



UNIVERSITY OF NAIROBI

STANDARD TENDER DOCUMENT FOR PROCUREMENT OF WORKS

**TENDER FOR CONSTRUCTION OF BOUNDARY WALL AT COLLEGE
OF HEALTH SCIENCES (RESERVED FOR YOUTH)**

TENDER NO. UON/T/57/2016/2017

NOTICE DATE: WEDNESDAY FEBRUARY 8, 2017

CLOSING DATE: WEDNESDAY FEBRUARY 22, 2017 AT 10.30AM

All correspondence to:

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Public Procurement and Asset Disposal Act, 2015
(Public Procurement and Disposal Regulations 2006)

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SECTION –I INVITATION FOR TENDERS

NOTICE DATE : WEDNESDAY 8, 2017

TENDER NO : UON/T/57/2016-2017

**TENDER NAME: TENDER FOR CONSTRUCTION OF BOUNDARY WALL AT
COLLEGE OF HEALTH SCIENCES**

**The University of Nairobi invites sealed bids from eligible Candidates for Tender for the
Construction of Boundary Wall at the College of Health Sciences**

1. Interested eligible candidates may obtain further information from and inspect the tender documents at **the Procurement Manager's office, Room 104, Administration Block 1st floor, Main campus**
2. **A complete set of tender documents may be obtained by interested candidates upon payment of non-refundable fee of Kshs.1000.00 at Barclays Bank A/C 03-094-8245531 Queensway House Branch and obtain an official receipt at Income Section Room G4 OR download from <http://supplier.treasury.go.ke/> procurement.uonbi.ac.ke , www.ppoa.go.ke free of charge, Bidders who download the tender document MUST email their contact details and tender number to manager-procurement@uonbi.ac.ke**
3. Prices quoted should be net inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of one hundred and twenty days (120) from the closing date of the tender.
4. Tenders should be accompanied by a fully signed Tender Securing Declaration form.
5. **Mandatory Pre- Bid Meeting is on 15th February 2017 at 10.00 am (Contact Person Maintenance Officer (CHS)**
6. Bidders to paginate all submitted documents.
7. Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and name be deposited in the Tender Box at **The Main Campus, Reception Area, Administration Block or be addressed and posted to Procurement Manager P.O Box 30197-00100, Nairobi, Kenya** so as to be received on or before **WEDNESDAY FEBRUARY 22, 2017 AT 10.30AM**
8. Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at Council Committee Room, Administration Block, 3rd Floor.

Late bids will be rejected and returned unopened. The University of Nairobi reserves the right to accept or reject a tender in whole or in part. Canvassing will lead to automatic disqualification

**MR. J.M.K. MOKAYA
PROCUREMENT MANAGER**

SECTION II

INSTRUCTIONS TENDERERS

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

- 1.1 The employer as defined in the Appendix to Conditions of contract invites tenders for Works Contract as described in the tender documents. The successful tenderer will be expected to complete the works by the intended completion Date specified in the tender documents.
- 1.2 All tenderers shall provide the Qualification Information, a statement that the tenderer(including all members of a joint venture and subcontractors) is not associated, or has not been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design specifications, and other documents for the project or being proposed as project Manager for the contract. A firm that has been engaged by the employer to provide consulting services for the preparation or supervision of the works, and any of its affiliate, shall not be eligible to tender.
- 1.3 All tenderers shall provide in the Form of Tender and qualification Information, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.
- 1.4 In the event that pre-qualification of potential tenderers has been undertaken, only tenders from prequalified tenderers will be considered for award of Contract. These qualified tenderers should submit with their tenders any information updating their original pre-qualification applications or, alternatively, confirm in their tenders that the originally submitted pre-qualification information remains essentially correct as of the date of tender submission.
- 1.5 Where no prequalification of potential tenderers has been done, all tenderers shall include the following information and documents with their tenders, unless otherwise stated:
- (a) Copies of original documents defining the constitution or legal status, place of registration, and principle place of business; written power of attorney of the signatory of the tender to commit the tenderer:
 - (b) total monetary value of construction work performed for each of the last five years:
 - (c) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and names and addresses of clients may be contacted for further information on these contracts;
 - (d) major items of construction equipment proposed to carry out the contract and an undertaking that they will be available for the contract.
 - (e) qualifications and experience of key site management and Technical personnel proposed for the contract and an undertaking that they shall be available for the contract.
 - (f) reports on the financial standing of the tenders; such as profit and loss statements and auditor's reports for the past five years;
 - (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial Resources);
 - (h) authority to seek references from the tenderer's bankers;

- (i) information regarding any litigation, current or during the last five years, in which the tenderer is involved, the parties concerned and disputed amount; and
- (j) proposals for subcontracting components of the works amounting to more than 10 percent of the contract price

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

- (a) the tender shall include all the information listed in clause 1.5 above for each joint venture partner;
- (b) the tender shall be signed so as to be legally binding on all partners; all partners shall be jointly and severally liable for the execution of the Contract in accordance with the contract terms;
- (d) one of the partners will be nominated as being in charge authorized to incur liabilities, and receive instructions for and on behalf of all partners of the joint venture; and
- (e) The execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

1.6 To qualify for award of the contract, including payment, shall be done following minimum qualifying criteria;

- (a) annual volume of construction work of at least 2.5 times the Estimated annual cash flow for the Contract;
- (b) Current registration by National Construction Authority Class NCA 6 and below. Experience as main contractor in the construction of at least.
- (c) Two works of a nature and complexity equivalent to the Works over the last 10 years (to comply with this requirement, works cited Should be at least 70 percent complete);
- (d) Proposals for the timely acquisition (own, lease, hire, etc.) of the Essential equipment listed as required for the Works;
- (e) A contract manager with at least five years' experience in works of Equivalent nature and volume, including no less than three years as Manager; and
- (f) Liquid assets and /or credit facilities, net of other contractual commitments and exclusive of any advance payments which may Be made under the Contract, of no less than 4 months of the estimated Payment flow under this contract.

1.8 The figures for each of the partners of a joint venture shall be added together to determine the tenderer's compliance with the minimum Qualifying criteria of clause 1.7(a) and (e); however, for a joint venture To qualify, each of its partners must meet at least 25 percent of Minimum criteria 1.7(a), (b) and (e) for an individual tenderer, and the partner in charge at least 40 percent of those minimum criteria. Failure to comply with this requirement will result in rejection of the Joint venture's tender. Subcontractors experience and resources will Not be taken in to account in determining the tenderer's compliance .With the qualifying criteria, unless otherwise stated.

- 1.9 Each Tenderer shall submit only one tender, either individually or as a partner in a joint venture. A tenderer who submits or participates in More than one tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the tenderer's participation to be disqualified.
- 1.10 The tenderer shall bear all costs associated with the preparation and submission of his tender, and the employer will in no case be responsible or liable for those costs.
- 1.11 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the works. The costs of visiting the site shall be at the tenderer's own expense.
- 1.12 The procuring entity's employees, committee members, board Members and their relative (spouse and children) are not eligible to participate in the tender.
- 1.13 The price to be charged for the tender document shall not exceed Kshs. 1,000/=
- 1.14 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed Below and addenda issued in accordance with Clause 2.4.
 - (a) These Instructions to Tenderers
 - (b) Form if Tender and Qualification Information
 - (c) Conditions of Contract
 - (d) Appendix to Conditions of Contract
 - (e) Specifications
 - (f) Drawings
 - (g) Bills of Quantities
 - (h) Forms of Securities
- 2.2 The tenderer shall examine all Instructions, Forms to be filled and specifications in the tender documents. Failure to furnish all information required by the tender documents, or submission of a tender not substantially responsive to the tendering documents in every respect will be at the tenderer's risk and may result in rejection of his tender.
- 2.3 A prospective tenderer making an inquiry relating to the tender documents may notify the Employer in writing or by cable, telex or facsimile at the address indicated in the letter of invitation to tender.the Employer will only respond to requests for clarification received earlier than seven days prior to the deadline for submission of tenderers. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of all the inquiry, but without identifying its source.
- 2.4 Before the deadline for submission of tenders, the Employer may modify the tendering

documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing or by cable, telex or facsimile to all tenderers. Prospective tenderers shall acknowledge receipt of each addendum in writing to the Employer.

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

3. Preparation of Tenders

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

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

- (a) These Instructions to Tenderers Form of Tender, Conditions of Contract, Appendix to Conditions of Contract and Specifications;
- (b) Tender Security Declaration form
- (c) Priced Bill of Quantities
- (d) Qualification Information Form and Documents;
- (e) Alternative offers where invited; and
- (f) Any other materials required to be completed and submitted by the tenderers.

- 3.3 The tenderer shall fill in rates and prices for all items of the works described in the Bill of Quantities. Items for which no rate or price is entered by the tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. All duties, taxes, and other levies payable by the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the tenderer.

- 3.4 The rates and prices quoted by the tenderer shall only be subject to adjustments during the performance of the Contract if provided for in the Appendix to Conditions of Contract and provisions made in the Conditions of Contract.

- 3.5 The unit rates and prices shall be in Kenya Shillings.

- 3.6 Tenders shall remain valid for a period of one twenty (120) days from the date of submission.

However in exceptional circumstances, the Employer may request that the tenderers extend the period of validity for a specified additional period. The request and the tenderers' response shall be made in writing. A tenderer may refuse the request without forfeiting the Tender Security. A tenderer agreeing to the request will be required to extend the validity of Tender Security for the period of the extension, and in compliance with Clause 3.7 – 3.11 in all respects.

