established rates of wages, hours and conditions of labour or the dissimilarity of the general circumstances in the trade or industry in which the Contractor is engaged prevent the Contractor from observing rates of wages, hours and conditions of labour ascertained under sub-paragraph (a) or (b) above, the Contractor in fixing the rates of wages, hours and conditions of labour of his employees shall be guided by the advice of the labour department.</p> <p>(d) The Contractor shall recognize the freedom of his employees to be members of trade unions.</p> <p>(e) The Contractor shall maintain records of the times worked by, and the wages paid to his employees. The Contractor shall furnish to the Employer, if called upon so to do, particulars of the rates of wages, hours and conditions of labour as the employer may direct.</p> <p>(f) The Contractor shall be responsible for observance by his sub-Contractors of the foregoing provisions.</p>
34.5	<p>Breach of Fair Wages Clause</p> <p>Should a claim be made to Teachers Service Commission alleging the Contractor's default in payment of fair wages to any workman employed on the Contract and if proof thereof satisfactory to Teachers Service Commission is furnished by the labour department, the Employer may, failing payment by the Contractor, pay the claims out of any monies due or which may become due to the Contractor under the Contract.</p>
34.6	<p>Recruitment of Unskilled Labour</p> <p>Any additional unskilled labour which may be required by the Contractor for the Works and which is not in his employ at the time of the acceptance of the tender shall be recruited by the Contractor from the labour office nearest to the Site of the Works.</p>
34.6	<p>Compensation for injury</p> <p>The Contractor shall, in accordance with the Workman's Compensation Act Chapter 236 of the laws of Kenya and any other regulations in force from time to time in Kenya, pay compensation for loss or damage suffered in consequence of</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
34.7	<p>any accident or injury or disease resulting from his work to any workman or other person in the employment of the Contractor or any sub-contractor.</p> <p>Labour Standards</p> <ul style="list-style-type: none"> a) The Contractor shall comply with the existing local labour laws, regulations and labour standards. b) The Contractor shall formulate and enforce an adequate safety program with respect to all Work under this Contract, whether performed by the Contractor or his sub-contractors. The Contractor has assurance from the Employer of cooperation where the implementation of these safety measures requires joint cooperation. c) Upon written request of the Employer the Contractor will remove or replace any of his employees employed under this Contract. <p>Recruitment</p> <p>The Contractor shall not induce personnel of Teachers Service Commission or the Engineer to leave their regular employment and shall not, without the prior consent in writing of Teachers Service Commission , employ personnel who have resigned from such service within the preceding twelve months.</p>
35	<p>The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe. The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means. The Contractor shall also notify the relevant authority(s) whenever such report is required by the law.</p>
36.1	<p>QUALITY OF MATERIALS, PLANT/EQUIPMENT AND WORKMANSHIP</p> <p>All materials, equipment, etc to be used in the execution of the work by the Contractor in this contract shall conform to the requirements of the latest Kenya Bureau of Standard (KEBS), International Standards Organization (ISO), British Standards Specifications (BSS), or other approved standards applicable in Kenya unless otherwise specifically stated”. The materials and workmanship shall be of the best of their respective and shall be to the approval of the Project Manager. Should any material/equipment which are in the judgment of the Project Manager unsound, or of inferior quality or in any way unsuited for the works in which it is proposed for use, such material/equipment shall not be used upon the works and shall forthwith be removed from the site and replaced with the proper quality items to the approval of the Project Manager all at the expense of the contractor. The contractor shall remove and reconstruct at his own expense any portion of the works which gives evidence of any defects or injury which may affect the strength of durability of the works or the performance of the system</p>
41	<p>Commencement and Delays</p> <p>Definition of Commencement</p> <p>For the purposes of this clause, the Works on site within 28 days shall be deemed to have commenced when all of the following conditions are satisfied;</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	<p>a) The approved competent and authorized agent or representative of the Contractor is resident in the project area and is giving his whole time to the superintendence of the Works.</p> <p>b) The provision by the Contractor of evidence that all insurances required by the Contract are in force.</p> <p>c) The Contractor has an established office in the project area with postal address for receipt of correspondence.</p> <p>d) The principal items of constructional plant have been brought to Site and put to work in the execution of the permanent Works.</p> <p>e) The contractor has submitted a valid performance security covering the contract period</p>
42.4	<p>Possession of Site and Access Thereto The Contractor shall not enter to any part of the Site until he has requested and received permission to do so from the Employer or the Engineer.</p> <p>The Contractor shall not use any portion of the Site for any purpose not connected with the Works.</p>
43.1	The Project Completion Period: 90 Days.
45 45.1	<p>Working Hours subject to any provision to the contrary contained in the Contract, the Contractor shall have the option to work continuously by day and by night and on locally recognized days of rest.</p> <p>If the Contractor requests for permission to work by day and night and if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment for so doing. All such work at night shall be carried out without unreasonable noise or other disturbance and the Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out night work and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability. In addition, the Contractor shall be required to provide, for any work carried out by night or recognized days of rest, adequate lighting and other facilities so that the Work is carried out safely and properly. In the event of the Engineer granting permission to the Contractor to work double or rotary shifts or on Sundays, the Contractor shall be required to meet any additional costs to Teachers Service Commission in the administration and supervision of the Contract arising from the granting of this permission</p>
47.1	Liquidated and Ascertained Damages: 0.01% of the Contract sum each Day
47.2	<p>Reduction of Liquidated Damages There shall be no reduction in the amount of liquidated damages in the event that a part or a section of the Works within the Contract is certified as completed before the whole of the Works comprising that Contract.</p> <p>No bonus for early completion of the Works shall be paid to the Contractor by the Employer.</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	<p>The sum stated in the Appendix to Form of Tender as liquidated damages shall be increased by a sum equivalent to any amount payable by the Employer to the Contractor under clause 70.1 in respect of an increase in costs in such period that would not have been incurred by the Contractor if the Works had been completed by the due date for completion prescribed by clause 43.</p>
<p>48</p> <p>48.1</p> <p>49</p> <p>49.1</p> <p>49.2</p>	<p>TAKE OVER OF THE WORKS</p> <p>The contract work shall be considered satisfactorily complete and ready for handing over to the Employer only when the contract work and supporting services have been tested and operationalized to the satisfaction of the Commission.</p> <p>SITE MEETINGS</p> <p>Site meetings shall be held every after Seven (7) days to discuss the progress of work etc. The meetings may also be called at any other time at the request of the Contractor, Client or as directed by the CIT/Project Manager.</p> <p>The attendance shall comprise of but not limited to:</p> <ol style="list-style-type: none"> 1. <i>The Employer 3 people</i> 2. <i>The Project Manager / Engineer 5 people - chairperson</i> 3. <i>Resident Engineer..... 1 person - take minutes</i> 4. <i>The Contractor..... 3 people</i> <p>Defects Liability</p> <p>Defects liability period is 180 days</p> <p>Any work ordered to be executed under this clause shall be done at a time and in a manner as directed by the Engineer so as to interfere as little as possible with the operations of the Employer or of other contractors and no extension(s) of the defects liability period will be allowed for the execution of this Work.</p>
<p>52</p> <p>52.1</p>	<p>Variations</p> <p>There shall be no price variation within twelve (12) months.</p>
<p>52.4</p>	<p>Day work</p> <p>The Work so ordered shall immediately become part of the Works under the Contract. The Contractor shall, as soon as practicable after receiving the Daywork Order from the Engineer undertake the necessary steps for due execution of such Work. Prior to commencement of any work to be done on a Daywork basis, the Contractor shall give a notice to the Engineer stating the exact time of such commencement</p>
<p>55</p> <p>55.1</p>	<p>Quantities</p> <p>The quality and quantity of the Work included in the Contract Price shall be deemed to be that which is set out in the Contract Bills. The Bills, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement.</p> <p>Any error in description or in quantity or any omission of items from the Contract Bills or Specifications shall not change this Contract but shall be corrected and deemed to be a variation required by the Engineer. Subject to the foregoing, any error whether arithmetical or not in the computation of the Contract Price shall be deemed to have been accepted by the parties hereto.</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	The Contract Price shall not be adjusted or altered in any way whatsoever by anybody other than in accordance with the express provisions of the Conditions stipulated in this tender document.
55.2	Items of Work described in the Bills of Quantities for which no rate or price has been entered in the Contract shall be considered as included in other rates and prices in the Contract and will not be paid for separately by Teachers Service Commission.
56 56.1	<p>Measurement</p> <p>The Contractor shall prepare and submit to the Engineer all necessary field notes and other records taken and computations made for the purpose of quantity measurements, of which the forms shall be approved by the Engineer, for the monthly progress payment under clause 60. The measurement of work quantities made by the Contractor shall be verified and certified by the Engineer based on the above-mentioned documents.</p> <p>The Contractor shall furnish all personnel, equipment and materials to make such surveys and computations as necessary to determine the quantities of work performed. Unless otherwise prescribed in the specifications or the drawings, all measurements for payment shall be made by the dimensions, lines and grades as shown on the drawings or by direct survey of which the methods shall be approved by the Engineer.</p> <p>The documents submitted for measurement and payment shall become the property of the Employer and shall be used to the extent necessary to determine the monthly progress payment to be made to the Contractor under the Contract. Direct survey, if done, shall be subject to checking and verification by the Engineer and all errors in the said survey work and related computations as found during such checking shall be immediately corrected by the Contractor.</p>
57.1	The Works shall be measured net with deductions made in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement. All measurements shall be given in metric (SI) units
58.4	Wherever an item in the Bills of Quantities has been referred to as a "P.C. Sum" (Prime Cost Sum), that item shall be construed as a Provisional sum and the provisions of Sub-clauses 58.1 to 58.3 will apply
59.5	If the Engineer desires to secure final payment to any nominated sub-contractor before final payment is due to the Contractor and if such sub-contractor has satisfactorily indemnified the Contractor against any latent defects, the Engineer may, in an interim certificate, include an amount to cover the said final payment, and thereupon the Contractor shall pay to such nominated sub-contractor the amount so certified. Upon such final payment, the amount named in the Appendix to Form of Tender as Limit of Retention Money shall be reduced by the sum which bears the same ratio to the amount as does the subcontract and sub-contractor shall be discharged from all liability for the Work, materials or goods executed or supplied by such subcontractor under the Contract to which the payment relates
60	Certificates and Payment

