

**TEACHERS SERVICE COMMISSION**



**OPEN NATIONAL TENDER**

**RESERVED FOR GENERAL CITIZEN CONTRACTORS ONLY**

**PROPOSED RE- PARTITIONING OF OFFICE SPACE FOR  
QUALITY ASSURANCE DEPARTMENT ON 2ND FLOOR TSC  
BUILDING**

**TSC/T/36/2020-2021**

**Teachers Service Commission Upper Hill, Kilimanjaro Road,  
Private Bag, 00100  
Nairobi**

**Email: [info@tsc.go.ke](mailto:info@tsc.go.ke)**

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**Website: [www.tsc.go.ke](http://www.tsc.go.ke)**

**CLOSING DATE: THURSDAY 28<sup>TH</sup> JANUARY, 2021 AT 9.00AM**

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## INTRODUCTION

- 1.1 This standard tender document for procurement of works has been prepared for use by procuring entities in Kenya in the procurement of works (e.g. Buildings, Roads, Bridges, Repairs and Maintenance) which the procuring entity considers to be small and where it is not required to be open tendering.
- 1.2 The following guidelines should be observed when using the document: -
  - (a) Specific details should be furnished in the tender notice and in the special conditions of contract (where applicable). The tender document issued to tenderers should not have blank spaces or options.
  - (b) The instructions to tenderers and the General Conditions of Contract should remain unchanged. Any necessary amendments to these parts should be made through Appendix to instructions to tenderers and special conditions of contract respectively.
- 1.3
  - (a) Information contained in the invitation to tender shall conform to the data and information in the tender documents to enable prospective tenderers to decide whether or not to participate in the tender and shall indicate any important tender requirements
  - I. The invitation to tender shall be as an advertisement in accordance with the regulations or a letter of invitation addressed to tenderers who have been prequalified following a request for prequalification.
- 1.4 The cover of the tender document should be modified to include: -
  - II. Tender number.
  - III. Tender name.
  - IV. Name of procuring entity.
  - V. Delete name and address of PPOA.

# SECTION I

## INVITATION FOR TENDERS

**TENDER REFERENCE NO. TSC/T/36/2020-2021**

**TENDER NAME. PROPOSED RE- PARTITIONING OF OFFICE SPACE FOR QUALITY ASSURANCE DEPARTMENT ON 2ND FLOOR TSC BUILDING**

1. The Teachers Service Commission invites eligible tenderers to tender for **Proposed re- partitioning of office space for quality assurance department on 2nd floor tsc building.**
2. Interested eligible candidates may obtain further information from and inspect the tender documents at the Procurement office, Teachers Service Commission House 2nd Floor Podium Wing During normal working hours 8.00 am to 4.00 pm.
3. A complete tender document may be obtained by interested candidates upon payment of a non- refundable fee of Kshs. 1,000 paid to the Teachers Service Commission at National Bank of Kenya Account No. 01001000905000, Harambee Avenue Branch or Bankers Cheer and present the bank slip to TSC Cash office for official receipt Alternatively, the document may be downloaded for free from [www.tsc.go.ke](http://www.tsc.go.ke) or [www.tenders.go.ke](http://www.tenders.go.ke)
4. 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 120days from the closing date of the tender.
5. Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and be deposited in the tender box provided at TSC House, Podium wing, third floor, or be addressed and posted to The Secretary, Teachers Service Commission, P.O. Box Private Bag-00100, Nairobi to be received on or before **Thursday, 28<sup>th</sup> January, 2021 at 9.00am**
6. Tenders will be opened immediately thereafter in the presence of the tenderers representatives who choose to attend the opening at Teachers Service Commission 3rd floor Podium wing. Only one firm representative will be allowed to attend tender opening.
7. There shall be a site visit on **Tuesday 19<sup>th</sup> January, 2021 at 10.00 am.** Interested bidders

**COMMISSION SECRETARY/ CHIEF EXECUTIVE**

**SECTION II**  
**INSTRUCTIONS TO TENDERERS**

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## **INSTRUCTIONS TO TENDERERS.**

### **1. General**

- 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 said Appendix.
- 1.2 Tenderers shall include the following information and documents with their tenders, unless otherwise stated:
  - (a) copies of certificates of registration, and principal place of business;
  - (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 clients who may be contacted for further information on these contracts;
  - (d) major items of construction equipment owned;
  - (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
  - (f) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the last five years;
  - (g) authority to seek references from the Tenderer's bankers.
- 1.3 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.
- 1.4 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.
- 1.5 The procurement entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 1.6 The price to be charged for the tender document shall not exceed Kshs.5,000/=
- 1.7 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 here below and any addenda issued in accordance with clause 2.4 here below: -
  - (a) These instructions to Tenderers
  - (b) Form of Tender
  - (c) Conditions of Contract and Appendix to Conditions of Contract
  - (d) Specifications

- (e) Drawings
  - (f) Bills of Quantities/Schedule of Rates (whichever is applicable)
  - (g) Other materials required to be filled and submitted in accordance with these Instructions and Conditions
- 2.2 The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.
- 2.3 A prospective Tenderer making inquiries of the tendering 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 respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.
- 2.4 Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing 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 with clause 4.2 here below.