- 3.7 The tenderer shall furnish, as part of the tender, a Tender Security in the amount and form specified in the appendix to invitation to tenderers. This shall be in the amount not exceeding 2 percent of the tender price.

- 3.8 The format of the Tender Security should be in accordance with the form of Tender Security included in Section G- standard forms or any other form acceptable to the Employer. Tender Security shall be valid for 30 days beyond the validity of the tender.
- 3.9 Any tender not accompanied by an acceptable Tender Security shall be rejected. The Tender Security of a joint venture must define as "Tendered" all joint venture partners and list them in the following manner: a joint venture consisting of".....", ".....and ".....".
- 3.10 The Tender Securities of unsuccessful tenderers will be returned Within 28 days of the end of the tender validity period specified in Clause 3.6.
- 3.11 The Tender Security of the successful tenderer will be discharged. When the tenderer has signed the contract Agreement and furnished the required Performance Security.
- 3.12 The Tender Security may be forfeited
- (a) if the tenderer withdraws the tender after tender opening during the period of tender validity;
 - (b) if the tenderer does not accept the correction of the tender price, pursuant to Clause 5.7;
 - (c) in the case of successful tenderer, if the tenderer fails within the specified time limit to
 - (i) sign the Agreement, or
 - (ii) furnish the required Performance Security.
- 3.13 Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic technical design as indicated in the Drawings and Specifications. Alternatives will not be considered, unless specifically allowed in the invitation to tender. If so allowed, tenderers wishing to offer technical alternatives to the requirements of the tendering documents must also submit a tender that complies with the requirement of the tendering documents, including the basic technical design as indicated in the Drawings and Specifications. In addition to submitting the basic tender, the tenderer shall provide all information necessary for a complete evaluation of the alternative, including design calculations, technical and other relevant details. Only the technical alternatives, if any, of the lowest evaluated tender conforming to the basic technical requirements shall be considered.
- 3.14 The tenderer shall prepare one original of the documents comprising the tender documents as described in Clause 3.2 of these Instructions to Tenderers, bound with the volume containing the Form of Tender, submit copies of the tender, in the number specified in the invitation to tender, and clearly marked as "COPIES". In the event of discrepancy between them, the original shall prevail.
- 3.15 The original and all copies of the tender 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, pursuant to Clause 1.5(a) or 1.6 (b), as the case may be. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.

- 3.16 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 3.17 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.
- 3.18 (The tender security shall be in the amount of 0.5-2 percent of the tender price) N/A

4. Submission of Tenders

- 4.1 The tenderer shall seal the original and all copies of the tender in two inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPIES" as appropriate. The inner and outer envelopes shall:
- (a) be addressed to the Employer at the address provided in the invitation to tender;
 - (b) bear the name and identification number of the Contract as defined in the invitation to tender; and
 - (c) provide a warning not to open before the specified time and date for tender opening.
- 4.2 Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to tender. However, the Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with Sub-Clause 2.5 in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline will then be subject to the new deadline.
- 4.3 Any tender received after the deadline prescribed in clause 4.2 will be returned to the tenderer Un-opened.
- 4.4 Tenderers may modify or withdraw their tenders by giving notice in writing before the deadline prescribed in clause 4.2. Each tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and inner envelopes additionally marked "MODIFICATION" and "Withdrawal", as appropriate. No tender may be modified after the deadline for submission of tenders.
- 4.5 Withdrawal of a tender between the deadlines for submission of Tenders and the expiration of the period of tender validity specified in The invitation to tender or as extended pursuant to clause 3.6 may result in the forfeiture of the Tender Security pursuant to clause 3.11.
- 4.6 Tenderers may only offer discounts to, or otherwise modify the prices of their tenders by submitting tender modifications in accordance with Clause 4.4 or be included in the original tender submission.

5. Tender Opening and Evaluation

- 5.1 The tenders will be opened by the Employer, including modifications made pursuant to clause 4.4, in the presence of the tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender. Envelopes marked "WITHDRAWAL" shall be opened and read out first. Tenderers' and Employer's representatives who are present during the opening shall sign a register evidencing their attendance.

- 5.2 The tenderers' names, the tender prices, the total amount of each tender and of any alternative tender (if alternatives have been requested or permitted), any discounts, tender modifications and withdrawals, the presence or absence of Tender Security, and such other details as may be considered appropriate, will be announced by the Employer at the opening. Minutes of the tender opening, including the information disclosed to those present will be prepared by the Employer.
- 5.3 Information relating to the examination, clarification, evaluation, and Comparison of tenders and recommendations for the award of Contract shall not be disclosed to tenderers or any other persons not officially concerned with such process until the award to the successful tenderer has been announced. Any effort by a tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.
- 5.4 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may ask any tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile 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 arithmetic errors discovered in the evaluation of the tenders in accordance with clause 5.7.
- 5.5 Prior to the detailed evaluation of tenders, the Employer will determine whether each tender (a) meets the eligibility criteria defined in clause 1.7; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tendering documents, without material deviation or reservation. A material deviation is one (a) which affects in any substantial way the scope, quality, or performance of the works; (b) which limits in any substantial way, inconsistent with the tendering documents, the Employer's rights or the tenderer's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other tenderers presenting substantially responsive tenders.
- 5.6 If a tender is not substantially responsive, it will be rejected, and may not subsequently be made responsive by correction or withdrawal the non conforming deviation or reservation.
- 5.7 The tender sum as submitted and read out during the opening shall be absolute and final and shall not be subject of correction , adjustment [or amendment in any way by any person or entity.
- 5.8 The Employer will evaluate and compare only the tenders determined to be substantially responsive in accordance with clause 5.5.
- 5.9 In evaluating the tenders, the Employer will determine for each tender the evaluate tender price by adjusting the tender price as follows:
- a) making any correction for errors pursuant to clause 5.7;
 - b) excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities, but including Day works where priced competitively.
 - (c) Making an appropriate adjustments for any other acceptable variations, deviations, or alternative offers submitted in accordance with clause 3.12; and

- 5.10 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in tender evaluation.
- 5.11 The tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.
- 5.12 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 exceeding Provisional Sums to an non-indigenous sub-contractor.

6. Award of Contract

- 6.1 Subject to clause 6.2, the award of the Contract will be made to the Tenderer whose tender has been determined to be substantially responsive to the tendering documents and who has offered the lowest evaluated tender price, provided that such tenderer has been determined to be
- a) eligible in accordance with the provision of clauses 1.2, and
 - b) qualified in accordance with the provisions of clause 1.7 and 1.8.
- 6.2 Notwithstanding clause 6.1 above, the Employer reserves the right to accept or reject any tender, and to cancel the tendering process and reject all tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for action.
- 6.3 The tenderer whose tender been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum (hereinafter and in all contract documents called the "Contract Price") that the Employer will [pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the contractor as prescribed by the Contract. At the same time the other tenderers shall be informed that their tenders have not been successful. The contract shall be informed on the parties signing the contract.
- 6.4 The Agreement will incorporate all agreements between the Employer and the successful tenderer. Within 14 days of receipt the successful tenderer will sign the agreement and return it to the Employer
- 6.4 Within 21 days after receipt of the letter of Acceptance, the successful tenderer shall deliver to the employer a performance Security in the amount stipulated in the Appendix to Conditions of Contract and in the form stipulated in the Tender documents. The Performance security shall be in the amount and specified form
- 6.6 Failure of the successful tenderer to comply with the requirements of Clause 6.5 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender Security.

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

7. Corrupt and Fraudulent practices

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

SECTION III**CONDITIONS OF CONTRACT****Table of Contents**

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CONDITIONS OF CONTRACT

1. Definitions

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

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

“Compensation Events” are those defined in clause 24 hereunder.

“The Completion Date” means the date of completion of works as certified by the project Manager, in accordance with clause 31.

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

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

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

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

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

“A Defect” is any part of the works not completed in accordance within the Contract.

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

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

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

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

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

“Equipment” is the Contractor’s machinery and vehicles brought temporarily to the Site for the

execution of the Works.

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

“Materials” are all supplies, including consumables, used by the contractor for incorporation in works.

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

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

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

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

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

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

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

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

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

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

2. Interpretation

2.1 In interpreting these conditions of contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning in English language unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

2.2 If sectional completion is specified in the Appendix to Conditions of Contract, reference in the conditions of Contract to the Works, the completion Date and the Intended Completion Date

apply to any section of the works (other than reference to the Intended Completion Date for the Whole of the Works)

2.3 The following documents shall continue the Contract documents and shall be interpreted in the following order of priority;

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Contractor's Tender
- (4) Appendix to Conditions of Contract,
- (5) Conditions of Contract.
- (6) Specifications,
- (7) Drawings,
- (8) Bill of Quantities,
- (9) Any other documents listed in the Appendix to Conditions

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

3. Language and Law

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

4. Project Manager's Decisions

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

5 Delegation

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

6 Communications

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

7 Subcontracting

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

8 Other Contractors

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

9 Personnel

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

10. Works

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

11. Safety and Temporary Works

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

12. Discoveries

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

13. Work Program

13.1 Within the stated in the Appendix to Conditions of Contract the Contractor shall submit to the Project Manager for approval a program showing the general methods, arrangements, order, and timing for all the activities in the Works. An update of the program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining Works, including any changes to the sequence of the activities. The Contractor shall submit to the Project Manager for approval an updated program at intervals no longer at than the period stated in the Appendix to Conditions of Contract. If the Contractor does not submit an updated program within this period, the Project Manager may withhold the amount stated in the said Appendix from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue program has been submitted. The Project Manager's approval of the program shall not alter the Contractor's obligations. The Contractor may revise the program and submit it to the Project Manager again at any time. A revised program shall show the effect of variations and Compensation Events.