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
60.1	<p>Advance Payment: There shall be No advance payment that shall be granted</p>
60.2	<p>Interim Payment Certificate The interim payments shall be made in phases for the measured works to the satisfaction of the Commission and the Project Manager, less 16 % VAT tax and 10% retention money.</p>
60.3	<p>Payment shall be made within 45 days after Certification by the Project Manager and approval by the Contract Implementation Team.</p>
60.3	<p>Payment of Retention Money (10% retention money) shall be released at the end of the Defects Liability Period 6 months (180 days) subject to the certification by the Project Manager and the Commission's Contract Implementation Team.</p>
60.4	<p>Payment of Certificates Payment upon each of the Engineer's certified Certificates for Interim Payments shall be made by the Commission within 45 DAYS from the date of issue and receipt by the Commission. All certified certificates for payments shall be handed over to the SCMS for payment processing.</p> <p>Payment upon the Engineer's Final Payment Certificate shall be made by the Commission within 45 DAYS from the date of issue of the Final Certificate of Payment signed by the Engineer, countersigned by the Contractor or his authorized agent or representative and approved by the Contract, Implementation Team.</p> <p>Making of a payment by the Employer shall be considered to have been duly executed on the day that the Commission has issued an Electronic Funds Transfer (EFT).</p>
60.5	<p>Payment of Retention Money The Retention money shall be paid to the Contractor when the Engineer shall certify to the Commission in writing that all Works under the contract has been substantially completed. The contractor shall be paid after the expiration of the Defects Liability Period and has been issued with a Completion Certificate under Clause 62 by the Project Manager. The Commission shall be entitled to withhold retention payment until the contractor has met all his obligations as prescribed in the tender document and the contract.</p> <p>Provided further that in the event of different Defects Liability Periods having become applicable to different parts of the Works pursuant to clause 48 hereof the expression "expiration of the Defect Liability Period" shall for the purpose of this Sub-clause be extended with additional of 90 days to cover different parts in question.</p>
60.6	<p>Currency of Payment The Contract price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya shillings and foreign currency(s) in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate[s] of exchange for the calculation of the amount of foreign currency payment[s] shall be the rate of exchange indicated in the days CBK Rates.</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
60.7	<p>Overdue Payments There shall be no interest to be paid on the overdue amounts.</p>
60.8	<p>Correcting and With-holding The Engineer may be allowed by the Contract Implementation Team to correct and withhold any interim certificate or through the final account make any correction or modification to any previous certified sum and shall have authority, if any work or part thereof is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.</p>
60.9	<p>Completion by Sections. If a Taking-Over Certificate shall be issued for any section or part of the Works separately, the payments herein provided for on or after issue of such a Certificate shall be made in respect of such section or part and references to the Contract Price shall mean such part of the Contract Price as shall in the absence of agreement be apportioned thereto by the Engineer.</p>
60.10	<p>Proportion of Foreign Currency Subject to the provision of sub clause 60.5 the proportion of foreign currency in any amount due to the Contractor or Employer shall be determined in the following manner:</p> <ul style="list-style-type: none"> i) For all measured Work, the percentages of foreign currency for the appropriate section of the Bill of Quantities as stated in the schedule of foreign currency requirements shall be applied. j) Variations in the cost of imported materials shall be paid in foreign currency. k) Variations in the cost of locally purchased materials and those due to changes of legislation shall be paid in local currency. l) For Day works labour and plant, the respective percentages of foreign currency stated in the schedule shall be applied. m) For Day works materials and materials on site, payment in foreign currency will only be made for imported materials. n) The provisions for the deduction and release of Retention Money and the payment of interest shall be applied similarly to both the local and foreign portions. o) The advance mobilization loan, its repayment thereof and liquidated damages shall all be apportioned on the basis of the ration between local and foreign currency indicated in the Contract Price. <p>In the event that the payment is for an item not covered in the foregoing paragraphs, the Engineer shall determine the proportion of foreign and local currency based on the information given in the Schedule of Foreign Currency Requirements, together with any additional information he may request the Contractor to provide</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
60.11	<p>Statement at Completion Not later than 14 days after the issue of the Taking-Over Certificate in respect of the whole of the works, the Contractor shall submit to the Engineer a statement at completion showing in detail, in a form approved by the Engineer;</p> <ul style="list-style-type: none"> a) The final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate. b) Any further sums which the Contractor considers to be due; and c) An estimate of amounts, which the Contractor considers, will become due to him under the Contract. <p>Estimate amounts shall be shown separately in the Statement at Completion. The Contractor shall amend and correct the Statement as directed by the Engineer who shall issue a Certificate at Completion to be processed in accordance with sub-clause 60.4.</p>
60.12	<p>Final Statement Not later than 56 days after the issue of the Defects Liability Certificate, the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail, in the form approved by the Engineer;</p> <ul style="list-style-type: none"> (a) The final value of all work done in accordance with the Contract; (b) Any further sums which the Contractor considers to be due to him. <p>If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonable require and shall make such changes in the draft as may be required.</p>
60.13	<p>Discharge Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment under the Final Payment Certificate issued pursuant to Sub-clause 60.14 has been made and the Performance Security referred to in Sub-clause 10.1 has been returned to the Contractor</p>
60.14	<p>Final Payment Certificate Upon acceptance of the Final Statement as given in Sub-clause 60.12, the Engineer shall prepare a Final Payment Certificate which shall be delivered to the Contractor's authorized agent or representative for his signature. The Final Payment Certificate shall state:</p> <ul style="list-style-type: none"> (a) The final value of all work done in accordance with the Contract;

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	<p>(b) After giving credit to the Employer for all amounts previously paid by the Employer, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer as the case may be</p> <p>Final Certificate shall be issued for any sum due to the Contractor even if such is less than the sum said named in the Appendix to the Form of Tender.</p>
60.15	<p>Cessation of Employer's Liability Unless the Contractor notifies the Engineer of his objection to the Final Certificate within fourteen days of delivery thereof he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Certificate as full settlement for all work done under the Contract including any variations and omissions thereof</p>
62.1	<p>Defects Liability Certificate Defects liability certificate shall be issued after 180 days. However, it may be extended with another 90 days if particular areas are noted for corrective actions.</p>
63.4	<p>Assignment of Benefit of Agreement But on the terms that a supplier or sub-contractor shall be entitled to make any reasonable objection to any further assignment thereof by the Employer and the Employer may pay the supplier or sub-contractor for any such materials supplied or Works executed under such agreement, whether the same be assigned as aforesaid or not, before or after the said determination, the amount due by such arrangement in so far as it has not already been paid by the Contractor.</p>
67.3	<p>Settlement of Disputes Arbitration For the purposes of this Clause, the Arbitrator shall be a person to be agreed between the parties or failing agreement. The Arbitrator shall be appointed by the Chairman of the Institution of Engineers of Kenya. Arbitration shall take place in Nairobi, Kenya. The language of all arbitration proceedings shall be in English. The cost of arbitration shall be apportioned by the Arbitrator according to his findings.</p>
68.1	<p>Notices Notwithstanding the foregoing, the Contractor shall either maintain an address close to the Works or appoint an agent residing close to the Works for the purpose of receiving notices to be given to the Contractor under the terms of the Contract. This obligation shall be terminated upon the issue of the Certificate of Completion.</p>
69.4	<p>Contractor's Entitlement to Suspend Work Without prejudice to the Contractor's entitlement to interest under Sub-clause 60.7 and to terminate his employment under Sub-Clause 69.1, the Contractor may, if the Employer fails to pay the Contract amount due under any certificate of the Engineer within 56 days after the expiry of the time stated in Sub-Clause 60.4, the amount of such cost, which shall be added to the Contract Price. However, the costs due to idle time for plant, equipment and labour shall not be included in the said costs and shall be borne by the Contractor.</p>
70.1	<p>Changes in Cost and Legislation The Contract Price shall be deemed to have been calculated in the matter set below and shall not be subjected to any adjustment only a variation is processed</p>

CLAUSE	SPECIAL CONDITION OF THE CONTRACT
	and approved by the Commission Secretary.
70.2	<p>(a) If the Contractor shall decide subject to Clause 4 thereof to sub-let any portion of the work, he shall incorporate in the sub-contract provisions to the like effect as those contained in sub-clause (1) of this Clause;</p> <p>(b) If the price payable under a sub-contract as aforesaid is increased above or decreased below the price in such sub-contract by reason of the operation of the incorporated provisions of sub-clause (1) of this clause then the net amount of such increase or decrease shall as the case may be, be paid to or allowed by the Contractor under this Contract.</p>
70.4	<p>For imported materials, the supplier's/manufacturer's Prime costs shall be C.I.F. cost at point of entry by the same means of transport as determined by the Contractor's Basic Rate.</p> <p>For locally produced materials, the supplier's or manufacturer's prime costs shall be at their nearest depot or the nearest railway station relevant to the works.</p> <p>For materials, which are subject to Government Price Control, payments for price variations will be determined from the difference between the control price in force at a date 28 days prior to date for submission of Tenders and the price in force on the date of purchase</p>
70.5	<p>The materials to which variation may apply are:</p> <ul style="list-style-type: none"> ◆ All bitumen material ◆ Fuels, oils and lubricant ◆ Cement ◆ Lime ◆ Flex beam guardrail ◆ Explosives ◆ Gabion mesh ◆ Reinforcing steel
70.6	The Contractor shall not change the supplier or manufacturer during the Contract without the approval of the Engineer.
70.7	No payments will be made for price variation related to expenses incurred by the Contractor in his Head Office in Kenya, or overseas
70.8	All payments made pursuant to Clause 70 shall be in Kenya Shillings.
70.9	No payments will be made for the cost of preparing V.O.P. claims
70.10	Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited as aforesaid if the same shall already have been taken into account in accordance with the provisions of sub-clause 70.1”.