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

- 3.1 All documents relating to the tender and any correspondence shall be in English Language.
- 3.2 The tender submitted by the Tenderer shall comprise the following: -
- (a) The Tender;
  - (b) Tender Security;
  - (c) Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts
  - (d) Any other materials required to be completed and submitted by Tenderers.
- 3.3 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. 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/Schedule of Rates. All duties, taxes and other levies payable by the Contractor under 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 not be subject to any adjustment during the performance of the Contract.

- 3.5 The unit rates and prices shall be in Kenya Shillings.
- 3.6 Tenders shall remain valid for a period of sixty (60) days from the date of submission. However, in exceptional circumstances, the Employer may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.
- 3.7 The Tenderer shall prepare one original of the documents comprising the tender documents as described in these Instructions to Tenderers.
- 3.8 The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.
- 3.9 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.
- 3.10 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.

#### **4. Submission of Tenders**

- 4.1 The tender duly filled and sealed in an envelope 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.
- 4.3 The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents.

Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.
- 4.4 Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.
- 4.5 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.



## 5. Tender Opening and Evaluation

- 5.1 The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.
- 5.2 The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by the Employer. Minutes of the tender opening, including the information disclosed to those present will also be prepared by the Employer.
- 5.3 Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the 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 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
  - (a) where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
  - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer's representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
  - (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail.
  - (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the Corrected Builder's Work (i.e. corrected tender sum less P.C. and Provisional Sums).
  - (e) The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
  - (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and with concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security forfeited.

- 5.5 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 5.6 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 5.7 Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.
- 5.8 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.
- 5.9 Preference where allowed in the evaluation of tenders shall not exceed 15%
- 5.10 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may request [in writing] 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 tender price or substance of the tender shall be sought, offered or permitted.
- 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.

## **6. Award of Contract**

- 6.1 The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.
- 6.2 Notwithstanding the provisions of clause 6.1 above, the Employer reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the action.
- 6.3 The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing 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" which 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. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.
- 6.4 The Contract Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be signed by the Employer and sent to the successful Tenderer, within 30 days following the notification of award. Within 21 days of receipt, the successful Tenderer will sign the Agreement and return it to the Employer.

- 6.5 Within 21 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Performance Security amount stipulated in the Appendix to Conditions of Contract.
- 6.6 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.
- 6.7 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 6.8 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **7. Corrupt and fraudulent practices**

- 7.1 The procuring entity requires that the tenderer observes the highest standard of ethics during the procurement process and execution of the contract. A tenderer shall sign a declaration that he has not and will not be involved in corrupt and fraudulent practices.
- 7.2 The procuring entity will reject a tender if it determines that the tenderer recommended for award has engaged in corrupt and fraudulent practices in competing for the contract in question.
- 7.3 Further a tenderer who is found to have indulged in corrupt and fraudulent practices risks being debarred from participating in public procurement in Kenya.

## APPENDIX TO INSTRUCTION TO TENDERERS

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers:

CLAUSE	APPENDIX TO INSTRUCTION TO TENDERERS
1	<b>General</b>
1.1	The Employer is the Secretary Teachers Service Commission P.O Box Private Bag Nairobi. The successful Tenderer will be expected to complete the Works by 8weeks from the Actual start date.
1.2	Tenderers shall include the following information and documents with their tenders, unless otherwise stated: <ul style="list-style-type: none"> <li>a) copies of certificates of registration, and principal place of business;</li> <li>b) total monetary value of construction work performed for each of the last five years;</li> <li>c) experience in works of a similar nature and size for each of the last five years, and clients who may be contacted for further information on these contracts;</li> <li>d) major items of construction equipment owned;</li> <li>e) qualifications and experience of key site management and technical personnel proposed for the Contract;</li> <li>f) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the last five years;</li> <li>g) authority to seek references from the Tenderer's bankers.</li> </ul>
1.3	The Tenderer shall bear all costs associated with the preparation and submission of his tender, and Teachers Service Commission will in no case be responsible or liable for those costs.
1.4	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
1.5	Teachers Service Commission employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
1.6	The price to be charged for the tender document shall be Kshs.1,000 or the document may be downloaded for free from <a href="http://www.tsc.go.ke">www.tsc.go.ke</a> or <a href="http://www.tenders.go.ke">www.tenders.go.ke</a> .
1.7	Teachers service Commission shall allow the tenderer to review the tender document free of charge before purchase.
2	<b>Tender Documents</b>
2.1	The complete set of tender documents comprises the documents listed here below and any addenda issued in accordance with clause 2.4 here below: - <ul style="list-style-type: none"> <li>a) These instructions to Tenderers</li> <li>b) Form of Tender</li> <li>c) Conditions of Contract and Appendix to Conditions of Contract</li> <li>d) Specifications</li> </ul>