14. Possession of Site

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

15. Access to Site

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

16. Instructions

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

17. Extension or Acceleration of Completion Date

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

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

18 Management Meetings

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

19. Early Warning

19.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of work, increase the contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon reasonably possible.

19.2 The Contractor shall cooperate with the Project Manager in making and considering proposals on how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the Work and in carrying out any resulting instructions of the Project Manager.

20. Defects

20.1 The Project Manager shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a defect and to uncover and test any Work that the Project Managers considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor, However, if there is no defect found, the cost of uncovering and making good shall be treated as bad variation and added to the Contract Price.

20.2 The Project Manager shall give notice to the Contractor of any defects before the end of the Defects Liability Period, Which begins at Completion, and is defined in the Appendix to Conditions of Contract. The Defects Liability Period shall be extended for as long as defects remain to be corrected.

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

21. Bills of Quantities

- 21.1 The Bills of Quantities shall contain items for the construction, installation, testing and commissioning of the work to be done by the Contractor. The Contractor will be paid for the quantity of the work done at the rate in the Bills of Quantities for each item.
- 21.2 If the final quantity of the Work done differs from the quantity in the Bills of Quantities for the particular item by more than 25 percent and provided the change exceeds 1 percent of the initial Contract price, the Project Manager shall adjust the rate to allow for the change.
- 21.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bills of Quantities.

22. Variations

- 22.1 All variations shall be included in updated programs produced By the Contractor.
- 22.2 The Contractor shall provide the Project Manager with a Quotation for carrying out the variations when requested to do so. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period as may be stated by the Project Manager and before the Variation is ordered.
- 22.3 If the work in the variation corresponds with an item description in the Bills of Quantities and if in the opinion of the Project Manager, the quantity of work is not above the limit stated in clause 21.2 or the timing of its execution does not cause the cost per unit of quantity to change, the rate in the Bills of Quantities shall be used to calculate the value of variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the variation does not correspond with items in the Bills of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 22.4 If the Contractor's quotation is unreasonable, the Project Manager may order the variation and make a change to the Contract price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 22.5 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the variation shall be treated as a Compensation Event.
- 22.6 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- 22.7 When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast.

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

- 23.1 The Contractor shall submit to the Project Manager monthly applications for payment giving sufficient details of work done and materials on site and the amounts which the Contractor considers himself to be entitled to. The Project Manager shall check the monthly application and certify the amount to be paid to the Contractor within 14 days. The value of work executed and payable shall be determined by the Project Manager.
- 23.2 The value of work executed shall comprise the value of the Quantities of the items in the Bills of Quantities completed, materials delivered on Site, variation and compensation events, such materials shall become the property of the Employer once the Employer has paid the Contractor for their value. Thereafter, they shall not be removed from Site without the Project Manager's instructions except or use upon the Works.
- 23.3 Payments shall be adjusted for deductions for retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of issue of each certificate. If the Employer makes a late payment, the Contractor shall be paid simple interest on the late payment in the next payment. Interest shall be calculated on the basis of number of days delayed at a rate three percentage points above the Central Bank of Kenya's average rate for base lending prevailing as of the first day the payment overdue.
- 23.4 If an amount certified is increased in a later certificate or as a result of an award by an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 23.5 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.
- 23.6 The Contract Price shall be stated in Kenya Shillings. All Payments to the Contractor shall be made in Kenya Shillings and foreign currency in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate of exchange for the calculation of the amount of foreign currency payment shall be the rate of exchange indicated in the Appendix to Conditions of Contract. If the Contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services the Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services. The Employer and the Project Manager shall be notified promptly by the Contractor of any changes in the expected foreign currency requirements of the Contractor during the execution of the Works as indicated in the schedule of Foreign Currency Requirements and the foreign and local currency portions of the balance of the Contract Price shall be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.

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

$$R = \frac{A(x1 - x11)}{80 - 20}$$

Where:

- R = the amount to be reimbursed
- A = the amount of the advance which has been granted
- x1 = the amount of proposed cumulative payment as a percentage of the original amount of the Contract. This Figure will exceed 20%
But not exceed 80%.
- x 11 = the amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

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

24. Compensation Events

24.1 The following issues shall constitute Compensation Events:

- a) The Employer does not give access to a part of the Site by the site Possession Date

stated in the Appendix to Conditions of Contract.

- b) The Employer modifies the list of Other Contractors, etc., in a way that affects the work of the Contractor under the Contract.
 - c) The Project Manager orders a delay or does not issue drawings, specifications or instructions required for execution of the works on time.
 - d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon the work, which is the found to have no defects.
 - e) The Project Manager unreasonably does not approve a Subcontract to be let.
 - f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of acceptance from the information issued to tenders (including the Site investigations reports), from information available publicly and from a visual in section of the Site.
 - g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer or additional work required for safety or other reasons.
 - h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints state in the Contract, and they cause delay or extra cost to the Contractor.
 - i) The effects on the Contractor of any of the Employer's risks.
 - j) The Project Manager unreasonably delays issuing a certificate of Completion.
 - j) Other compensation events described in the Contract or determined by the Project Manager shall apply.
- 24.2 If a compensation event would cause additional cost or would prevent the work being completed before the Intended Completed Date, the Contract price shall be increased and/ or the Intended Completion Date shall be extended. The project Manager shall decide whether and by hoe much the Contract price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 24.3 As soon as information demonstrating the effect of each compensation event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract price based on the Project Manager will assume that the Contractor will react competently and promptly to the event.
- 24.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having co-operated with the Project Manager.

- 24.5 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the Appendix to Conditions of Contract.
- 24.6 The Contractor shall give written notice to the Project Manager of his intention to make a claim within thirty days after the event giving rise to the claim has first arisen. The claim shall be submitted within thirty days thereafter. Provided always that should the event giving rise to the claim of continuing effect, The Contractor shall submit an interim claim within the said thirty days and a final claim within thirty days of the end of the event giving rise to the claim.

25. Price Adjustment

- 25.1 The Project Manager shall adjust the Contract Price if taxes, duties and other levies are changed between the date 30 days before the submission of tenders for the Contract and the date of Completion. The adjustment shall be the change in the amount of tax payable by the Contractor.
- 25.2 The Contract Price shall be deemed to be based on exchange rates current at the date of tender submission in calculating the cost to the Contractor of materials to be specifically imported (by express provisions in the Contract Bills of Quantities or Specifications) for permanent incorporation in the works. Unless otherwise stated in the Contract, if at any time during the period of the Contract exchange rates shall be varied and this shall affect the cost to the Contractor of such materials, then the Project Manager shall assess the net difference in the cost of such materials. Any amount from time to time so assessed shall be added to or deducted from the Contract Price, as the case may be.
- 25.3 Unless otherwise stated in the Contract, the Contract Price shall be deemed to have been calculated in the manner set out below and in sub-clauses 25.4 and 25.5 and shall be subject to adjustment in the events specified there under;
- (i) The prices contained in the Contract Bills of Quantities shall be deemed to be based upon the rates of wages and other emoluments and expenses as determined by the joint Building Council of Kenya (J.B.C.) and set out in the schedule of basic rates issued 30 days before the date for submission of tenders. A copy of the schedule used by the Contractor in his pricing shall be attached in the Appendix to Conditions of Contract.
 - (ii) Upon J.B.C. determining that any of the said rates of wages or other emoluments and expenses are increased or decreased, then the Contract Price shall be increased or decreased by the amount assessed by the Project Manager based upon the difference, expressed as a percentage, between the rate set out in the schedule of basic rates issued 30 days before date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of labour incorporated within the amount of Work remaining to be executed at the date of publication of such increase or decrease.
 - (iii) No adjustments shall be made in respect of changes in the rates of wages and other emoluments and expenses which occur after the date of completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.

- 25.4 The prices contained in the Contract Bills of Quantities shall be deemed to be based upon the basic prices of materials to be permanently incorporated in the Works as determined by the J.B.C. and set out in the schedule of basic rates issued 30 days before the date for submission of tenders. A copy of schedule used by the Contractor in his pricing shall be attached in the Appendix to Conditions of Contract.
- 25.5 Upon the J.B.C. determining that any of the said basic prices are increased or decreased then the Contractor Price shall be increased or decreased by the amount to be assessed by the Project Manager based upon the difference between the price set out in the schedule of basic rates issued 30 days before the date for submission of tenders and the rate published by the J.B.C. and applied to the quantum of the relevant materials which have not been taken into account in arriving at the amount of any interim certificate under clause 23 of these Conditions issued before the date of publication of such increase or decrease.
- 25.6 No adjustment shall be made in respect of changes in basic prices of materials which occur after the date for Completion except during such other period as may be granted as an extension of time under clause 17.0 of these Conditions.
- 25.7 The provisions of sub clause 25.1 to 25.2 herein shall not apply in respect of any materials included in the schedule of basic rates.

26 Retention

- 26.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the Appendix to Conditions of Contract until Completion of the whole of the works. On Completion of the whole of the Works, half the total amount retained shall be paid to the Contractor and the remaining half when the Defect Liability Period has passed and the Project Manager has certified that all defects notified to the Contractor before the end of this period have been corrected.