V) SPECIFICATIONS

Notes for preparing Specifications

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

Health Care and Welfare

In addition to providing, equipping and maintaining adequate first aid stations throughout the works in accordance with the Laws of Kenya, the Contractor shall provide and maintain on Site during the duration of the Contract, a fully equipped

dispensary. This shall be with a qualified Clinical Officer/Nurse who shall offer the necessary medical advice on AIDS/HIV and related diseases to the Engineer's and Contractor's Site staff. The Contractor shall allow for this in the rates and be responsible for all site welfare arrangements at his own cost.

TECHNICAL SPECIFICATIONS

1.1 GENERAL

Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified will be accepted subject to the Commission's through Project Manager's prior review and written consent.

MOBILIZATION, DEMOBILIZATION AND RESTITUTION

- 1.2.1** The Contractor shall mobilize to the site in accordance with the Agreed Program
- 1.2.2** The Contractor shall minimize disturbance to neighboring functional areas. This shall particularly include ensuring not to create a nuisance either to the public or private property.
- 1.2.3** Site re-instatement under the conditions of contract shall include the removal of all Unwanted debris. Site re-instatement is deemed an integral part of mobilization. This activity shall be costed taking into account the items above and expressed as a lump sum.

ELECTRO – MECHANICAL WORKS SPECIFICATIONS

1. ELECTRICAL WORKS

1.1. REGULATIONS AND STANDARDS

The complete electrical installation shall be carried out by a competent Contractor and in accordance with the specifications and compliance with the following;

- (a). Kenya Bureau of Standards
- (b). Electric Power Act and the Rules made there under.
- (c). Kenya Power & Lighting Co. Ltd Regulations and Bye-Laws.
- (d). Government Electric Specifications GES 1 and 2 which can be viewed at the office of the Chief Electrical Engineer, Ministry of Roads, Public Works and Housing.
- (e). Industrial Safety Regulations currently in force.

1.2. SWITCH GEAR PANELS, INSTRUMENTATION PANELS, STARTER PANELS AND OTHER ELECTRICAL ENCLOSURES

Unless otherwise specified, all shall be surface mounting, water tight, corrosion resistant, dust-proof and resistant to attack by oils and grease. They shall be fabricated from heavy gauge, folded, spangled, galvanized and rust protected sheet steel of minimum thickness 1.5mm. They shall be finished in a two tone, heat resistant, non-peeling-off stoved gray enamel paint or epoxy powder coating.

1.3. ELECTRIC CABLES

- Unless otherwise specified, all cables shall be made of copper material and conform to BSS 6004, 600/1000 Volts grade
- (i) Unarmored cables shall be pvc insulated.
 - (ii) Armored cables shall be PVC SWA PVC copper cables.

1.4 GS CABLE TRUNKING

The trunking shall be manufactured from heavy duty hot dip galvanized mild steel sheet of minimum thickness 1.25 mm with screw-in and twist-to lock top lid.

1.5 PUMP SET STARTER

It shall be 3 phase, 415 vac, 50/60 Hz Direct-On line. It shall be in a water tight, front access, hinged door, lockable enclosure fully wired labeled and comprising of

- (i) Appropriate rating contactor / appropriate rating thermal overload.
- (ii) push buttons (green marked "START", black marked "STOP/RESET").
- (iii) Integral TPN (MCB) type 2.
- (iv) 1 No. 50x50mm AC ammeter of appropriate range.
- (v) 1 No. 50x50mm AC voltmeter of range 0-500 vac.c/w protection mcb/fuse.
- (vi) appropriate and indicated Pilot indicator lights
- (vii) Hours run counter range 0-99999 hours.
- (viii) Cable terminal blocks of appropriate rating.

1.6 MOTOR

The motor shall be the two pole cased asynchronous, totally enclosed, 3 phase, \ 15 vac, squirrel cage, induction type, continuously rated and of minimum CLASS " B" insulation. The entire body including the shaft shall be made of heavy duty stainless steel material.

1.7 PUMP

The pumps shall be the high pressure, vertical mounting, multi-stage, centrifugal type running at a full load speed of not less than 2900 rpm. The entire pump body including the strainer, cable guard, non- return valve, impellers, shaft, locking nuts and washers shall be made of heavy duty stainless steel material. The bearings shall be the water lubricated type, wear resistant. The impeller(s) shall be hydraulically and dynamically balanced.

1.8 WATER LEVEL CONTROL ELECTRODES

All the electrodes shall be made of stainless steel material **AISI 304 as Omron** or similar approved quality made of stainless steel. They shall be of size 6.0 mm diameter and 120mm length (D6x120mm) and in their tough molded shrouds.

1.19 LIGHTING FITTINGS AND SOCKET OUTLETS

Unless otherwise specified, they shall be rated so as to operate on single phase, 220-240 vac, 50/60 Hz power supply mains. they shall be the energy saving type, 1200mm single fluorescent fitting as Thorn, power factor compensated c/w tube and starter. Pump house lighting shall be water tight and corrosion resistant to water.

1.20 WIRING METHODS OF ELECTRICAL INSTALLATIONS AT MEDIUM AND LOW VOLTAGEE

(i). SYSTEM “A”

Plastic insulated cables enclosed in screwed steel conduit or trunking on the surface of walls and ceilings or in the roof space.

(ii). SYSTEM “B”

Plastic insulated wires armored cables laid on the surface of walls, cable trays, in cable trenches or ducts.

(iii). SYSTEM “C”

Plastic insulated cables clipped to the roof members and run in metal or plastic conduit drops concealed in walls or ducts formed in the fabric of the building.

1.21 PERFORATED CABLE TRAYS

The tray shall be U-shaped, fabricated from hot dip galvanized heavy gauge (16 swg) sheet steel plate of minimum thickness 1.5mm. The tray shall have 2 No. GS brackets firmly welded at the back for wall mounting. The perforations shall be 25mmLx2.5mmW spaced at 15mm interval.

1.22 SYSTEM BONDING

All non-conducting metallic parts which form part of the electrical system or are within the vicinity/route of the electrical system shall be effectively bonded to the main earthing system.

1.23 EARTHING SYSTEM

All the electrical installation earthing conductors shall be connected to the earth electrode through an earth lead. The earth lead shall be firmly connected to the electrode by means of the clamp, after which a thin film of grease or Vaseline shall be applied at the clamp area for protection against corrosion.

1.24 AVAILABILITY OF SPARE PARTS

The Contractor shall indicate local registered companies which stock spares and carry out repairs/maintenance of the equipment (generator, motor, pump starter etc) that he/she has offered.

2. MASONRY AND BUILDING WORKS

All wall construction works shall conform to B.S 882 and shall be executed to a fine finish. All dressed stones shall be sandstone and shall be free from vents, clay holes, discoloration or other defects and shall be of even texture and color.

The mortar for bedding and jointing shall consist of one part ordinary Portland cement to B.S. 12, one-part lime and six parts sand.