CLAUSE	APPENDIX TO INSTRUCTION TO TENDERERS
	<ul style="list-style-type: none"> <li>e) Drawings</li> <li>f) Bills of Quantities/Schedule of Rates (whichever is applicable)</li> <li>g) Other materials required to be filled and submitted in accordance with these Instructions and Conditions</li> </ul>
2.2	The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.
2.3	<p>A prospective Tenderer making inquiries of the tendering documents may notify Teachers Service Commission writing via Email Attention Deputy Director <a href="mailto:ddprocurement@tsc.go.ke">ddprocurement@tsc.go.ke</a> or Post The Secretary Teachers Service Commission P.O Box Private Bag -00100 .</p> <p>Teachers Service Commission will respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer’s response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source</p>
2.4	Before the deadline for submission of tenders, Teachers Service Commission 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 through print media in any of leading local dailies and same be uploaded on Teachers Website <a href="http://www.tsc.go.ke">www.tsc.go.ke</a> .
2.5	To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders Teachers Service Commission shall extend, as necessary, the deadline for submission of tenders in accordance with clause 4.2 here below
3	<b>Preparation of Tenders</b>
3.1	All documents relating to the tender and any correspondence shall be in English Language
3.2	<p>The tender submitted by the Tenderer shall comprise the following: -</p> <ul style="list-style-type: none"> <li>a) The Tender;</li> <li>b) Tender Security;</li> <li>c) Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts</li> <li>d) (d) Any other materials required to be completed and submitted by Tenderers</li> </ul>
3.3	The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. 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/Schedule of Rates. All duties, taxes and other levies payable by the Contractor under 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 not be subject to any adjustment during the performance of the Contract.
3.5	The unit rates and prices shall be in Kenya Shillings.
3.6	Tenders shall remain valid for a period of one hundred and twenty (120) days from the date of submission. However in exceptional circumstances, Teachers Service Commission may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers’ responses shall be made in writing.
3.7	The Tenderer shall prepare one original of the documents and One Copy

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	comprising the tender documents as described in these Instructions to Tenderers.
3.8	The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender
3.9	Clarification of tenders shall be requested by the tenderer to be received by Teachers Service Commission not later than 7 days prior to the deadline for submission of tenders.
3.10	Teachers Service Commission 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.
4	<b>Submission of Tenders</b>
4.1	The tender duly filled and sealed in an envelope shall; - be addressed to <b>The Secretary</b> <b>Teachers Service Commission</b> <b>P.O Box Private Bag -00100</b> Bear the name <b>PROPOSED RE- PARTITIONING OF OFFICE SPACE FOR QUALITY ASSURANCE DEPARTMENT ON 2ND FLOOR TSC BUILDING.</b> and identification <b>TSC/T/36/2020-2021</b> provide a warning <b>DO NOT OPEN BEFORE Thursday, 28<sup>th</sup> January, 2021 at 9.00am</b>
4.2	Tenders shall be delivered to Teachers Service Commission House Located at Upper hill Kilimanjaro Road at the Tender Box Located at third floor Podium Wing on or before <b>Thursday, 28<sup>th</sup> January, 2021 at 9.00am.</b>
4.3	The tenderer shall not submit any alternative offers. Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.
4.4	Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.
4.5	Teachers Service Commission 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 Teachers Service Commission and the Tenderers previously subject to the original deadline will then be subject to the new deadline.
5.	<b>Tender Opening and Evaluation</b>
5.1	The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.
5.2	The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by Teachers Service Commission. Minutes of the tender opening, including the information disclosed to those present will also be prepared by Teachers Service Commission.
5.3	Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially

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	concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence Teachers Service Commission officials, processing of tenders or award decisions may result in the rejection of his tender.
5.4	Tenders determined to be substantially responsive will be checked for any arithmetic errors and there shall be no correction of errors.
5.5	The tender evaluation committee shall evaluate the tender within 28 days of the validity period from the date of opening the tender.
5.6	Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
5.7	Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.
5.8	Price variation requests shall be processed by Teachers Service Commission within 30 days of receiving the request
5.9	Preference where allowed in the evaluation of tenders shall not exceed 15%
5.10	To assist in the examination, evaluation, and comparison of tenders, the Teachers Service Commission at his discretion, may request [in writing] 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 email or Post no change in the tender price or substance of the tender shall be sought, offered or permitted
5.11	The Tenderer shall not influence the Teachers Service Commission 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 Teachers Service Commission or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.
6	<b>Award of Contract</b>
6.1	The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.
6.2	Notwithstanding the provisions of clause 6.1 above, Teachers Service Commission 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 pursuant to section 63 of the Public Procurement and Asset Disposal Act 2015.
6.3	The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum [hereinafter and in all Contract documents called the "Contract Price" which 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. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.
6.4	The Contract Agreement will incorporate all agreements between the Teachers Service Commission and the successful Tenderer. It will be signed by Teachers Service Commission and sent to the successful Tenderer, within 30 days following the notification of award. Within 14 days of receipt, the successful Tenderer will sign the Agreement and return it to the Employer.
6.5	<b>Performance Security equivalent shall not apply</b>
6.6	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

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	request.
6.7	Teachers Service Commission may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination
6.8	Teachers Service Commission shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
7.	<b>Corrupt and fraudulent practices</b>
7.1	Teachers Service Commission requires that the tenderer observes the highest standard of ethics during the procurement process and execution of the contract. A tenderer shall sign a declaration that he has not and will not be involved in corrupt and fraudulent practices
7.2	Teachers Service Commission will reject a tender if it determines that the tenderer recommended for award has engaged in corrupt and fraudulent practices in competing for the contract in question.
7.3	Further a tenderer who is found to have indulged in corrupt and fraudulent practices risks being debarred from participating in public procurement in Kenya.