27 Liquidated Damages

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

28 Securities

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

29. Dayworks

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

30. Liability and Insurance

- 30.1 From the start Date until the Defects Correction Certificate has been issued, the following are the Employer's risks:
- (a) The risk of personal injury, death or loss of or damage to Property (excluding the Works, plant, materials and Equipment), which are due to; use or occupation of the Site by the Works or for the purpose of the works, which is the unavoidable result of the Works, or negligence, breach of statutory duty or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
 - (b) The risk of damage to the works, plant, materials, and equipment to the extent that it is due to a fault of the Employer or in Employer's design, or due to war or radioactive contamination directly affecting the place where the works are being executed.
- 30.2 From the Completion Date until the Defects Correction certificate has been issued, the risk of loss of or damage to the works, plant, and Materials is the Employer's risk except loss or damage due to;
- (c) a defect which existed on or before the Completion Date.
- (a) an event occurring before the Completion Date, which was not itself the Employer's risk
- (d) the activities of the Contractor on the Site after the Completion Date.
- 30.3 From the Start Date until the Defects Correction Certificate has been issued, the risks of personal injury, death and loss of or damage to property (including, without limitation, the Work, plant, Materials, and Equipment) which are not Employer's risks are Contractor's risk.

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

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

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

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

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

31. Completion and taking over

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

32. Final Account

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

33. Termination

33.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These

Fundamental breaches of Contract shall include, but shall not be limited to, the following;

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

34. Payment upon Termination

- 34.1 If the Contract is terminated because of a fundamental breach of contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and materials ordered and delivered to Site up to the date of the issue of the certificate. Additional liquidated damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable by the Contractor.
- 34.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the Work done, materials ordered, the reasonable cost of

removal of equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works.

- 34.3 The Employer may employ and pay other persons to carry out and complete the works and to rectify any defects and may enter upon works and use all materials on the site, plant, equipment and temporary works.
- 34.4 The Contractor shall, during the execution or after the Completion of the works under this clause remove from the site as and when required, within such reasonable time as the Project Manager may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to or hired by him, and in default the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor. Until after completion of the Works under this clause the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefore the Project Manager shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

35. Release from performance

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

36. Corrupt gifts and payments of commission

The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract for the Employer.
- Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement Regulations issued under The Exchequer and Audit Act Cap 412 of the Laws of Kenya.

37. Settlement of Disputes

- 37.1 In case dispute or difference shall arise between the Employer or Then Project Manager on his behalf and the Contractor, either during the progress or after the completion or termination of they Works, such dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the

appointment of an arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an arbitrator, the Arbitrator shall be appointed by the Chairman of any of the following professional institutions;

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

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

- 37.2 The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising there under or in connection therewith, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.
- 37.3 Provided that no arbitration proceedings shall be commenced on any dispute or difference where notice of a dispute or difference has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the disputes.
- 37.4 Notwithstanding the issue of a notice as stated above, the Arbitration of such a dispute or difference shall not commence unless an attempt has in the first instance been made by the parties to settle such dispute or difference amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 37.5 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:
- 37.5.1 The appointment of a replacement Project Manager upon the said person ceasing to act.
 - 37.5.2 Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
 - 37.5.3 Whether or not a certificate has been improperly With held or is not in accordance with these conditions.
 - 37.5.4 Any dispute or difference arising in respect of war

risks or war damage.

- 37.5.5 All other matters shall only be referred to arbitration after the completion or alleged completion of Works or termination or alleged termination of the Contract, unless the Employer and the Contractor agree otherwise in writing.
- 37.6 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
- 37.8 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 37.9 The award of such Arbitrator shall be final and binding upon the parties.

SECTION IV- APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

Name: UNIVERSITY OF NAIROBI

Address: P.o. Box 30197 – 00100 Nairobi.

Name of Authorized Representative: Vice – Chancellor, University of Nairobi.

Telephone: +254 20 318262

Facsimile: +254 20 2245566

The Project Manager is: Manager, Construction & Maintenance Department

Name: _____

Address: P.o. Box 30197 – 00100 Nairobi.

Telephone: +254 20 318262 (ext. 598)

Facsimile: _____

The name (and identification number) of the Contract is _____

The Works consist of: Construction of Boundary Fence

The Start Date shall be: To be agreed.

The Intended Completion Date for the whole of the Works shall be 2 months from Construction starts date.

The following documents also from part of the Contract:

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

The Site Possession Date shall be to be agreed

The Site is located at Kenyatta National Hospital Campus and is

defined in drawings nos _____

The Defects Liability period is 180 days from the date of Practical Completion

Other Contractors, Utilities etc., to be engaged by the Employer on the Site include those for the execution of:

1. _____
2. _____
3. _____

The period between Program updates is 30 days

The amount to be withheld for late submission of an updated Program is 50%

The proportion of payments retained is 10 percent.

The Price Adjustment Clause _____ (shall not) apply.

The liquidated damages for the whole of the Works is Kshs. 5000.00 (per calendar day)

The performance Security Shall be for the following minimum amounts equivalent as a percentage of the Contract Price 10 percent (%)

The Completion Period for the Works is 4 [weeks]

The rate of exchange for calculation of foreign currency payments is N/A

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

Advance Payment _____ shall not be granted.

SECTION VIII – STANDARD FORM

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

8.1 FORM OF TENDER

Date _____
Tender No. _____

To: _____

[name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission (..... *(insert equipment description)* in conformity with the said tender documents for the sum of *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to ____ percent of the Contract Price for the due performance of the Contract , in the form prescribed by*(Procuring entity)*.

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

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

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

Dated this _____ day of _____ 20 _____

[signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of _____

LETTER OF ACCEPTANCE

[Letterhead paper of the Employer]

_____ [date]

TO: _____
[Name of Contractor]

[Address of the Contractor]

Dear Sir,

This is 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 word)] in accordance with the Instructions to Tenderers is hereby
accepted.

You are hereby instructed to precede 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 desires that the Contractor executes

(*name and identification number of contract*) hereinafter called "the Works")
Located at _____ [*place/location of the Work*] 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 conditions of contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and constructed 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 convents 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 convents to pay the Contractor in consideration of 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 execute 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 Tender”) 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 said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the common Seal with the Common Seal of the said Bank this Day of 20

THE CONDITIONS of these obligations 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 Tenders;

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

[date]

[signature of the Bank]

[witness]

[sea]

PERFORMANCE BANK GUARANTEE

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 figure) 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 of 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 way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

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

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____

BANK GUARANTEE FOR ADVANCE PAYMENT

TO: _____ [name of Employer] _____ (date)
_____ [address of Employer]

Gentleman,

Ref: _____ [name of Contract]

In accordance with the provisions of the Conditions of Contract of the above mentioned Contract, We, _____ [name and Address of Contract] (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 and not as Surety merely, the payment to _____

[name of Employer] on his first demand without his 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 be the Contractor pursuant to the Contract.

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

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

Yours faithfully,

Signature and Seal _____

Name of the Bank or financial institution _____

Address _____

Date _____

Witness: Name: _____

Address: _____

Signature: _____

Date: _____

QUALIFICATION INFORMATION

1. Individual Tenderers or Individual Members of Joint Ventures

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

Place of registration: _____

Principal place of business _____

Power of attorney of signatory of tender _____

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

Years	Volume	
	Currency	Value

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

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

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

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

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

Position	Name	Years of experience (general)	Years of Experience in Proposed position
Project Manager			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
(etc)			

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

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

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

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

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

2. Joint Ventures

2.4 The information listed in 1.1 -1.10 above shall be provide for each partner of the joint venture.

- 2.5 The information required in 1.11 above shall be provided for the joint venture.
- 2.6 Attach the power of attorney of the signatory (ies) of the tender authorizing Signature of the tender on behalf of the joint venture
- 2.7 Attach the Agreement among all partners of the joint venture (and which is Legally binding on all partners), which shows that:
 - (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (b) one of the partners will be nominated as being in charge , authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

TENDER QUESTIONNAIRE

Please fill in block letters

1. Full names of tenderer
.....
2. Full address of tenderer to which tender correspondence is to be sent(unless
An agent has been appointed below)
.....
3. Telephone number (s) of tenderer
.....
4. Telex address of tenderer
.....
5. Name of tenderer's 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

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

NationalityCountry of origin

*Citizenship details

Part 2 (c) –Registered Company:

Private or public

State the normal and issued capital of the Company –

Normal Kshs

Issued Kshs

Give details of all directors as follows:

Name if full.	Nationality	Citizenship Details*	Shares.
---------------	-------------	----------------------	---------

1.

.....

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 REQUIREMENT

(See Clause 23] of the Conditions of Contract)

In the event of our Tender for the execution of _____
_____ (*Name of Contract*) being accepted, w would require in accordance with
clause 21 of the Conditions of Contract, which is attached hereto, the following percentage.

(*Figures*) (*Works*)

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

Currency in which foreign exchange element is required:
.....

Date: TheDay of 20.....

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

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

(Signature of Tenderer)

DETAILS OF SUB- CONTRACTORS

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

Failure to comply with this requirement may invalidate the tender.