2.1 REGULATIONS AND STANDARDS.

The complete work shall be carried out as per the specifications and complying standards:

- (a). World Health Organization Safety Regulations and Standards.
- (b). Kenya Bureau of Standard

2 TECHNICAL LITERATURE

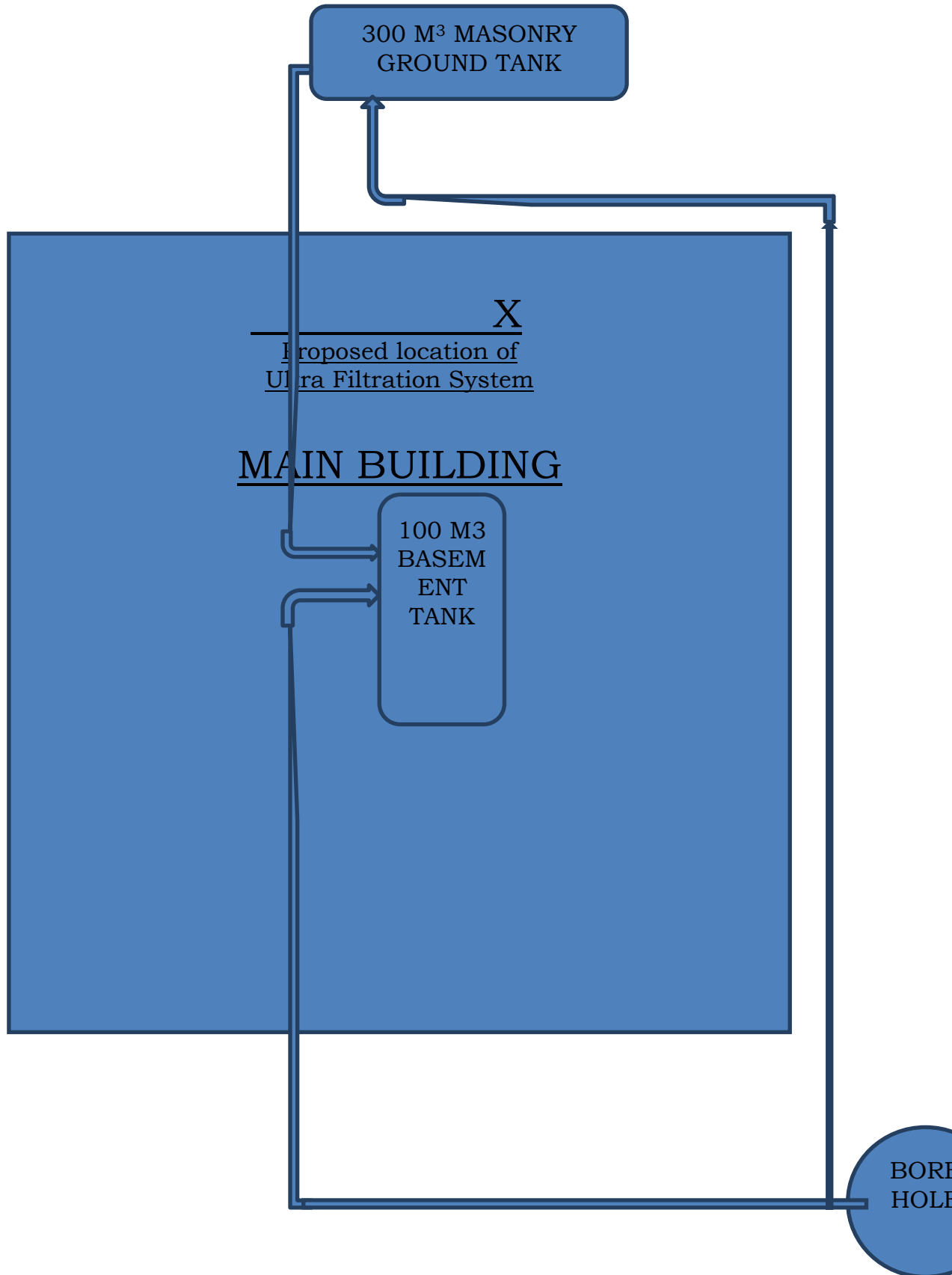
- (a). The bidder **MUST** submit adequate technical literature to assist in evaluation.
The literature information shall **INCLUDE**;
 - (i) Performance curves for the pump set (effects of altitude, temperature, pump capacity VS Head, Efficiency, Power consumption, etc).
 - (ii) Make, type model and country of origin of the generator, pump, motor, pump starter etc.
 - (iii) Specifications of materials used in the construction of the components of the pump, motor etc.
 - (iv) Any other information the bidder may deem is important in evaluation as well as BOOSTING his/her chances of winning the bid
- (b). **THE WINNER OF THE BID MUST SUBMIT THE FOLLOWING:**
 - (i) 1 No. set of the **User manual** for the pump set.
 - (ii) Written Warranty document of minimum 12 months for the pump set, starter etc.
 - (iii) 1 No. SET of original film and 3 No. SETS each of as-fitted electrical schematic drawings, control wiring drawings for main switch gear, pump starter, cabling and water pipe lay out between borehole and tank.
- (c). **FAILURE TO SUBMIT**

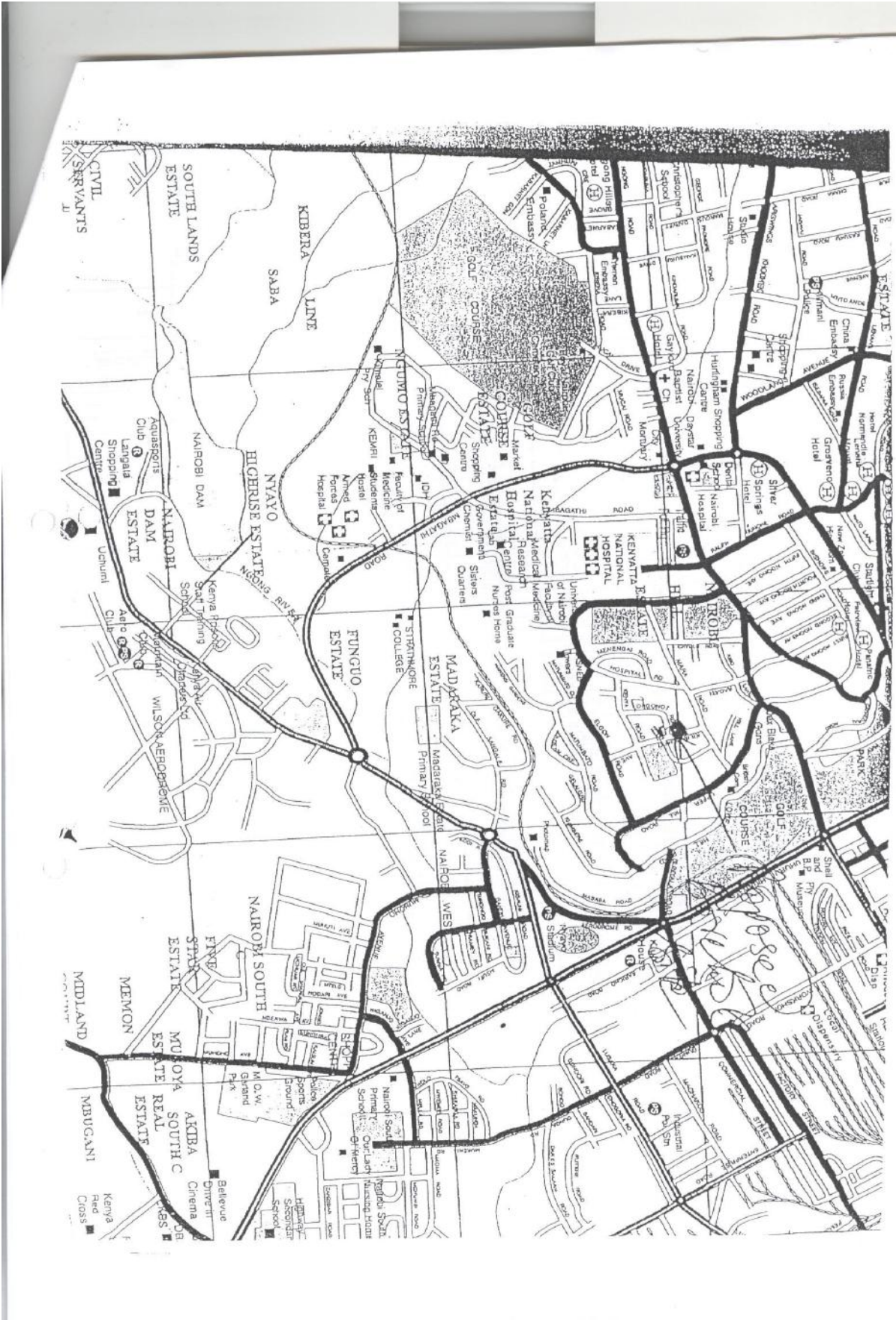
Failure to submit **user manual and 12 months' warranty** will result to disqualification.

SECTION VI

DRAWINGS

GENERAL EXISTING TANK AND PIPE LAYOUT





CIVIL
SERVANTS

SOUTH LANDS
ESTATE

KIBERA
LINE

SABA

NAIROBI
DAM

HIGHRISE
ESTATE

NYAYO

NGONGA RIVER

NAIROBI
DAM

ESTATE

WILSON AERODROME

ESTATE

FUNGHO
ESTATE

MADAKAKA
ESTATE

NAIROBI
WEST

NAIROBI
CENTRAL

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

MIDLAND

MEMON

NAIROBI
SOUTH

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

MIDLAND

MEMON

NAIROBI
SOUTH

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

MIDLAND

MEMON

NAIROBI
SOUTH

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

MIDLAND

MEMON

NAIROBI
SOUTH

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

MIDLAND

MEMON

NAIROBI
SOUTH

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

ESTATE

SECTION VII – BILLS OF QUANTITIES

Notes for preparing Bills of Quantities

1.0 Preamble to Bill of Quantities

- a) The Bill of Quantities shall form part of the Contract Documents and is to be read in conjunction with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications and Drawings.
- b) The brief description of the items in the Bill of Quantities is purely for the purpose of identification, and in no way modifies or supersedes the detailed descriptions given in the conditions of Contract and Specifications for the full direction and description of work and materials.
- c) The Quantities set forth in the Bill of Quantities are estimated and provisional, representing substantially the work to be carried out, and are given to provide a common basis for tendering and comparing of Tenders. There is no guarantee to the Contractor that he will be required to carry out all the quantities of work indicated under any one particular item or group of items in the Bill of Quantities. The basis of payment shall be the Contractor's rates and the quantities of work actually done in fulfillment of his obligation under the Contract.
- d) The prices and rates inserted in the Bills of Quantities will be used for valuing work executed, and the Engineer will measure the whole of the works executed in accordance with this Contract.
- e) A price or rate shall be entered in ink against every item in the Bill of Quantities with the exception of items, which already have provisional sums, affixed thereto. The Tenderers are reminded that no "nil" or "included" rates or "lump-sum" discounts will be accepted. The rates for various items should include discounts if any. Tenderers who fail to comply will be disqualified.
- f) Provisional sums (including Day works) in the Bill of Quantities shall be expended in whole or in part at the discretion of the Engineer in accordance with Sub-clause 52.4 and Clause 58 of part of the Conditions of Contract.
- g) The price and rates entered in the Bill of Quantities shall, except insofar as it is otherwise provided under the Contract, include all Constructional plant to be used, labour, insurance, supervision, compliance, testing, materials, erection, maintenance or works, overheads and profits, taxes and duties together with all general risks, liabilities and obligations set out or implied in the Contract, transport, electricity and telephones, water, use and replenishment of all consumables, including those required under the Contract by the Engineer and his staff.
- h) Errors shall not be corrected by the Employer for any arithmetic errors in computation or summation. Bid Price read during the tender opening shall be absolute and final and will not be corrected by anyone whatsoever.