## EVALUATION CRITERIA

### A. PRELIMINARY EVALUATION

#### Mandatory Requirements (MR) (Attach Certified Copies of Documents)

No.	Requirements	Bidder's Response Yes/No
MR1	Must Submit a copy of certificate of Registration/Incorporation	
MR2	Must Submit a copy of Valid Tax Compliance certificate/Exemption Certificate	
MR3	Valid business permit from county Government	
MR4	Must Fill, sign and stamp Form of Tender in the Format provided	
MR5	Must fill, sign and stamp Declaration Integrity Form in the format provided	
MR6	Must provide Tender Security of <b>Kshs. 50,000.00</b> in form of Bankers Cheque, Bank Guarantee or Insurance Security valid for 150 days from the date of tender opening	
MR7	Must submit dully filled, signed and stamped Confidential Business Questionnaire	
MR8	Must fill up, sign and stamp Non- Debarment Form in the format provided	
MR 9	Must attach CR12 Form of Directors for Limited Companies from the Registrar of Company or copy of ID of Director for the sole proprietor	
MR 11	Must cost for all items in the bill of Quantities any item not costed for the Commission will assume is being provided for free	
MR 12	Valid Registration Certificate and Current Practicing certificate from National Construction Authority –(NCA 7 or above) Building Contractors <b>ONLY</b>	
MR 13	Duly completed, signed and stamped Site Visit Form by the representative of the TSC	
MR 14	Dully Filled, signed and stamped Tender Questionnaire form in the format provided.	
MR 15	Provide evidence of office Location (Attach copy of Title Deed or valid Lease Agreement)	
MR 16	Must, fill, sign and stamp the Schedule of Completed projects in the format provided	
MR 17	Attach copy of current/valid single business permit from the County Government.	
MR 18	Must, fill, sign and stamp the Details of Sub-contractors in the format provided	

*Note : After preliminary evaluation of the tenders, those tenders that shall not have fulfilled the above requirements shall be declared Non responsive and will be eliminated from the evaluation process and will therefore, not be considered further.*

## B. TECHNICAL EVALUATION

S/NO	CRITERIA	MAX- SCORE
1.	<p><b>Company Profile and Physical Location</b></p> <p>Company / Business profile showing physical address, office location.</p>	10
2.	<p><b>Years of Experience</b></p> <p>Number of years the company has been in operation (This will be checked from Certificate of Incorporation/ Registration)</p> <ul style="list-style-type: none"> <li>• Over 5 years’ full marks (10 Marks)</li> <li>• Below 5 years, half marks (5 Marks)</li> </ul>	10
3.	<p><b>Experience</b></p> <p>Evidence of works done of similar nature and magnitude in the past three years</p> <p>Must have completed four (4) projects with similar nature, complexity and magnitude in the last ten (10) years from date of tender opening each of which must be of a value more than 50% and above of contract price quoted for this project</p> <p><i>(Attach signed project contract or completion certificates) @ 5 marks each</i></p>	20
4.	<p>Provide a commitment in a letterhead of the company that the project shall be delivered within the agreed timeline proposed in the tender document.</p>	10
5.	<p><b>Financial Resources</b></p> <ol style="list-style-type: none"> <li>i. Attach evidence of financial resources (A letter from a financial institution guaranteeing you can access loan / credit facility to undertake the works) @ 10 marks</li> <li>ii. Attach certified original Bank Statements for the past 3 months (October, November and December) 2020 with a minimum monthly transaction of one Million <b>Kshs. 1,000,000</b>. The Bank Statement must be certified by the issuing bank @ 10 marks</li> </ol>	20
6.	<p><b>Education and professional levels of 3 key personnel that will be attached to the project (Attach Certificates)</b></p> <ol style="list-style-type: none"> <li>a.) Degree in any relevant Engineering field from recognized universities @ 15mks</li> <li>b.) Diploma in any professional relevant Engineering field from recognized institution @10mks</li> <li>c.) Certificate in any professional Engineering field from recognized institution @ 5mks</li> </ol>	30
<b>TOTAL MARKS</b>		<b>100</b>

***NB: After technical evaluation of the tenders, those tenders that shall not have attained a minimum score of 65 shall be declared Non responsive and will be eliminated from the evaluation process and will therefore, not be considered for financial evaluation.***

### **C. FINANCIAL EVALUATION**

During Financial Evaluation the Evaluation Committee shall consider the following;

- a) Form of Tender is fully filled, signed and stamp
- b) There is no discrepancy between the Figures and Words
- c) The Bills of Quantities are accurately filled, signed and stamp with the total contract price
- d) There is no discrepancy between the total in Figures and Words
- e) The Total Price in the Bills of Quantities must be transferred to the Form of Tender. Any discrepancy between the total amount in the BoQ and Form of Tender shall lead to automatic disqualification.
- f) The tender will be awarded to the lowest evaluated responsive bidder who is determined to be qualified to perform the contract satisfactorily.

## SECTION III CONDITIONS OF CONTRACT

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## SECTION III - CONDITIONS OF CONTRACT

### 1. Definitions

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

**“Bills of Quantities”** means the priced and completed Bill of Quantities forming part of the tender [where applicable].