- (1) Portion of Works to be sublet:
- (i) Full name of Sub- Contractor
And address of head office:
- (ii) Sub-contractor's experience
Of similar works carried out
In the last 3 years with
Contract value
-
-

- (2) Portion of Works to sublet:

.....
- (i) Full name of subcontractor
And address of head office:
-
-
- (ii) Sub-contractor's experience
Of similar works carried out
In the last 3 years with
Contract value:
-

[Signature of Tenderer)

Date

LETTER OF NOTIFICATION OF AWARD

Address of Producing 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 assigned 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 officers(s) whose particulars appears below on the Subject matter of this letter of notification award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

TENDER-SECURING DECLARATION FORM

The Bidder shall complete in this Form in accordance with the instructions indicated

Date: ----- (as day, month and year) of Bid Submission] Tender No. -----
-----[insert number of bidding process]

To: -----[insert complete name of Purchaser]

We, the undersigned, declare that:

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

Signed:----- [insert signature of person whose name and capacity are shown] in the capacity of [insert legal capacity of person signing the Bid Securing Declaration]

Name: [insert complete name of person signing the Bid Securing Declaration]

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on day of,..... [Insert date of signing]

PART C
BILLS OF QUANTITIES

SECTION NO. I

GENERAL CONDITIONS AND PRELIMINARIES PARTICULAR PRELIMINARIES

DEFINITION OF TERMS

The following terms, wherever used hereinafter and in all Contract Documents, shall be interpreted as hereunder:-

- i) The Employer. The term "**Employer**" shall mean shall mean UNIVERSITY OF NAIROBI,
P.O. Box 30197 – 00100, Nairobi
The Employers Representative: The Employers Representative is-one of the designated authorized by the University of Nairobi
- ii) **Architect**. The term the “Architect” shall mean Authorized Representative. University of Nairobi P.O Box 30197 – 00100 , Nairobi.
- iii) **Contractor**. The term "**Contractor**” shall mean the person or persons, partnership, firm or company whose tender for the works has been accepted, and who has or have signed this contract and shall include his or their heirs, executors, administrators, assigns, successors and duly appointed representatives.
- iv) **Works**. The term "**works**" shall mean all or any portion of the work, materials and articles wherever the same are being manufactured or prepared which are to be used in the execution of this contract, and whether the same be on the site of the Building or not.
- v) **Contract**. The term "**Contract**" shall mean the Tender, Articles of Agreement and Conditions of Contract, Form of Bond, Drawings and Priced and signed Bills of Quantities.
- vi) **Contract Drawings** The term "**Contract Drawings**" shall be deemed to imply the Drawings listed in Appendix A of this Document and any other details issued thereafter.
- vii) **Site**: The term “the Site” shall mean the lands and other places, in or through which the works are to be executed or carried out and any other lands or places provided by the Employer for the purposes of the Contract.

Carried to Summary

Shs.

GENERAL CONDITIONS & PRELIMINARIES

GENERAL CONDITIONS & PRELIMINARY (Cont.)

Section No. 1 (Cont'd)

Definition of terms (Cont'd)

- viii) Approved, Directed and Selected. The terms “approved directed” and ‘Selected’ shall mean the approval, direction and selection of or by the Architect.
- ix) Singular and Plural. Words importing the singular only shall also include the plural and vice versa where the context requires.

A.

DESCRIPTION OF WORKS AND SCOPE OF CONTRACT

The work to be executed under this Contract comprises erection refurbishment of staff flat and related external works and parking areas.

Carried to Summary Shs.

GENERAL CONDITIONS & PRELIMINARIES

SECTION NO.1

GENERAL CONDITIONS & PRELIMINARY (Cont.)

Section No. 1 (Cont'd)

A.

FORM OF CONTRACT

The Contractor will be required to enter into a Contract which will be the current Form of Agreement and Schedule of Conditions of Building Contract published by the Joint Building Council, Kenya (1999 Edition, with Quantities) excepting in so far as varied hereafter. A copy may be seen in the offices of the Architect or Quantity Surveyor **during** normal office hours. The Contractor's attention is drawn to the following clauses of, the Conditions of Contract which shall be read as incorporated herein and shall allow any sums which he considers necessary for the carrying out and observance of such Conditions together with sub-clauses used in amplification.

B.

General Obligations of the Employer: **clause No. 3.0**

C.

General Obligations of the Contractor: **clause No.4.0**

D.

General Obligations of the Architect: **clause No. 5.0**

E.

General Obligations of the Quantity Surveyor: **clause No. 6.0**

F.

Contract Documents: **clause No. 7.0**

- i) A list of Drawings from which the Contract Bills have been prepared is appended {see Appendix A.)

Carried to Summary Shs.

GENERAL CONDITIONS & PRELIMINARIES

SECTION NO. 1

Documents Cont'd

- i. Before submitting tenders Contractors may examine all the drawings (Which may be seen at the offices of the Architect or Quantity Surveyors during normal office hours) and satisfy themselves regarding all details as no claim by reason of ignorance will be entertained.
- ii. The Contractor shall satisfy himself as to the correctness of all Drawings and measurements. If the Contractor finds any discrepancy in the Drawings or between the Drawings and the Bills of Quantities, he shall immediately refer the same to the Architect who will decide which shall be followed.
- iii. Figured dimensions will be used in preference to scales mentioned on or attached to any drawings.
- iv. The Contractor is to take the necessary particulars for ordering his materials and work from the drawings and the work in progress on the buildings and not use the Bills of Quantities for the purpose.
- i. The whole of the work contained in these Bills of Quantities is measured on the basis of the Standard method of Measurement of Building Works for East Africa (Second Edition- Metric), published by the Architectural Association of Kenya Chapter of Quantity Surveyors, dated July 2008.
- ii. Exceptions to the above Standard Method of Measurement;
 - a. Clause B 19(c) is deleted and the following clause substituted:
"General builders work in connection with works by nominated subcontractors including cutting all holes, chases, sinkings and pockets and making good to all floor wall and ceiling finishes shall be given as an item. Other builder's work in connection shall be measured and given in accordance with the appropriate rules of this document".
- iii. The method of measurement herein used must be accepted and will be Strictly adhered to for the adjustment of variations and for re-measurement as necessary. The whole of the quantities in these Bills, unless expressly otherwise stated have been arrived at by taking the nett measurement of the various items of completed work from the drawings and all dimensions and measurements on the drawings and in the Bills of Quantities shall be taken to be in Metric Standard Measurement.
- iv. All work in this contract that is liable to adjustment has been measured as "provisional" in these Bills of Quantities, and no excavation or foundation work or other work so described shall be filled in or covered up until all measurements needed for the adjustment of variations under clause No. 30 of the Conditions of Contract have been made by the Quantity Surveyor.

Carried to Summary

Shs.

GENERAL CONDITIONS & PRELIMINARIES

SECTION NO. 1

Contract Documents Cont'd

- v. The Bills of Quantities shall be priced in ink
- vi. Any unauthorised alteration or qualification made to the text of the Bills of Quantities may cause the Tender to be disqualified and will in any case be ignored.
- vii. All items of measured work shall be priced in detail and tenders containing lump sums to cover trades or groups of work must be broken down to show the prices of each item before they will be accepted. Lump sums to cover several Items of preliminaries likewise shall be broken down if so required.
- viii. The rates set down by the Contract or against each item in these Bills of Quantities shall, unless otherwise expressly provided to the contrary, or unless there is a separate item for extra labour, cutting and waste, be held to include for waste on materials, carriage, cartage, carrying in and return of empties, hoisting, setting, fitting and fixing in position, making good and all other labours and everything else necessary for the proper completion of each item and for establishment charges and profit.
- ix. The Contractor shall be deemed to have made allowance in his prices generally to cover items of preliminaries, expenses in connection with P.C. sums or other items, if these have not been priced against respective items,
- x. Two blank and one priced copy of these Bills of Quantities shall be furnished free of cost to the Contractor for his own use. One copy shall be kept on the works until the completion thereof, and the Architect and Quantity Surveyor shall at all reasonable times access to the same.

Contractor's Site Agent and other staff **Clause 9.0**

A. Clerk of Works: **Clause 10.0**

B. Liability Against Injury to Persons and Property: **Clause 11.0**

C. The Contractor shall identify the employer against any expenses, liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury or death of any person in connection with sub-clauses 11.10 and 11.2 of this clause.

- D.**
- i) **Insurance Against Injury to Persons and Property:** **Clause 12.0**
 - ii) **Insurance to cover personal injuries or deaths as per:** **Clause 12.1.1**
 - iii) **Insurance to cover injury or damage to property**
 - iv) **Real or personal arising from:** **Clause 12.1.2**
 - v) **Insurance as per** **Clause 123.1 to 123.5.**

The risks shall be covered by a contractors third party policy with an indemnity of not less than Kshs. 4,000,000/= for any one accident or series of accidents arising from the same unlimited in aggregate.

Insurance for the Works (Contractors Liability) **Clause 13.0**

E. The Contractor to insure the works as per sub-clauses 13.1 to 13.5

Carried to Summary **Shs.**

GENERAL CONDITIONS & PRELIMINARIES

	Contract Documents Cont'd	
A.	Insurance of the Works (Employer's Liability) Sub-clause 14.) to 14.3.3 to be struck out.	Clause 14.0.
B.	Insurance of the Works (Works of Alterations etc) Sub-clauses 15.1 to 15.3.4 to be struck out.	Clause 15.0
C.	Performance Bond Clause 16.0 i) The Contractor shall provide one surety who must be an Established Bank or Insurance Company to the approval of the Employer and who will be bound to the Employer in the Sum equivalent to ten percent (10%) of the Contract Price for the due performance of the Contract until the Certificate of practical completion. No payment shall be made to the contractor before the said bond is provided. Sub Clause 16.10 ii) Sub-clause 16.2 to be struck out.	
D.	Compliance with regulations, notices etc. The Contractor shall comply with sub-clauses 17.0 to 17.40	Clause 17.0.
E.	Programme of the Works. The Contractor shall comply with sub-clauses 18.1 as shown in the Appendix and sub-clauses 18,2 and 18,3 as per this clause No. 18.0	Clause 18.0
F.	Access to the works; The Contractor shall comply with sub clause 19.1 and 19.2 of this clause.	Clause 19.0
G.	Possession of Site and commencement of the works; i) The contractor shall take possession of the site within the period stated in the Appendix of these conditions. ii) The Contractor shall complete the works on or before the date stated in the Appendix to these conditions as the date for practical completion	Clause 20.0
H.	Levelling and setting out; i) The Contractor shall take all necessary precautions to preserve pegs, beacons and datum levels including reinstatement should they be disturbed as per sub-clause 21.2 ii) The Contractor shall provide all necessary equipment and assistance to enable the accuracy of the setting out to be checked by the Architect as per clause 21.4	Clause 21.0
I.	Architects Instructions; The Contractor shall comply with sub-clauses 22.1 to 22.5 of this clause with respect to Architects Instructions.	Clause 22.0
J.	Specification of Goods Materials and Workmanship; The Contractor shall comply with sub-clauses 23.1 to 23.8 of these conditions and as set out in the Bills of Quantities drawings and as referred to in the specifications.	Clause 23.0
K.	Samples and Tests; The Contractor shall comply with sub -clauses 24.1 and 24.2 of these conditions.	Clause 24.0
L.	Royalties and Patent Rights; The Contractor shall comply with subclauses 25.1 to 25.3 and indemnify the Employer against all claims, proceedings, damages costs and expenses arising from the sub-clause of this condition.	Clause 25.0
	Carried to Summary Shs.	
	GENERAL CONDITIONS & PRELIMINARIES	