- i) The Bills of Quantities, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement (CESMM).
- j) “Authorised” “Directed” or “Approved” shall mean the authority, direction or approval of the Engineer.
- k) Unless otherwise stated, all measurements shall be net taken on the finished work carried out in accordance with the details shown on the drawings or instructed, with no allowance for extra cuts or fills, waste or additional thickness necessary to obtain the minimum finished thickness or dimensions required in this Contract. Any work performed in excess of the requirements of the plans and specifications will not be paid for, unless ordered in writing by the Engineer.
- l)
 - (a) Hard material, in this Contract, shall be defined as the material which, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for their removal, and which cannot be extracted by ripping with a dozer tractor of at least 150 brake horse power (112 kilowatt) with a single, rear-mounted, hydraulic ripper. Boulders of more than 0.2m³ occurring in soft material shall be classified as hard material.
 - (b) Soft material shall be all material other than hard material.

2.0 The objectives of the Bills of Quantities are;

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

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

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

(a) **Preliminaries.**

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

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

(b) Work Items

- (i) The items in the Bills of Quantities should be grouped into sections to distinguish between those parts of the Works which by nature, location, access, timing or any other special characteristics may give rise to different methods of construction or phasing of the Works or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bills of Quantities.
- (ii) The brief description of the items in the Bill of Quantities should in no way modify or supersede the detailed descriptions given in the Contract drawings, Conditions of Contract and Specifications.
- (iii) Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage or waste. Quantities should be rounded up or down where appropriate.
- (iv) The following units of measurement and abbreviations are recommended for use.

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

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

(c) Day work Schedule

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

quoted by the tenderers, the Daywork Schedule should normally comprise:

- (i) a list of the various classes of labour, and materials for which basic Daywork rates or prices are to be inserted by the tenderer, together with a statement of the conditions under which the Contractor will be paid for Work executed on a Daywork basis; and
- (ii) a percentage to be entered by the tenderer against each basic Daywork Subtotal amount for labour, materials and plant representing the Contractor's profit, overheads, supervision and other charges.

(d) Provisional Quantities and Provisional Sums

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

(e) Summary

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

INSTALLATION OF ULTRA FILTRATION SYSTEM

BILL OF QUANTITIES

BILL NO. 1 - PRELIMINARY AND GENERAL ITEMS

ITEM No.	ITEM DESCRIPTION	QTY	UNIT	RATE (KSHS)	A M O U N T	
					KSHS	CTS
	<i>PRELIMINARY ITEMS</i>					
1.1	<i>Allow provision for insurance in accordance with Clauses 21, 23 and 24 of the Conditions of Contract II.</i>	LS	ITEM		100,000	00
	<i>1.2.0 GENERAL ITEMS</i>					
1.2.1	Allow amount for stationery, communication, photo copying services, toners etc the Project Manager and his staff.	L.S	ITEM		25,000	00
1.2.2	Allow amount for upkeep of the Resident Engineer and his supervisory staff on site.	P.S	SUM		50,000	00
1.2.3	Allow amount to cover transport services and upkeep for Ministry of Water & Sanitation and Irrigation Headquarters supervision staff.	P.S	SUM		45,000	00
1.2.4	Contractor's overheads and attendance upon items 1.2.1, 1.2.2 and 1.2.3.	----	%			
TOTAL BILL NO. 1 CARRIED FORWARD TO PRICE SUMMARY SHEET No. "A"						

ULTRA - FILTRATION SYSTEM INSTALLATION WORKS

BILL NO. 2.0 - ULTRA FILTRATION SYSTEM

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	RATE (KSHS)	A M O U N T	
					KSHS	CTS
2.01	Supply, deliver to site, install, inter-connect, wire and test an Ultra-Filtration System. Component inter-connection shall be carried out to conform with the existing pipe-work system obtaining water from the basement tank with the following features; (i) Frame mounted with all components accessible. (ii) Feed pressure 0.1- 0.3Mpa with Maximum feed pressure 0.5Mpa (iii)Maximum transmembrane pressure 0.2Mpa (iv) 0.03µm nominal pore diameter. (v) PVDF Polymeric hollow fiber membranes in uPVC housings (vi) Output SDI to be less than 1 (vii) Water Volume discharge capacity to be at least 6M ³ per hour (viii) electronic controller for fully automated plant	1	Unit			
2.02	(ix)operation including start up, periodic flush cycle and shut down as well as various system alarms	1	LS			
2.03	(x) Sediment removal and carbon cartridge pre filters. Construction of plinth for the installation of Ultra Filtration System	1	LS			
2.04	Fabrication and installation of a lockable caged grill of dimensions, 5.5m x5.5m x3.5m (Length, width and height respectively), to house the Ultra- Filtration system. The grill should be made of 1½ inch square tube with a spacing of 8 inches, breadth and height and a lockable door. Carry out any necessary masonry, civil and electrical adaptive works (including Supply, installation of 4.0mm ² power cable, 50m	1	LS			

	length and 60A switch fuse) so as to connect to the existing RO system.					
TOTAL BILL No. 2.0 - CARRIED OVER TO COLLECTION SHEET No. "A"						

BILL NO. 3: - ASSOCIATED ASSESSORIES

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	RATE (KSHS)	AMOUNT	
					KSHS	CTS
3.01	Supply, deliver to site, install on site and test DBH8-30 1.5kW single phase S/S Pump	1	No.			
3.02	Supply, deliver to site, install on site and test DDE 6-10 Dosing Pump	2	No.			
3.03	Supply, deliver to site, install and test SEKO AML200 Dosing Pump.	1	No.			
3.04	Supply, deliver to site, install and test ORP Meter	1	No.			
3.05	Supply, deliver to site, install, test and commission 100 Litre Chemical Tank	3	No.			
3.06	Supply, deliver to site, install, test and commission DRO Permeate Flushing System	1	No.			
3.07	Construction of plinth for the installation of 10,000 Litre Tank	1	No.			
3.08	Supply, fit and interconnect and commission of 10,000 Litre PVC Water Storage Tank	1	No.			
3.09	Supply, fit, installation, test and commission of Genesys SI Anti-Scallant	6	No.			
3.10	Supply, fit and interconnection of: -	1	No.			
	i. Chlorine 65-5Kgs	6	No.			
	ii. Kurita Kuriverter 1K-110, 20kg	LS	-			
	iii pH Plus, 5kg					
3.11	Sundries					
TOTAL BILL No. 3- CARRIED OVER TO COLLECTION SHEET No. "A"						

BILL NO. 4 OVERALL SYSTEM PERFORMANCE TEST AND SITE CLEARANCE

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	RATE (KSHS)	AMOUNT	
					KSHS	CTS
4.01	Carry out electrical earth bonding and wiring connections	LS	Item			
4.02	<u>ELECTRICAL TYPE TESTS</u> Carry out all the electrical type tests on the electrical installation and ensure that the system complies fully with the I.E.E and Kenya Power & Lighting Co. Ltd Regulations and Bye Laws.	LS	Item			
4.03	Test the whole system (10 hours each day) to the satisfaction of the Engineer. Ensure that the water reaches the tank.	14	Days			
4.04	Carry out training for two staff members.	1	Day			
4.05	Prepare and submit to the Engineer; (i). Simple operation Manual (ii). As-fitted drawings showing the pipe and cable lay out and connections on A4 paper	4 4	No. No.			
4.06	Allow making good and surface reinstatement at the location to the Project Manager's satisfaction.	LS	Item			
4.07	Commission the project and hand-over	L.S	Item			
TOTAL BILL No. 4 - CARRIED OVER TO COLLECTION SHEET No. "A"						

BILLS OF QUANTITIES PRICE SUMMARY SHEET

COLLECTION SHEET No. "A"

S/No.	ITEM DESCRIPTION	A M O U N T	
		KSHS	CTS
1	TOTAL BILL No. 1 (PRELIMINARY AND GENERAL ITEMS)		
2	TOTAL BILL No. 2 (ULTRA FILTRATION SYSTEM)		
3	TOTAL BILL NO. 3 (SSOCIATED ASSESSORIES)		
4	TOTAL BILL NO. 4 (OVERALL SYSTEM PERFORMANCE TEST AND SITE CLEARANCE)		
	TOTAL 1		
	CONTIGENCIES (10 % OF TOTAL 1)		
	OVERALL TOTAL BILL CARRIED TO FORM OF BID		

AMOUNT KSHS (WORDS)

.....