**“Schedule of Rates”** means the priced Schedule of Rates forming part of the tender [where applicable].

**“The Completion Date”** means the date of completion of the Works as certified by the Employer’s Representative.

**“The Contract”** means the agreement entered into by the Employer and the Contractor as recorded in the Agreement Form and signed by the parties.

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

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

**“The Contract Price”** is the price stated in the Letter of Acceptance.

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

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

**“The Defects Liability Certificate”** is the certificate issued by Employer’s Representative upon correction of defects by the Contractor.

**“The Defects Liability Period”** is the period named in the Appendix to Conditions of Contract and calculated from the Completion Date.

**“Drawings”** include calculations and other information provided or approved by the Employer’s Representative for the execution of the Contract.

**“Employer”** Includes Central or Local Government administration, Universities, Public Institutions and Corporations and 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.

**“Site”** means the place or places where the permanent Works are to be carried out including workshops where the same is being prepared.

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

**“Employer’s Representative”** is the person appointed by the Employer and notified to the Contractor for the purpose of supervision of the Works.

**“Specification”** means the Specification of the Works included in the Contract.

**“Start Date”** is the date when the Contractor shall commence execution of the Works.

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

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

**“A Variation”** is an instruction given by the Employer’s Representative which varies the Works.

**“The Works”** are what the Contract requires the Contractor to construct, install, and turnover to the Employer.

## **2. Contract Documents**

2.1 The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Contractor’s Tender,
- (4) Conditions of Contract,
- (5) Specifications,
- (6) Drawings,
- (7) Bills of Quantities or Schedule of Rates [whichever is applicable)

## **3. Employer’s Representative’s Decisions**

3.1 Except where otherwise specifically stated, the Employer’s Representative will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

## **4. Works, Language and Law of Contract**

4.1 The Contractor shall construct and install the Works in accordance with the Contract documents. The Works may commence on the Start Date and shall be carried out in accordance with the Program submitted by the Contractor, as updated with the approval of the Employer’s Representative, and complete them by the Intended Completion Date.

4.2 The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya.

## **5. Safety, Temporary works and Discoveries**

- 5.1 The Contractor shall be responsible for design of temporary works and shall obtain approval of third parties to the design of the temporary works where required.
- 5.2 The Contractor shall be responsible for the safety of all activities on the Site.
- 5.3 Anything of historical or other interest or significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Employer's Representative of such discoveries and carry out the Employer's Representative's instructions for dealing with them.

## **6 Work Program and Sub-contracting**

- 6.1 Within seven days after Site possession date, the Contractor shall submit to the Employer's Representative for approval a program showing the general methods, arrangements, order and timing for all the activities in the Works.
- 6.2 The Contractor may sub-contract the Works (but only to a maximum of 25 percent of the Contract Price) with the approval of the Employer's Representative. However, he shall not assign the Contract without the approval of the Employer in writing. Sub-contracting shall not alter the Contractor's obligations.

## **7 The site**

- 7.1 The Employer shall give possession of all parts of the Site to the Contractor.
- 7.2 The Contractor shall allow the Employer's Representative and any other person authorized by the Employer's Representative, 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.

## **8 Instructions**

- 8.1 The Contractor shall carry out all instructions of the Employer's Representative which are in accordance with the Contract.

## **9 Extension of Completion Date**

- 9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.
- 9.2 For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by: -

- (a) force majeure, or
- (b) reason of any exceptionally adverse weather conditions, or

- (c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or
- (d) reason of the Employer's Representative's instructions issued under these Conditions, or
- (e) reason of the contractor not having received in due time necessary instructions, drawings, details or levels from the Employer's Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or
- (f) delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or
- (g) reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or
- (h) reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or
- (i) reason of delay in appointing a replacement Employer's Representative, or
- (j) reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or
- (k) delay in receiving possession of or access to the Site.

## **10 Management Meetings**

- 10.1 A Contract management meeting shall be held regularly and attended by the Employer's Representative and the Contractor. Its business shall be to review the plans for the remaining Work. The Employer's Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer's Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.
- 10.2 Communication between parties shall be effective only when in writing.

## **11 Defects**

- 11.1 The Employer's Representative 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 Employer's Representative may instruct



the Contractor to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor? However, if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.

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

## **12 Bills of Quantities/Schedule of Rates**

- 12.1 The Bills of Quantities/Schedule of Rates 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 rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.
- 12.2 Where Bills of Quantities do not form part of the Contract, the Contract Price shall be a lump sum (which shall be deemed to have been based on the rates in the Schedule of Rates forming part of the tender) and shall be subject to re-measurement after each stage.

## **13 Variations**

- 13.1 The Contractor shall provide the Employer's Representative with a quotation for carrying out the variations when requested to do so. The Employer's Representative shall assess the quotation and shall obtain the necessary authority from the Employer before the variation is ordered.
- 13.2 If the Work in the variation corresponds with an item description in the Bill of Quantities/Schedule of Rates, the rate in the Bill of Quantities/Schedule of Rates shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in the Bill of Quantities/Schedule of Rates, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 13.3 If the Contractor's quotation is unreasonable, the Employer's Representative may order the variation and make a change to the Contract Price, which shall be based on the Employer's Representative's own forecast of the effects of the variation on the Contractor's costs.