	<p>Contract Documents Cont'd</p> <p>A. Assignment; Clause 26.0. The provisions of sub-clauses 26.1 and 26.2 of this clause shall be strictly adhered to by both parties.</p> <p>B. Subletting Clause 27.0 The Contractor shall comply with the provisions of sub-clauses 27.1 to 27.3 of (his condition.</p> <p>C. Suspension of Works by the Architect; Clause 28.0 The Contractor shall strictly adhere to sub-clauses 28.1 to 28.6 of these conditions of contract.</p> <p>D. Suspension of the Works by the Contractor Clause 29.0 The Contractor shall strictly adhere to sub-clauses 29.1 to 29.4 of these conditions with regard to the suspension of the Works under clause 29.0</p> <p>E. Variations; Clause 30.0 All the variations in this contract shall be governed by sub-clauses 30.1 to 30.14 of these conditions and not otherwise. Any claims from the Contractors which are not in accordance with the sub-clauses of this clause will not be recognised nor entertained whatsoever.</p> <p style="padding-left: 40px;">i) No claim in respect of payment for extra work at prices in excess of the unit prices entered in the Bill of Quantity by reason of varying conditions or dissimilarity will be recognised unless notice is given in writing to the Architect prior to the performance of the work in question that such a claim is to be submitted. No claim will be recognised for additional payment in respect of any remaining work, by reason of any part of the work being omitted, unless notice is given in writing to the Architect within seven days of the date of the order to omit such work, that a claim is to be submitted in respect of such additional payment.</p> <p style="padding-left: 40px;">ii) Where day work charges are allowed as a basis of valuing work, the day work sheets submitted by the Contractor shall show the name of the trade, category of the employee concerned and the rates of pay. The day work sheets shall be completed in details and submitted in duplicate. Non-compliance with this condition will render the day work sheets invalid as far as they purport to be true records of cost</p> <p>E. Nomination of sub contractors; Clause 31.0 The Contractor shall comply with sub-clauses 31.1 to 31.20.</p> <p style="padding-left: 40px;">i) The Contractor shall be responsible for giving all necessary directions to Nominated Sub-contractors, ascertaining their requirements, coordinating their work and arranging for them to be on site at the proper time for the ordered progress of the works and for agreeing accurate dimensions in regard to setting out, holes, chases, notchings and the like. He shall place all orders with Nominated Sub-contractors clearly on his own behalf and shall not pledge the credit of the Employer either directly or indirectly. In no case shall the Contractor be deemed to be the agent of the Employer nor shall there be created any privity of Contract as between the Employer and Nominated sub-contractor. The Contractor must enter into a written sub-contract using an approved form and must deposit with the Architect signed copies thereof.</p> <p style="text-align: center;">Carried to Summary Shs.</p> <p style="text-align: center;">GENERAL CONDITIONS & PRELIMINARIES</p>	
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Contract Documents Cont'd

General Attendance

ii) The Contractor shall accept responsibility for providing the following services for Nominated Sub-contractors:

- a) Use, for the purpose of the sub-contractor works of any scaffolding belonging to or provided by the contractor while it remains so erected upon the site, provided that no warranty or other liability on the part of the Contractor or his other subcontractors shall be created or implied in regard to the fitness, condition or suitability of the said scaffolding;
- b) Provision of water, lighting, watching and attendance for the purpose of the sub-contract Works;
- c) Use of sanitary accommodation, mess rooms and welfare facilities;
- d) Provision of space for erection of offices or stores or space for storage of plant and materials
- e) Clearing away rubbish produced by them;

iii) The foregoing services are described hereafter as "allow for general attendance".

iv) Special Attendance is given as a separate item and where described under the following headlines shall mean;

- a) Taking delivery shall mean the provision of unskilled labour necessary to attend upon the sub-contractor's workmen for the purpose of unloading plant and materials when received upon the site and placing in position within the sub-contractor's storage or store.
- b) Hoisting shall mean the provision of unskilled labour and the use of any Contractor's standing plant for the purpose of assisting the sub contractors workmen in hoisting the sub-contractor's plant and materials to the various levels but not placing in its final position.
- c) Providing power shall mean the provision of power during the course of the works and during the period of commissioning and testing.

vi) Nominated Sub-contractors shall be responsible for (unless specifically mentioned under special Attendance);

- a) The cost of any necessary alteration to or re-erection of the Contractor's ordinary scaffolding which may be required by them to carry out their work;
- b) Special Scaffolding;
- c) Provision, erection and removal of workshops, sheds for the storage of materials or plant where the nature of the; materials or plant are such that they may be damaged by inclement weather or other buildings for their employees, workmen and materials;
- d) Provision after all necessary labour, plant, tools materials and equipment, etc, necessary to carry out and complete their work.

Carried to Summary Shs.

GENERAL CONDITIONS & PRELIMINARIES

ITEM	DESCRIPTION	AMOUNT
A.	<p>Contract Documents Cont'd</p> <p>Extension of time; Clause 36.0</p> <p>i. The Contractor shall comply with sub-clauses 36.1 to 36.8 Nevertheless; The Contractor shall order all materials to be obtained from overseas immediately upon signing the Contract and shall also order materials to be obtained from local sources as early as necessary to ensure that such materials are on site when required for the works. However, before placing any order the contractor must obtain confirmation in writing, from the Architect, that the materials specified are required for the Works and have not been varied in any way in the light of altered requirement or planning.</p> <p>ii. A claim for extension of time under I) above will not be considered unless substantial proof is submitted that every endeavour has been made by the Contractor to avoid such delay. As soon as any delay becomes apparent the Architect must be notified in writing.</p>	
B.		
C.	<p>Loss and expense caused by disturbance of regular progress of the works:</p>	<p>Clause 37.0</p>
D.	<p>Termination of the contract by the Employer clause 38.0:</p>	<p>sub-clause 38.1 to 38.9</p>
E.	<p>Termination of the contract by the Contractor clause 39.0:</p>	<p>sub-clauses 39.1 to 39.</p>
F.	<p>Termination of the contract by either party. Clause 40.0:</p>	<p>sub-clauses 40.1 to 40.5</p>
G.	<p>Practical Completion and defects Liability Clause 41.0</p>	<p>sub-clauses 41.10 to 41.90</p>
H.	<p>Sectional Completion; clause 42.0:</p>	<p>sub-clauses 44.1 and 44.2</p>
I.	<p>Damages for delay in completion Clause 43.0:</p>	<p>sub-clauses 42.1 to 42.80</p>
J.	<p>Antiquities and other objects value. Clause 44.0:</p>	<p>sub-clauses 43.1 and 43.2</p>
	<p>Settlement of disputes. Clause 45.0:</p>	<p>sub-clauses 45.1 to 45.10</p>
	<p>Carried to Summary Shs.</p>	
	<p>GENERAL CONDITIONS & PRELIMINARIES</p>	

APPENDIX TO THE CONDITIONS OF CONTRACT

The following are the particulars which will be inserted in the appendix to the Conditions of Contract but the Employer reserves the right to negotiate with the Contractor up to the time of signing the Contract in respect of any particular or particulars.