(AMOUNT IN FIGURES = KSHS.....)

SIGNED.....
(BIDDER)

NAME.....

COMPANY OFFICIAL STAMP

DATE

SECTION VIII – STANDARD FORMS

LIST OF STANDARD FORMS

- (i) Form of Invitation for Tenders
- (ii) Form of Tender
- (iii) Appendix to Form of Tender
- (iv) Letter of Acceptance
- (v) Form of Agreement
- (vi) Form of Tender Security
- (vii) Performance Bank Guarantee(unconditional)
- (viii) Bank Guarantee for Advance Payment
- (ix) Tender Questionnaire
- (xi) Confidential Business Questionnaire
- (x) Statement of Foreign Currency Requirement
- (xi) Schedule of Labour; - Basic Prices
- (xii) Schedule of Plant and Equipment
- (xiii) Details of Sub-Contractors
- (xvi) Certificate of Tenderer's Site visit
- (xvii) Form of Written Power of Attorney
- (xviii) Key Personnel
- (xix) Completed Civil Works
- (xx) Schedule of Ongoing Projects
- (xxi) Other Supplementary Information
- (xxii) Declaration Form
- (xxiii) Request for Review
- (xxiv) Non-Debarment Statement
- (xxv) Integrity Declaration Form

FORM OF INVITATION FOR TENDERS

_____ [date]

To: _____ [name of Contractor]
_____ [address]

Dear Sirs:

Reference: _____ [Contract Name]

You have been prequalified to tender for the above project.

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

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

_____ [mailing address, cable/telex/facsimile numbers].

Upon payment of a non-refundable fee of Kshs _____

All tenders must be accompanied by _____ number of copies of the same and a security in the form and amount specified in the tendering documents, and must be delivered to

_____ [address and location]

at or before _____ (time and date). Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Please confirm receipt of this letter immediately in writing by cable/facsimile or telex.

Yours faithfully,

_____ Authorized Signature

_____ Name and Title

FORM OF TENDER

TO: _____ [Name of Employer] _____ [Date]
_____ [Name of Contract]

Dear Sir,

SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF THE ULTRA-FILTRATION UNIT AT THE TSC BULDING – TSC/T/018/2020-2021

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 supply, deliver, install and complete such Works and remedy any defects therein for the sum of Kshs. _____ [Amount in figures] Kenya Shillings _____ [Amount in words]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Commission's notice to commence, and to complete the whole of the Works comprised in the Contract within 90 days as stated in the Appendix to Conditions of Contract.
3. We agree to abide by this tender until _____ [Insert Tender Validity period], 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 not constitute a binding Contract between us but an intension to enter into a contract.
5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20_____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of

_____ [Name of Employer]
of _____ [Address of Employer]

Witness; Name _____

Address _____

Signature _____

Date _____

**APPENDIX TO FORM OF TENDER
SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF THE ULTRA-
FILTRATION UNIT AT THE TSC BULDING – TSC/T/018/2020-2021**

(This appendix forms part of the tender)

CONDITIONS OF CONTRACT	CLAUSE	AMOUNT
Tender Security (Bank or Insurance Guarantee)		Kshs 30,000.00
Amount of Performance Security (Unconditional Bank Guarantee)	10.1	N/A
Program to be submitted	14.1	Not later than 14 days after issuance of Order to Commence
Cash flow estimate to be submitted	14.3	Not later than 14 days after issuance of Order to Commence
Minimum amount of Third-Party Insurance	23.2	Kshs. 100,000.00
Period for commencement, from the Commission's order to commence	41.1	14 days
Time for completion	43.1	90 days
Amount of liquidated damages	47.1	0.01% per day
Limit of liquidated damages	47.1	_0.01% of Contract Value
Defect Liability period	49.1	6 Months
Percentage of Retention	60.5	10% of Interim Payment Certificate
Limit of Retention Money	60.5	10 % of Contract Price
Minimum number of interim certificates	60.2	Contract value/Time for completion in months
Time within which payment to be made after Interim Payment Certificate signed by Engineer	60.8	45 days
Time within which payment to be made after Final Payment Certificate signed by Engineer	60.8	45 days
Appointer of Arbitrator	67(3)	The Chairman, Kenya Arbitration
Notice to Employer and Engineer	68.2	The Employers address is: Teachers Service Commission, Private Bag Private Bag <u>NAIROBI</u>

Name of the Tenderers Representative:

Date.

Signature of Tender.....Date.....

LETTER OF ACCEPTANCE
[letterhead paper of the Employer]

_____ [date]

To: _____
 [*name of the Contractor*]

 [*address of the Contractor*]

Dear Sir,

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

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

Authorized Signature

Name and Title of Signatory

Attachment: Agreement

FORM OF AGREEMENT

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

WHEREAS THE Employer is desirous that the Contractor executes

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

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
 - (i) Letter of Acceptance
 - (ii) Form of Tender
 - (iii) Conditions of Contract Part I
 - (iv) Conditions of Contract Part II and Appendix to Conditions of Contract
 - (v) Specifications
 - (vi) Drawings
 - (vii) Priced Bills of Quantities
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

The common Seal of _____

Was hereunto affixed in the presence of _____

Signed Sealed, and Delivered by the said _____

Binding Signature of Employer _____

Binding Signature of Contractor _____

In the presence of (i) Name _____

Address _____

Signature _____

[ii] Name _____

Address _____

Signature _____

FORM OF TENDER SECURITY

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

KNOW ALL PEOPLE by these presents that WE having our registered office at..... (hereinafter called “the Bank”), are bound unto(hereinafter called “the Employer”) in the sum of Kshs..... for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this Day of20.....

THE CONDITIONS of this obligation are:

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

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

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

[date]

[signature of the Bank]

[witness]

[seal]

(Amend accordingly if provided by the Insurance Company)

PERFORMANCE BANK GUARANTEE (UNCONDITIONAL)

To: _____(Name of Employer) _____(Date)
_____ (Address of Employer)

Dear Sir,

WHEREAS _____ (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (hereinafter called “the Works”);

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

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

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

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

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

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

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____

(Amend accordingly if provided by Insurance Company)

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _____ [name of Employer] _____ (Date)
_____ [address of Employer]

Gentlemen,

Ref: _____ [name of Contract]

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

We, _____ [bank or financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ [name of Employer] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Kshs _____ [amount of Guarantee in figures] Kenya Shillings

_____ [amount of Guarantee in words], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

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

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

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until

_____ (name of Employer) receives full payment of the same amount from the Contract.

Yours faithfully,

Signature and Seal _____

Name of the Bank or financial institution _____

Address _____

Date _____

Witness: Name: _____

Address: _____

Signature: _____

Date: _____

TENDER QUESTIONNAIRE

Please fill in block letters.

- 1. Full names of tenderer
.....
- 2. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below)
.....
- 3. Telephone number (s) of tenderer
.....
- 4. E-mail address of tenderer
.....
- 5. Name of tenderer’s representative to be contacted on matters of the tender during the tender period
.....
- 6. Details of tenderer’s nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, telephone, telex)
.....

Signature of Tenderer

Make copy and deliver to : _____(*Name of Employer*)

CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

Part 1 – General

Business Name

Location of business premises; Country/Town.....

Plot No..... Street/Road

Postal Address..... Tel No.....

Nature of Business.....

Current Trade License No..... Expiring date.....

Registration/Incorporation No.....

CR 12 Form Reference No.

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

Name of your bankers.....

Branch.....

Part 2 (a) – Sole Proprietor

Your name in full..... Age.....

Nationality..... Country of Origin.....

*Citizenship details

Part 2 (b) – Partnership

Give details of partners as follows:

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>
1.....				

- 2.....
- 3.....

Part 2(c) – Registered Company:

Private or public.....

State the nominal and issued capital of the Company-

Nominal Kshs.....

Issued Kshs.....

Give details of all directors as follows:

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

- 1.
.....
- 2.
.....
- 3.
.....
- 4.
.....

Part 2(d) – Interest in the Firm:

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

I certify that the information given above is correct.

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

* Attach proof of citizenship

STATEMENT OF FOREIGN CURRENCY REQUIREMENTS

(See Clause 60[5] of the Conditions of Contract)

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

(Figures).....

(Words).....

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

Currency in which foreign exchange element is required:

.....
.....

Date: The Day of 20.....

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

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

(Signature of Tenderer)

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

LABOUR CATEGORY	UNIT (MONTH/SHIFT/HOUR)	RATES

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

SCHEDULE OF MAJOR ITEMS OF PLANT TO BE USED IN THE CONTRACT

	ITEM	No.	MAKE	MODEL AND YEAR	PRESENT LOCATION AVAILABLE ON THE WORK

I hereby certify that the information above is correct to the best of our knowledge and that we understand it is our responsibility to provide whatever staff and equipment is required to complete the works in accordance with the contract.

Bidder Signed Date

Name Title

(Bidder or his representative)

DETAILS OF SUB-CONTRACTORS

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

Failure to comply with this requirement may invalidate the tender.