## **14 Payment Certificates and Final Account**

14.1 The Contractor shall be paid after each of the following stages of Work listed here below (subject to re-measurement by the Employer's Representative of the Work done in each stage before payment is made). In case of lump-sum Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.

- (i) Advance payment \_\_\_\_\_ (*percent of Contract Price, [after Contract execution] to be inserted by the Employer*).
- (ii) First stage (*define stage*) \_\_\_\_\_
- (iii) Second stage (*define stage*) \_\_\_\_\_
- (iv) Third stage (*define stage*) \_\_\_\_\_
- (v) After defects liability period.

14.2 Upon deciding that Works included in a particular stage are complete, the Contractor shall submit to the Employer's Representative his application for payment. The Employer's Representative shall check, adjust if necessary and certify the amount to be paid to the Contractor within 21 days of receipt of the Contractor's application. The Employer shall pay the Contractor the amounts so certified within 30 days of the date of issue of each Interim Certificate.

14.3 The Contractor shall supply the Employer's Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect 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 Employer's Representative shall issue within 21 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 Employer's Representative shall decide on the amount payable to the Contractor and issue a Final Payment Certificate. The Employer shall pay the Contractor the amount so certified within 60 days of the issue of the Final Payment Certificate.

14.4 If the period laid down for payment to the Contractor upon each of the Employer's Representative's Certificate by the Employer has been exceeded, the Contractor shall be entitled to claim simple interest calculated pro-rata on the basis of the number of days delayed at the

Central Bank of Kenya's average base lending rate prevailing on the first day the payment becomes overdue. The Contractor will be required to notify the Employer within 15 days of receipt of delayed payments of his intentions to claim interest.

## 15. Insurance

15.1 The Contractor shall be responsible for and shall take out appropriate cover against, among other risks, personal injury; loss of or damage to the Works, materials and plant; and loss of or damage to property.

## **16. Liquidated Damages**

16.1 The Contractor shall pay liquidated damages to the Employer at the rate 0.001 per cent of the Contract price per day for each day that the actual Completion Date is later than the Intended Completion Date except in the case of any of the occurrences listed under clause 9.2. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

## **17. Completion and Taking Over**

17.1 Upon deciding that the Work is complete the Contractor shall request the Employer's Representative to issue a Certificate of Completion of the Works, upon deciding that the Work is completed.

The Employer shall take over the Site and the Works within seven days of the Employer's Representative issuing a Certificate of Completion.

## **18. Termination**

18.1 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 continuously without reasonable cause or authority from the Employer's Representative;
- (b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (c) a payment certified by the Employer's Representative is not paid by the Employer to the Contractor within 30 days after the expiry of the payment periods stated in sub clauses 14.2 and 14.3 hereinabove.
- (d) the Employer's Representative 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.

18.2 If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative 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.

## **19. Payment Upon Termination**

19.1 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works.

19.2 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 Employer's Representative may in writing specify, any temporary buildings, plant,

machinery, appliances, goods or materials belonging to him, and in default thereof, 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.

- 19.3 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 therefor the Employer's Representative 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.

## **20. Corrupt Gifts and Payments of Commission**

20.1 The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gifts 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 with the Employer or for showing or forbearing to show favor or disfavor to any person in relation to this or any other contract with the Employer.
- (b) 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 Laws of Kenya.

## **21. Settlement of Disputes**

- 21.1 Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party 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 the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.

<b>CLAUSE NO</b>	<b>CONDITIONS OF THE CONTRACT</b>
2	Contract Documents
2.1	The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority; <ol style="list-style-type: none"> <li>1. Agreement,</li> <li>2. Letter of Acceptance,</li> <li>3. Contractor's Tender,</li> <li>4. Conditions of Contract,</li> <li>5. Specifications,</li> <li>6. Drawings,</li> <li>7. Bills of Quantities or Schedule of Rates [whichever is applicable]</li> </ol>
3.	Employer's Representative's Decisions
3.1	Except where otherwise specifically stated, the Teachers Service Commission Representative will decide contractual matters between the Employer and the Contractor in the role representing the Employer
4	<b>Works, Language and Law of Contract</b>
4.1	The Contractor Shall Partition the offices in accordance with the Contract documents. The Works may commence on the Start Date and shall be carried out in accordance with the Program submitted by the Contractor, as updated with the approval of the Employer's Representative, and complete them by the Intended Completion Date.
4.2	The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya
5	<b>Safety, Temporary works and Discoveries</b>
5.1	The Contractor shall be responsible for design of temporary works and shall obtain approval of third parties to the design of the temporary works where required.
5.3	Anything of historical or other interest or significant value unexpectedly discovered on the Site shall be the property of Teachers Service Commission. The Contractor shall notify Teachers Service Commission the Representative of such discoveries and carry out the Employer's Representative's instructions for dealing with them.
6	<b>Work Program and Sub-contracting</b>
6.1	Within seven days after Site possession date, the Contractor shall submit to Teachers Service Commission Representative for approval a program showing the general methods, arrangements, order and timing for all the activities in the Works.
6.2	The Contractor shall not sub-contract the Works
7	Site
7.1	Teachers Service Commission give possession of all parts of the Site to the Contractor.
7.2	The Contractor shall allow Teachers Service Commission Representative and any other person authorized by the Teachers Service Commission Representative ,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.
8	<b>Instructions</b>
8.1	The Contractor shall carry out all instructions of the Teachers Service Commission Representative which are in accordance with the Contract.
9	<b>Extension of Completion Date</b>
9.1	Teachers Service Commission Representative shall extend the Completion