Percentage to cover professional fees for Insurance purposes only.	3.0	5% (percent)
Name of Surety	16.1	As entered on form of Tender
Amount of Surety	16.1	10% of Contract Sum
Name of Employers Surety	16.2	Not Applicable
Amount of Surety	16.2	Not Applicable
Period for submission of programme	18.2	14 days from the date of award
Period for possession of site	20.1	14 days
Contract period (As in form of Tender)	20.2	To be calculated from the contract period entered in the form of Tender.
Date for Commencement of works	20.2	To be arranged upon signing of the contract
Date for practical Completion	20.2	
Name of Bank for purposes of interest Calculation	31.14 32.4.5 34.6	To be agreed upon signing of the contract.
Interval for application of payment certificates.	34.1	Monthly
Minimum amount of payment certificate	34.4	To be agreed upon signing the contract
Percentage of certified value retained	34.12	10% (Ten Percent)
Limit of retention Fund	34.12	10% (Ten Percent)
Periods for release of interest on retention Money to contractor	34.15	To be agreed upon signing the contract
Period of final measurement and valuation	34.17	Six months (6)
Defects liability period	41.6	Six months (6)
Damages for delay in completion	43.1.	At the rate of Kshs 300,000/-
		Per Calendar week or part thereof
Signed by the said		
Employer		Contractor

A. SUFFICIENCY OF TENDER

The contractor shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of the Tender for the works and the rates and prices stated in the Priced Bills of Quantities which rates and Prices shall

B. DEFINITION OF ABBREVIATIONS

Abbreviations used in these Bills of Quantities shall be interpreted as follows;

"B.S."	Shall mean	The current British Standard specification published by the British Standards Institution, 2, Park Street, London, W.L, England
"Kgs."	Shall mean	Kilogrammes
"NO."	Shall mean	Number
"L.M."	Shall mean	Linear Metre
"S.M."	Shall mean	Square Metre
"C.M."	Shall mean	Cubic Metre
"Ditto"	Shall mean	The whole of the preceding description except as qualified in the section in which it occurs. Where it occurs in brackets it shall mean the whole of the preceding description which is contained within the appropriate brackets.
"m.s."	Shall mean	Measured separately
"b.s.m."	Shall mean	"Both sides measured
"P.C."	Shall mean	Prime Cost
75" mm to 150mm girth	Shall mean	Exceeding 75mm but not exceeding 150mm girth, and all items described in this manner shall be similarly construed
"A small Pipe"	Shall mean	Any pipe not exceeding 50mm diameter. Internal.
"A Large Pipe"	Shall mean	Any pipe exceeding 50mm and not exceeding 100mm diameter internal.
"An extra pipe"	Shall mean	Any pipe exceeding 1 00mm internal diameter.

<p>A.</p> <p>B.</p> <p>C.</p> <p>D.</p>	<p>GENERAL PRELIMINARIES</p> <p>ACCESS TO SITE AND TEMPORARY ROADS</p> <p>Means of access to the Site shall be agreed with the Architect prior to commencement of the Work and the contractor must allow for building temporary access roads for the transport of materials, plant and workmen as may be required for the complete execution of the works including the provision of temporary culverts, crossings, bridges or any other means of gaining access.</p> <p>Upon the completion of the works the Contractor shall remove such temporary roads, temporary culverts, bridges etc., and make good and reinstate all works and services disturbed to the satisfaction of the Architect.</p> <p>AREA TO BE OCCUPIED BY THE CONTRACTOR</p> <p>The area of the site which may be occupied by the Contractor for use as storage and for the purpose of erecting workshops, etc., shall be defined on the site by the Architect.</p> <p>PROGRESS SCHEDULE</p> <p>Immediately after signing the contract the Contractor is to prepare a Time Progress Chart showing the time and order in which he proposes to carry out the Works within the total construction time stated in the contract. The chart shall show in detail the construction time and order in which each section of the work is to be carried out and be sub-divided into trades or tasks. If the Contractor proposes Sectional Completion of the project he must plan this in detail including access roads and services and this program shall be reflected on the chart.</p> <p>Upon the letting of Sub-contractors the Contractor is to incorporate times and details of each separate Sub-contractor's work (which information is to be agreed by the Subcontractor) and the chart will be designed to accommodate this information.</p> <p>At the end of each week the Contractor is to mark on the chart in a different colour, the actual time to complete the respective stages and sections of the work. The Contractor shall also show upon the chart the anticipated weekly labour strength required (divided into labourers and craftsmen) and shall similarly mark up the actual numbers employed.</p> <p>The Contractor shall obtain the Architects approval of the chart and then shall supply copies to the Architect and Quantity Surveyor.</p> <p>SITE LEVELS</p> <p>Before commencing work the Contractor must arrange for and agree with the Architects and Quantity Surveyor the existing site levels and similarly establish and agree a bench mark.</p> <p>The levels and bench mark thus agreed will then be used for the duration of the Works for all purposes.</p> <p>Carried to Summary Shs.</p> <p>GENERAL CONDITIONS & PRELIMINARIES</p>	
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General Preliminaries Cont.

A.

SETTING OUT

The Contractor shall set out the works in accordance with the dimensions and levels shown on the drawings and shall be responsible for the correctness of all dimensions and levels so set out by him and will be required to amend all errors arising from inaccurate setting out at his own cost and expense. In the event of any error or discrepancy in the dimensions or levels marked on the drawings being discovered, such errors or discrepancies must be reported by the Contractor to the Architect for his immediate attention.

No work shall commence by the Contractor until he has received written instructions from the Architect to adjust such discrepancies which may be proved. Upon receipt of such instructions the Contractor shall thereupon be responsible for the accurate setting out of the work giving effect to the adjustments necessary to comply with such instructions, and no claim for extra expense or relief from the provisions of clause 21 of the conditions of Contract based on any discrepancy or error in the dimensions or levels shown on the drawings may be made thereafter.

Before any work is commenced by Sub-contractors or specialist firms, dimensions must be checked on the site and agreed with the Contractor, irrespective of the comparable dimensions shown on the drawings. The Contractor shall be responsible for the accuracy of such dimensions.

B.

EXISTING SERVICES

Prior to commencement of any work the Contractor is to ascertain from the relevant Authorities the exact position, depth and level of all existing electric cable, water pipes or other service in the area and shall make whatever provisions may be required by the Authorities concerned for the support and protection of such services. Any damage or disturbance caused to any service shall be reported immediately to the Architect and the relevant Authority and shall be made good to their satisfaction at the Contractor's expense.

C.

TRANSPORT TO AND FROM THE SITE

The Contractor shall include in his prices for the transport of materials, workmen etc., to and from the site of the proposed works, at such hours and by such routes as are permitted by the Authorities.

D.

PUBLIC AND PRIVATE ROADS, PAVEMENTS, ETC

The Contractor will be required to make good at his own expense any damage he may cause to the present road surfaces and pavements during the period of the Works, in particular existing lawns, gardens, paths, storm water channels, hedges, fences, etc., which may be destroyed or damaged during the progress of the works are to be made good by the Contractor to the satisfaction of the Architect.

E.

SECURITY OF WORKS

The Contractor shall be entirely responsible for the security of all the works, stores, materials, plant, personnel, etc., both his own and Sub-contractor's and shall provide all necessary watching, lighting and other precautions as necessary to ensure the security and the protection of the public.

F.

TEMPORARY LIGHTING AND POWER

The Contractor shall, if so required, arrange with the **Power** and Lighting Authority for a metered supply to the Site and shall pay all the charges for the same and for current consumed during the period of the Works.

Carried to Summary Shs.

ITEM	DESCRIPTION	AMOUNT
A.	<p>Section No.1 (cont'd)</p> <p>SIGN BOARD The Contractor shall provide and erect where directed and maintain during the whole period of building operations and remove at completion, one approved temporary sign board to the Architect's standard design and giving a brief description of the Works and showing the names of the Employer, Architect, Quantity Surveyor, Civil and Structural Engineer, Electrical Engineer and Contractor with sufficient space to append the names of Nominated Sub-contractors and Suppliers when known. The lettering concerning the Architect, quantity Surveyor and Engineer is to be not more than 2" high.</p>	
B.	<p>MATERIALS, TOOLS, PLANT & SCAFFOLDING All materials and workmanship used in the execution of the Works shall be of the best quality and description unless otherwise described. Any materials for the Works condemned by the Architect shall immediately be removed from the Site at the Contractor's expense. The Contractor shall be responsible for the provision of all , scaffolding, tools, plant, transport and workmen required for the works except insofar as may be stated otherwise herein and shall allow for the provision of the foregoing except for such items specifically and only required for the use of Nominated Sub-con tractors as described herein. No timber used for scaffolding, form work or similar purpose shall be used afterwards in the permanent work.</p> <p>All such plant, tools and scaffolding shall comply with all regulations whether general or local in force throughout the period of the Contract ad shall be altered or adapted during the Contract as may be necessary to comply with amendments in or additions to such regulations.</p>	
C.	<p>SUPERVISION The said works shall be executed under the direction and to the entire satisfaction of the Architect, who shall at all times have access to the works and to the yards and workshops of the Contractor or other places where wok is being prepared for the Building. No work shall be carried out at night or on gazetted holidays unless authorized.</p>	
D.	<p>INTERRUPTION OF WORK The Contractor is to allow herein for all costs incurred by the interruption of work owing to public parades, processions and the like.</p>	
E.	<p>OVERTIME The Contractor shall be responsible for any extra costs for overtime working he considers will be necessary in order to complete the work within the Contract period or time for completion apart from overtime working which may be authorized by the Architect. If overtime is worked in accordance with a written instruction issued by the Architect, the Contractor will be reimbursed in respect of such overtime to the extent only of the additional Nett Cost of unproductive time payable over and above the basic hourly rates as laid down by the Regulation of wages and conditions of Employment Act. Building and Construction Industry wages Council and excluding any bonuses, profits and overheads.</p>	
	<p style="text-align: center;">Carried to Summary Shs.</p> <p>GENERAL CONDITIONS & PRELIMINARIES</p>	