(1) Portion of Works to be sublet:

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

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

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

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

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

[Signature of Tenderer)

Date

CERTIFICATE OF TENDERER'S VISIT TO SITE

This is to certify that (IN BLOCK LETTERS) Name:

Cell Phone No:

Email:

Being the authorized representative of (IN BLOCK LETTERS) M/S

[Firm/Company]

Official Tel No. and Email Address:

Participated in the organized inspection visit of the site of the works for:

**SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF THE
ULTRA-FILTRATION UNIT AT THE TSC BULDING – TSC/T/018/2020-2021**

Held on Day of Month 2021

Signed: (Employer's Representative) (Name of Employer's
Representative)

(Designation)

*NOTE: 1. This form is to be completed at the time of an organized site
visit.*

*2. Bidder to bring along with him duly filled site visit certificate during
the site visit*

**SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF THE
ULTRA-FILTRATION UNIT AT THE TSC BULDING – TSC/T/018/2020-2021**

FORM OF DECLARATION OF TENDERER'S KNOWLEDGE OF SITE

1. This is to certify that

[Name/s]

.....

Being the authorized representative/Agent of [Name of Bidder]

Has undertaken the inspection of the site in accordance with the instruction to Bidders, for purposes of bidding for **SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF THE ULTRA-FILTRATION UNIT AT THE TSC BULDING – TSC/T/018/2020-2021** Held on..... Day of.....20.....

2. Having studied the tender document, I carefully examined the site to make myself familiar with the local conditions likely to influence the works and cost thereof.

3. I further certify that I am satisfied with the description of the works and I understand perfectly the scope of the works as specified and implied in the performance of the contract

SIGNED AND

STAMPED.....

(Bidder's Representative)

***Bidder to bring along with him duly filled site visit certificate during the site visit*

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

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

.....
(Address of Tenderer's Representative)

.....
(Signature of Tenderer's Representative)

KEY PERSONNEL

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

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

SCHEDULE OF COMPLETED WATER WORKS CARRIED OUT BY THE TENDERER IN THE LAST FIVE YEARS (START WITH THE LATEST)

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

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

SCHEDULE OF ON-GOING PROJECTS

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

OTHER SUPPLEMENTARY INFORMATION

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

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

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

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

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

I certify that the above information is correct.

Title: Mr./Mrs/Miss/Prf./Dr.

Designation:

.....
Signature

.....
Date

SCHEDULE OF INSURANCE FOR THE CONTRACT

S/No	TYPE OF INSURANCE	NAME OF COMPANY	REGISTERED ADDRESS
1			
2			

We hereby certify that we have been advised by the above companies that they are willing to provide us with the required Insurance(s). We further certify that we will obtain from the company acceptable to the employer any and all insurance required by the contract.

Bidder: Signed:, Date

Name:, Title
 (Bidder or his representative)

NON-DEBARMENT STATEMENT

I/We/Messrs..... of Street/avenue,
..... Building,

P. O. BoxCode, of (town), (Nationality), Phone Email

..... declare that I/We /Messrs are not debarred
from participating in public procurement by the Public Procurement Regulatory Authority pursuant to
Section 62 of the Public Procurement & Asset Disposal Act, 2015 Dated this
day of 20.....

Authorized Signature..... Official Stamp

Name and Title of Signatory.....

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

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

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

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

INTEGRITY DECLARATION

I/We/Mr. of

Street/avenue,Building,

P.O. BoxCode, of (town), (Nationality), Phone

Emaildeclare that Public Procurement is based on a free and fair competitive tendering

process which should not be open to abuse.

I/We declare that

I/We will not offer or facilitate,

directly or indirectly, any inducement or reward to any public officer, their relations or business associates, pursuant to Section 62 of the Public Procurement & Asset Disposal Act, 2015, in connection with

Tender name:

Tender No.

For/or in the subsequent performance of the contract if I/We am/are successful.

Dated this day of 20.....

Authorized Signature..... Official Stamp.....

Name and Title of Signatory.....

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

..... APPLICANT

AND

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

Request for review of the decision of the..... (*Name of the Procuring Entity*) ofdated the...day of20.....in the matter of Tender No.....of20...

REQUEST FOR REVIEW

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED(Applicant)

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

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on day of20.....

SIGNED
Board Secretary

TENDER EVALUATION CRITERIA

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

1. Preliminary examination;
2. Technical evaluation;
3. Financial Evaluation; and
4. Due diligence
5. Recommendation for Award.

STAGE 1: PRELIMINARY EXAMINATION

This stage of evaluation shall involve examination of the pre-qualification conditions as set out in the Letter of Invitation to Tender and any other conditions stated in the bid document. These conditions shall include the following:

S/N	Mandatory Requirements	Responsive or Non-Responsive
MR1	Be a Registered Company incorporated in Kenya and must have been in existence for the last ten (10) years from the date of tender opening (Attach copy of certificate of incorporation/Registration)	
MR2	Must provide an original bid security of Kshs. 30,000 from an approved reputable commercial bank or PPRA approved insurance company in form of a banker's cheque or bank guarantee. Any other form of bid bond will not be accepted. The bid security should be valid for a minimum of 150 days after the date of tender opening. TSC shall seek information of bid security authenticity from the issuing Financial Institutions or Insurance firms	
MR3	Must provide a valid copy of Tax Compliance Certificate (TCC). TCC expiring on or after 30 days of the tender opening to attach renewal paid up receipts from KRA	
MR4	Must provide a copy of valid PIN Certificate and VAT	
MR5	Must be registered with Ministry of Water, Sanitation and Irrigation as a Water Contractor in Category NCA6 (Water Works) and above with National Construction Authority (enclose a valid copy of registration certificate and Practicing License)	
MR6	For specialists works, must be registered in Category NCA5 and above with National Construction Authority (enclose a valid copy of registration certificate and Practicing License)	
MR 7	The Main Contractor must provide a signed agreement with each of the sub-contractors who meets the requirement listed in MR 6 & 8	
MR8	Where there's a signed agreement in S/No. MR7 above, the subcontractor must provide; <ol style="list-style-type: none"> a) Certificate of incorporation/Registration b) Valid copy of Tax Compliance Certificate (TCC) c) Valid copy of NCA 5 and practicing certificate for each specialized sub-contractor d) Valid copy of CAK if it is Structured Cabling e) Valid copy of EPRA if it is Electricals 	
MR9	Form of Tender must be duly completed, signed and stamped in the format provided by the Director or a delegated officer allowed to	

	commit the company, <i>(attach a letter of power attorney signed by the Commissioner of Oath or the Director of the Company)</i>	
MR 10	The Bills of Quantity (BoQ) must be duly filled with unit price and total, signed and stamped in each page by the Director or a delegated officer allowed to commit the company. Bid documents with arithmetic errors on BoQs shall be disqualified subject to Section 82 (1) of the PPADA 2015. <i>(attach power attorney signed by the Commissioner of Oath or the Director of the Company)</i>	
MR11	Copy of audited financial statements of accounts for the last two years (2018 and 2019) signed by an Accountant/Auditor Registered member of ICPAK or by a recognized audit firm.	
MR12	Must fill, sign and stamp the Confidential Business Questionnaire in the format provided	
MR13	Provide CR12 form from the Registrar of Companies	
MR14	Must provide a letter of authority authorizing the Teachers Service Commission to seek for confidential confirmation or counter check information provided in the tender document from a relevant source	
MR15	Must submit an original signed and stamped site visit forms signed by the TSC Representative during the site visit	
MR16	Attach copy of current/valid single business permit from the County Government.	
MR17	Must fill, sign and stamp Integrity Declaration form in the format provided	
MR18	One original and a copy of the tender document properly bound and paginated / serialized / numbered on all pages and attachments.	
MR19	Must fill, sign and stamp Debarment Declaration form in the format provided.	
MR 20	Must Indicate project completion period	
MR 21	The following attach forms must be properly filled, signed and stamp by an authorized officer in the format provided; a. Tender Questionnaire b. Schedule of Plant and Equipment c. Details of Sub-Contractors d. Key Personnel e. Completed Civil/Water Works g. Schedule of on-going projects f. Other Supplementary Information	

At this stage, a tender may be substantially responsive or non-responsive. Substantially responsive tender is one which conforms, meets and submit all the above tender requirements and move to the second stage of evaluation. Those who fails to meet the above criteria set out will be rejected and will not proceed to any further evaluation.

STAGE 2: TECHNICAL EVALUATION

Assessment for eligibility the tender document shall be examined based on clause 2.2 of the Instruction to Tenderers which states as follows:

In accordance with clause 2.2 of Instruction to Tenderers, 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 Standard Forms provided for the purposes of providing the required information. The tenderers shall also attach all the required document to support or demonstrate his capacity to perform the assignment. The award of points for the STANDARD FORMS considered in this section shall be as shown below; Parameter Maximum Points

(i) Tender Questionnaire -----	2
(ii) Key personnel -----	20
(iii) Contract Completed in the last Five (5) years -----	15
(iv) Schedules of on-going projects -----	8
(v) Schedules of contractor's equipment -----	10 STD/19
(vi) Audited Financial Report for the last 3 years -----	12
(vii) Evidence of Financial Resources -----	13
(viii) Litigation History -----	2
(ix) Compliance with subcontract technical specifications -----	18

TOTAL 100 The detailed scoring plan shall be as shown in table 1 below: -

TABLE 2 – TECHNICAL EVALUATION DETAILS

In this section, the tender shall be analyzed to determine compliance with General and Particular technical specifications for the works as indicated in the tender document. The bidders shall fill the Technical Schedule as specified in the tender document for Equipment and items indicating the Country of Origin, Model/Make/Manufacturer of the Item/Equipment they propose to supply. Where the equipment proposed by the bidder differs with the models specified in the tender document, it is mandatory that the brochures/catalogues of the same be submitted with the tender document highlighting the catalogue Numbers of the proposed items. Such brochures/catalogues should indicate comprehensive relevant data of the proposed equipment/items which should include but not limited to the following:

- a). Standards of manufacture
- b). Performance ratings/characteristics
- c). Material of manufacture
- d). Electrical power rating
- e). Any other necessary requirements (Specify).