CLAUSE NO	CONDITIONS OF THE CONTRACT
	Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Teachers Service Commission shall decide whether and by how much to extend the Completion Date
9.2	<p>For the purposes of this clause, the following occurrences shall be valid for consideration;</p> <p>Delay by: -</p> <ul style="list-style-type: none"> <li>a) force majeure, or</li> <li>b) reason of any exceptionally adverse weather conditions, or</li> <li>c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or</li> <li>d) reason of the Employer's Representative's instructions issued under these Conditions, or</li> <li>e) reason of the contractor not having received in due time necessary instructions, drawings, details or levels from the Employer's Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or</li> <li>f) delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or</li> <li>g) reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or</li> <li>h) reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or</li> <li>i) reason of delay in appointing a replacement Employer's Representative, or</li> <li>j) reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or</li> <li>k) delay in receiving possession of or access to the Site</li> </ul>
10	<b>Management Meetings</b>
10.1	<p>A Contract management meeting shall be held regularly and attended by the Teachers Service Commission Representative and the Contractor. Its business shall be to review the plans for the remaining Work. Teachers Service Commission Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by</p>

CLAUSE NO	CONDITIONS OF THE CONTRACT
	Teachers Service Commission Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.
10.2	Communication between parties shall be effective only when in writing
11.	<b>Defects</b>
11.1	Teachers Service Commission Representative 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. Teachers Service Commission Representative may instruct the Contractor to search for a defect and to uncover and test any Work that the Teachers Service Commission Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor? However if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.
11.2	Teachers Service Commission Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period is 180 days after the date of Completion.
11.3	Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Teachers Service Commission Representative's (Project Manager). If the Contractor has not corrected a defect within the time specified by the Project Manager through the Teachers Service Commission, the Teachers Service Commission through the Project Manager will assess the cost of having the defect corrected by other parties and such cost shall be deducted from the Contract Price
12	<b>Bills of Quantities/Schedule of Rate</b>
12.1	The Bills of Quantities/Schedule of Rates shall contain items for the <b>proposed re-partitioning of office space for the Director, Quality Assurance and Standards office on 2nd floor TSC Building</b> . The Contractor will be paid for the quantity of the work done at the rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.
13	<b>Variation</b>
13.1	The price variations shall not be allowed within a period of twelve (12) months.
13.2	If the Work in the variation corresponds with an item description in the Bill of Quantities/Schedule of Rates, the rate in the Bill of Quantities/Schedule of Rates shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in the Bill of Quantities/Schedule of Rates, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
13.3	If the Contractor's quotation is unreasonable, the Teachers Service Commission Representative may order the variation and make a change to the Contract Price, which shall be based on the Teachers Service Commission Representative's own forecast of the effects of the variation on the Contractor's costs.
14	<b>Payment Certificates and final Account</b>
14.1	The Contractor shall be paid after completion of Work and issuance of completion certificate (subject to re-measurement of works done by the Teachers Service Commission Representative and approved by the <i>Contract</i>

CLAUSE NO	CONDITIONS OF THE CONTRACT
	<b>Implementation Team (CIT)</b> before payment is made)
14.2	<p>Upon deciding that Works included in a particular stage are complete, the Contractor shall submit to the Teachers Service Commission Representative his application for payment.</p> <p>Teachers Service Commission Representative shall check, adjust if necessary and certify the amount to be paid to the Contractor within 21 days of receipt of the Contractor's application Teachers Service Commission shall pay the Contractor the amounts so certified within 60 days of the date of issue of each Interim Certificate</p>
14.3	<p>The Contractor shall supply the Teachers Service Commission Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period.</p> <p>Teachers Service Commission Representative shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 60 days of receiving the Contractor's account if it is correct and complete. If it is not, Teachers Service Commission Representative shall issue within 21 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, Teachers Service Commission Representative shall decide on the amount payable to the Contractor and issue a Final Payment Certificate. Teachers Service Commission shall pay the Contractor the amount so certified within 60 days of the issue of the Final Payment Certificate</p>
14.4	The Contractor shall not be entitled to claim simple interest accrued from delayed payment.
15	<b>Insurance</b>
15.1	The Contractor shall be responsible for and shall provide appropriate cover against, among other risks, personal injury; loss of or damage to the Works, materials and plant; and loss of or damage to property.
16	<b>Liquidated Damages</b>
16.1	<p>The Contractor shall pay liquidated damages to the Teachers Service Commission at the rate 0.001 per cent of the Contract price per day for each day that the actual Completion Date is later than the Intended Completion Date except in the case of any of the occurrences listed under clause 9.2.</p> <p>Teachers Service Commission may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities</p>
17	<b>Completion and Taking Over</b>
17.1	<p>Upon deciding that the Work is complete the Contractor shall request the Teachers Service Commission Representative to issue a Certificate of Completion of the Works, upon deciding that the Work is completed.</p> <p>Teachers Service Commission shall take over the Site and the Works within seven days of the Employer's Representative issuing a Certificate of Completion.</p>