ITEM	DESCRIPTION	AMOUNT
<p>A.</p> <p>B.</p> <p>C.</p> <p>D.</p> <p>E.</p> <p>F.</p> <p>G.</p>	<p>Section No.1 (cont'd)</p> <p>FAIR WAGES The Contractor shall pay rates of wages and observe hours and conditions of labour not less favourable than the minimum rates of remuneration and minimum conditions of employment applicable in (he district in which the work is carried out. The relevant notice must be posted up the employees concerned.</p> <p>The Contractor is to comply with the Regulation of Wages and Conditions of employment Act, Building and Construction Industry wages Council and is to be responsible for compliance by Sub-con tractors employed in the execution of the Contract. If required he is to notify the Architect of the names and addresses of all such Sub-contractors. Any Contractor or Sub-contractor not so complying will not be permitted to tender for other work for such period as the Architect may determine. Should a claim be made to the architect alleging the Contractor's default in payment of Fair Wages of any workmen employed on the Contract and if proof thereof satisfactory to the Architect is furnished by the Labour Department the Architect may, failing payment by the Contractor, pay the Claim out of any monies due or which may become due fo the contractor under this Contract.</p> <p>The Contractor to furnish to the Architect if called upon to do so such particulars of the rates of wages, hours and conditions of labour referred above as the Architects may direct</p> <p>HOARDING The Contractor shall erect of hoarding all round the site constructed with galvanised corrugated sheeting on timber posts with rails where directed by the Architect. The hording shall be a minimum of 3 metres high painted on one side to approval. After completion of the works the contractor shall dismantle and remove from site.</p> <p>CONCRETE TESTS Note: The contractor must allow in his rates all costs in connection with making of the cubes, curing, transport, crushing by local Authority and obtaining the Test Certificate.(500 sets provisional)</p> <p>TRAINING LEVY The Contractor's attention is drawn to legal Notice No. 237 of October, 1971, which requires payments by the Contractor of a Training Levy on all Contracts of more than Shs. 50,000.00 in value and the Contractor should allow in the Preliminaries of this Contract for all costs arising or resulting therefrom.</p> <p>V.A.T. All the prices should be inclusive of value added tax, as per the relevant government requirement for the purposes of this contract.</p> <p>COPYRIGHT The copyright of these documents is vested in the Quantity surveyors and they may not be reproduced in whole or in part without the Quantity Surveyors written permission</p> <p>INDUSTRIAL TRAINING LEVY All prices should be inclusive of industrial Training levy as per the relevant government requirements for the purposes of this contract</p> <p style="text-align: center;">Carried to Summary</p>	<p style="text-align: center;">Shs.</p>

GENERAL CONDITIONS & PRELIMINARIES		
SUMMARY	NO.	SHS.
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Shs.		

BILLS OF QUANTITIES

1. The Bills of Quantities form part of the contract documents and are to be read in conjunction with the contract drawings and general specifications of materials and works.
2. The prices quoted shall be deemed to include for all obligations under the sub-contract including but not limited to supply of materials, labour, delivery to site, storage on site, installation, testing, commissioning and all taxes(including **16% VAT**).

In accordance with Government policy, the 16% VAT **shall be deducted** from all payments made to the tenderer, and the same shall be forwarded to the **Kenya Revenue Authority (KRA)**.

3. All prices omitted from any item, section or part of the Bills of Quantities shall be deemed to have been included to another item, section or part.
4. The brief description of the items given in the Bills of Quantities are for the purpose of establishing a standard to which the sub-contractor shall adhere to. Otherwise alternative brands of **equal** and **approved** quality will be accepted.

Should the sub-contractor install any material not specified here-in before receiving **approval** from the Project Manager, the sub-contractor shall remove the materials in question and, at their own cost, install the proper material.

5. The grand total of prices in the price summary page must be carried forward to the **Form of Tender**.
6. For consideration and qualification, tenderers must submit, together with their tenders, a detailed list of such projects completed in the last 10 years.
7. Bidders are notified that these works are urgent. Bidders who offer to execute the works within a reasonable period shall qualify for the works
8. Bidders must give a detailed works program indicating their suppliers of major materials and how they intend to execute the work;

ITEM	DESCRIPTION	UNITS	QTY	RATE	AMOUNT
A	Allow for iron sheet hoarding (approx 72m)	ITEM			
B	Carefully dislodge existing septick tank .(Approx.5CM)and dispose as per the county government requirements.	ITEM			
	<u>Demolition works (All provisional)</u>				
C	Carefully fill existing septic tank with approved materials .(Approx.6CM)	ITEM			
D	Carefully demolish existing masonry inspection chamber to Manager C&M Approval	ITEM			
E	Carefully demolish existing masonry walling and store the stone on site for re use(apprx 90SM)	ITEM			
	<u>EARTHWORKS(All Provisional)</u>				
	<u>EXCAVATION</u>				
	<u>FOUNDATIONS</u>				
F	Excavate foundation trenches not exceeding 1.5 meter deep commencing from ground level and deposit on site in spoils.	CM	88		
G	Ditto pier bases	CM	6		
H	Cart away excavated material Approx 50M from site	CM	28		
I	Backfill excavated materials along the foundation	CM	60		
J	Extra over for excavations in rock	CM	25		
K	Allow for strutting and planking to sides of excavations	Item			
L	Allow for removal of general surface water from excavations	Item			
	TOTAL carried to summary				

ITEM	DESCRIPTION	UNITS	QTY	RATE	AMNT
	<u>CONCRETE</u>				
A	1:4:8 concrete blinding to foundation footing	CM	2		
B	Ditto to piers bases	CM	1		
	<u>1:2:4 reinforced concrete</u>				
C	to foundations	CM	10		
D	Pier bases	CM	12		
	<u>Reinforcement</u>				
E	10mm diameter high tensile steel	Kg	176		
F	8mm diameter high tensile steel reinforcement including spacers and tying wire	Kg	116		
G	200mm thick natural quarry stone foundation walling bedded and jointed in 1:3 cement sand mortar	SM	92		
H	200mm thick machine cut natural quarry stone walling bedded and jointed in 1:3 cement sand mortar reinforced with hoop iron at alternate courses.	SM	154		
I	Extra over fair finish to stone walling externally	SM	308		
J	400X400X3400mm high machine cut quarry stone piers	No	21		
K	30mm thick clay brick facing to masonry piers	SM	64		
L	50x50mmx4mmthick <u>500mm high cranked</u> mild steel angle line anchored on masonry walling	<u>Lm</u>	<u>38</u>		
M	450mm diameter approved razor wire fixed on the coping and angle line.	Lm	88		
	TOTAL Carried to summary				

ITEM	DESCRIPTION	UNITS	QTY	RATE	AMNT
A	75mm thick average (pcc copping) weathered and throated saddle back copping in 200mm thick walling	Lm	78	600	
B	500X500x 75mm thick average ppc copping to piers .	No	24	600	
	<u>PROVISIONAL SUMS</u>				
C	Provide a provisional sum of KSH One Twenty Thousand Thousand Shillings .KSH 120,000 as contingencies. Total Carried Forward	SUM			
	SUMMARY B/F From page1 B/F From page2 B/F From page2 B/F B/F B/F				
	GRAND TOTAL				

9. EVALUATION CRITERIA

The University of Nairobi will consider five major categories of criteria for evaluating tenders and tenderers;

SUMMARY OF EVALUATION	REMARKS / SCORE
Mandatory criteria	Must be fully met
Technical Capability	
Financial Capability	
Site Visit	
TOTAL SCORE	

A: MANDATORY REQUIREMENTS (YES/NO)

The tenderer must provide the following information and provide copies of documents to support the information given.

Criterion	Particulars Provided	Scores
Sealed original and copy of the tender in separate envelopes duly marked on the envelopes as 'original' and 'copy' The envelopes then shall be sealed in an outer envelope		
Certificate of Incorporation/Registration		
Copy of Certificate of Registration in a Target group issued by the Ministry of Finance		
Form of Tender Duly Filled and Signed		
Confidential Business Questionnaire Duly Filled and Signed		
Tax Compliance Certificate		
PIN Certificate		
Business Permit		
Bank Statement (October , November , December)		
Must fill Tender Security Declaration form		
Reference from 3 Clients Supplied With Similar Goods		

C: CAPABILITY ASSESMENT (70 Marks)

Criterion	Particulars Provided	Scores
Years In Business		
Samples/Catalogues provided		
Conformity to Technical Specifications <ul style="list-style-type: none">▪ Same▪ Alternative		
Relevant Experience With Other Public Organizations <ul style="list-style-type: none">▪ Universities▪ Others		
Maximum Value of Business Indicated		
Delivery /Implementation Schedule provided		
Rating by two clients served in the last one year.		
Nature of businesses related to the tender applied for		
Maximum score		

D: TECHNICAL CAPABILITY.

Competence and expertise of key professional staff

E: FINANCIAL CAPABILITY

Bank Statement (10 Marks)

F: SITE VISIT (20 Marks)

Criterion	Observations Made	Scores
Confirmation of Business Name & Physical Address		
Confirmation of Originals of Attached Documents		
Composition Of Staff <ul style="list-style-type: none"> ▪ Management ▪ Technical ▪ Supervisory ▪ Support 		
Name And Qualification of Key Management & Technical Staff 1: 2: 3: 4:		
Nature Of Operations(relevant) indicated		
Size of Business <ul style="list-style-type: none"> ▪ Large ▪ Medium ▪ Small 		
Customer Service Centre/After Sales Service		
Major Principals Represented		
Premises <ul style="list-style-type: none"> ▪ Owned ▪ Leased 		
TOTAL		

TECHNICAL EVALUATION COMMITTEE’S RECOMMENDATIONS

The evaluation of the tender and tenderer by Technical Evaluation Committee will be summarized as follows:

Major Area Of Concern	Indicators From The Evaluation Exercise	Aggregated Scores
Responsiveness of Tender To University/Public Procurement Act Requirements		
Responsiveness of Tender To University’s Technical Specifications		
Physical And Administrative Organization of Tenderer		
Technical Ability of Tenderer To Meet The Specific Performance Targets Of The Tender		
Financial Ability of Tenderer To Meet The Production, Delivery And Payment Terms Of The Tender		
TEC Decisions	Recommended or Not Recommended	