Following the above analysis, where the proposed equipment is found not to satisfy the specifications, the tender will be deemed Non-Responsive and will not be evaluated further.

B). DETAILED TECHNICAL EXAMINATION

In this section, the information provided in Schedule of Unit rates and Technical Schedule will be analyzed and points awarded as shown below.

For a bidder to be deemed technically responsive and to qualify to the final evaluation stage, the Financial Evaluation, he/she must fulfill all the mandatory requirements and score 70 points or above based on the above scoring plan.

The details scoring plan shall be as shown in Table 2 below: -

Table 2: Detailed Technical Evaluation 2

ITEM	ITEM DESCRIPTION	YES	NO
I	<p><u>ADEQUACY OF TECHNICAL INFORMATION</u></p> <p>a). Submit adequate technical literature/ brochures of the Ultra-Filtration Unit</p> <p>b). Submit partial literature and brochures with performance indicators</p>		
II	<p><u>FULLFILMENT OF OTHER TECHNICAL REQUIREMENTS</u></p> <p><u>A. ULTRA FILTRATION MODULE</u></p> <p>a). Feed Pressure 0.1 – 0.3MP</p> <p>b). Maximum Feed Pressure 0.5MPa</p> <p>c). Maximum Transmembrane Pressure 0.2MPa</p> <p>d). Feed PH2 - 12</p> <p>e). Output SDI < 1</p> <p>f). Ultra-Filtration (UF) System Output > 6m³/hr</p>		
	<p><u>B. MEMBRANES</u></p> <p>a). PVDF Polymetric Hollow Fibers</p> <p>b). 0.03um Nominal Pore Diameter</p> <p>c). Microbe, Pathogen – 99.99% Removal</p> <p>d). Suspended Solid, Particles (>0.2 um) – 100% Removal</p> <p>e). Manufacturer and Country of origin indicated</p>		
IV	Brochures of both UF and Membranes must be provided		
	RESPONSIVENESS TO TECHNICAL		

Item	Description	Point Scored	Max. Point
i.	Tender Confidential Questionnaire Form <ul style="list-style-type: none"> • Completely filled ----- 2 • Not filled ----- 0 		2
ii	Key Personnel (Attach evidence)		
	Director of the firm <ul style="list-style-type: none"> • Holder of degree in relevant Engineering field (Civil/Water Engineering) ----- 6 • Holder of diploma in relevant Engineering field (Civil/Water/Electrical Engineering) ----- 5 • Holder of certificate in relevant Engineering field (Civil/Water/Electrical Engineering) ----- 3 • Holder of trade test certificate in relevant Engineering field (Plumbers and Electricians) --- 2 • No relevant certificate ----- 0 		6
	At least 1No. degree holder or key personnel in relevant engineering field <ul style="list-style-type: none"> • With over 5 years' relevant experience ----- 6 • With over 3 years' relevant experience----- 4 • With under 3 years relevant experience ----- 2 		6
	At least 1No Diploma holder of key personnel in relevant engineering field <ul style="list-style-type: none"> • With over 10 years' relevant experience----- 4 • With over 5 years' relevant experience ----- 3 • With under 5 years relevant experience -----1 		4
	At least 2No artisan (trade test certificate in relevant engineering field) <ul style="list-style-type: none"> • Artisan with over 5 years' relevant experience ----- 2 • Artisan with under 3 years' relevant experience ----- 1 • Non skilled worker with over 3 years relevant experience ---- 1 		4
iii	Contract completed in the last five (5) years (Max of 2No. Projects)- Provide Evidence <ul style="list-style-type: none"> • Must have completed three (3) projects with similar nature, complexity and magnitude in the last three (3) years (2017, 2018 and 2019) each of which must be of a value more than 70% and above of contract price quoted for this project (Attach signed contract/LPO/LSO and completion certificates) @ 5 marks each • Complete two (2) projects of similar nature, complexity or magnitude in the last three (3) years (2017, 2018 and 2019) with a value between 50% - 69% of the contract price @ 5 marks each (Attach signed contract/LPO/LSO and completion certificates) 		15
			10
			20
			15

Item	Description	Point Scored	Max. Point	
	• No completed project of similar nature -----0			
iv	On-going projects – <u>Provide Evidence</u> <ul style="list-style-type: none"> • No Project of similar nature, complexity and magnitude -- 8 • Three and below Projects of similar, nature complexity and magnitude – 4 		8 4	8
v	Schedule of contractor’s equipment and transport ownership/Lease) Please attach proof e.g. lease agreements or ownership/Logbooks. For each Logbook or Lease agreement 2.5 marks <p>a) Relevant Transport</p> <ul style="list-style-type: none"> • Means of transport (2No. truck/pickup) ----- 5 • No means of transport ----- 0 		5	10
	Please attach proof e.g. lease agreements or ownership/Logbooks. For each Logbook or Lease agreement 2.5 marks <p>b) Relevant Equipment</p> <ul style="list-style-type: none"> • Has relevant equipment for work being tendered -----5 • No relevant equipment for work being tendered ----- 0 		5	
vi	Financial report			12
	a) Audited financial report for the last two (2) years (2018 and 2019) The Audited Financial Reports must be signed by a registered Accountant or Auditor who is a registered member of ICPAK		12	
	• Average Annual Turn-over for the last three years above, greater than or equal to 3 times the cost of the project @ 4 marks		6	
	• Average Annual Turn-over for the last three (3) years above, greater than or equal to two (2) times the cost of the project @ 2 marks		1	
vii	b) Evidence of Financial Resources (cash in hand, lines of credit, over draft facility etc.) <ul style="list-style-type: none"> • Must demonstrate access to--or availability to liquid cash/ asset, lines of credit and other financial means sufficient to the construction provide an estimated cash flow for the first 3months of Kenya shillings 10m and above. Provide measurable evidence @ 13 Marks • Has provided evidence of financial resources as per above estimated at a cost of Kenya Shillings Five Million @ 5 Marks • Has not indicated sources of financial resources @ 0 Marks 		13 5	13

Item	Description	Point Scored	Max. Point
viii	Litigation History <ul style="list-style-type: none"> • Duly Filled ----- 2 • Not filled ----- 0 	2	2
ix	Compliance with Subcontract technical specifications <ul style="list-style-type: none"> • Compliance with electrical works technical specifications -- 6 Compliance with mechanical installations technical specifications-- 6 <input type="checkbox"/> Not complied ----- 0 	6 6 6	18
	TOTAL		100

Any bidder who scores 70 points and above shall be considered for Financial Evaluation.

Note;

In order to comply with the requirement ix (Compliance with Subcontract technical specifications) above, the tenderers shall be required;

To supply equipment/items which comply with the technical specifications set out in the bid document. In this regard, the bidder will be required to submit relevant technical brochure/catalogues with the tender document, highlighting the Catalogue Number of the proposed items. Such brochures/ catalogues should indicate comprehensive relevant data of the proposed equipment/items which should include but not limited to the following:

- (i) *Standards of manufacture;*
- (ii) *Performance ratings/characteristics;*
- (iii) *Material of manufacture;*
- (iv) *Electrical power ratings; and*
- (v) *Any other necessary requirements (specify).*

STAGE 3 - FINANCIAL EVALUATION

Upon completion of the technical evaluation a detailed financial evaluation shall follow. The financial evaluation shall proceed in the manner described in the Public Procurement and Disposal Act (2015) of the Public Procurement and Asset Disposal Act.

The financial evaluation shall be in **three stages;**

- a) Comparison of Rates and Consistency of Rates
- b) Computation of Unit Price and Total Price
- c) Confirmation and comparison of the Total Tender Sum as per the BQ and the Total Tender Sum as was read during tender opening.

A) Comparison of rates-

Items that are underpriced or overpriced may indicate potential for non-delivery and front loading respectively. The committee shall promptly write to the tenderer through the Head of Procurement asking for detailed breakdown of costs for any of the quoted items,

relationship between those prices, proposed construction/installation methods and schedules.

The evaluation committee shall evaluate the responses and make an appropriate recommendation to the procuring entity giving necessary evidence. Such recommendations may include but not limited to:

- a) Recommend no adverse action to the tenderer after a convincing response;
- b) Recommend non-award based on the response provided and the available demonstrable evidence that the scope, quality, completion timing, administration of works to be undertaken by the tenderer, would adversely be affected or the rights of the employer or the tenderers obligations would be limited in a substantial way.

B) Consistency of the Rates

The evaluation committee will compare the consistency of rates for similar items and note all inconsistencies of the rates for similar items.

C. Due Diligence

The Evaluation Committee may conduct due diligence on the lowest evaluated bidder so as to confirm the information provided in the tender document and get confidential references from the firms mentioned by the tenderer.

STAGE 4 - RECOMMENDATION FOR AWARD

The successful bidder shall be the tenderer with the lowest evaluated tender price