CLAUSE NO	CONDITIONS OF THE CONTRACT
<p><b>18</b> <b>18.1</b></p>	<p><b>Termination</b> Teachers Service Commission 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;</p> <ul style="list-style-type: none"> <li>(a) the Contractor stops Work for 30 days continuously without reasonable cause or authority from the Teachers Service Commission Representative;</li> <li>(b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;</li> <li>(c) Teachers Service Commission Representative 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</li> </ul>
<p><b>18.2</b></p>	<p>If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site 14 days from the date of receipt of termination letter. Teachers Service Commission Representative 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.</p>
<p><b>19</b></p>	<p><b>Payment Upon Termination</b></p>
<p><b>19.1</b></p>	<p>Teachers Service Commission may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works</p>
<p><b>19.2</b></p>	<p>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 Teachers Service Commission Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, Teachers Service Commission 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.</p>
<p><b>19.3</b></p>	<p>Until after completion of the Works under this clause, TSC 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 therefor TSC Representative shall certify the amount of expenses properly incurred by Teachers Service Commission 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 Teachers Service Commission.</p>
<p><b>20</b></p>	<p><b>Corrupt Gifts and Payments of Commission</b></p>
<p><b>201.</b></p>	<p>The Contractor shall not;</p> <ul style="list-style-type: none"> <li>(a) Offer or give or agree to give to any person in the service of Teachers Service Commission any gifts 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</li> </ul>

CLAUSE NO	CONDITIONS OF THE CONTRACT
	<p>this or any other contract with the Employer or for showing or forbearing to show favor or disfavor to any person in relation to this or any other contract with the Employer.</p> <p>(b) 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 Laws of Kenya</p>
<b>21</b>	<b>Settlement of Disputes</b>
<b>21.1</b>	<p>Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration for final decision 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 the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.</p>

## APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

Name: TEACHERS SERVICE COMMISSION

Address: Private Bag - Nairobi

Name of Employer's Representative: Ministry of Public Works – State Department of Works

Title; Project Manager

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

The name (and identification number) of the Contract: **The PROPOSED RE-PARTITIONING OF OFFICE SPACE FOR QUALITY ASSURANCE AND STANDARDS DEPARTMENT ON THE 2ND FLOOR AT TSC BUILDING**

The Works consist of Re-partitioning of the Director's Office and adjacent offices

The Start Date shall be: Agreed upon at the time Site handing over and possession of the site

**The Completion Date** shall be **12 weeks after Commencement date**

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

1. Agreement,
2. Letter of Acceptance,
3. Contractor's Tender,
4. Appendix to Conditions of Contract,
5. Conditions of Contract,
6. Specifications,
7. Drawings,
8. Bill of Quantities

The Site Possession shall be agreed by the Project Manager.

The Site is located at TSC BUILDING 2<sup>ND</sup> FLOOR – UPPER HILL NAIROBI KENYA

The Defects Liability Period is 60 days.

Amount of Tender Security is **Kshs. 50,000.00**

The name and Address of the Employer for the purposes of submission of tenders is  
.....

The tender opening date and time is..... (*insert tender opening time*) on  
..... day of ..... (*insert date of tender opening*)

The amount of performance security is Kshs..... A Performance Security in form of bank guarantee of ten (10) percent shall be issued to the Commission before the contract is signed.

## **SECTION IV – SPECIFICATIONS, DRAWINGS AND BILLS OF QUANTITIES/SCHEDULE OF RATES**

### **I. SPECIFICATIONS**

#### **Notes for preparing Specifications**

- 1.0 Specifications must be drafted to present a clear and precise statement of the required standards of materials and workmanship for tenderers to respond realistically and competitively to the requirements of the Employer and ensure responsiveness of tenders. The Specifications should require that all materials, plant, and other supplies to be permanently incorporated in the Works be new, unused, of the most recent or current models and incorporating all recent improvements in designs and materials unless provided otherwise in the Contract.
- 2.0 Specifications from previous similar projects are useful and it may not be necessary to rewrite specifications for every works contract.
- 3.0 Care must be taken in drafting Specifications to ensure they are not restrictive. In the specification of standards for materials, plant and workmanship existing Kenya Standards should be used as much as possible otherwise recognized international standards may also be used.

### **II DRAWINGS**

- NOTE: 1. A list of the Contract Drawings should be inserted here  
2. The actual Contract Drawings including Site plans should be annexed in a separate booklet

### **III BILL OF QUANTITIES/SCHEDULE OF RATES**

#### **Notes for preparing Bills of Quantities**

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

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

#### **Notes for preparing Schedule of Rates**

Where the time limit or other constraints do not allow the preparation of a Bill of Quantities for the Works, a lump-sum Contract shall be adopted and a Schedule of Rates (in place of a Bills of Quantities) shall be issued as part of the tender documents.

The objectives of the Schedule of Rates are;

- (a) to provide sufficient information on the nature of work items to be performed to enable tenders to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into, to provide a basis for the pricing of Works executed for interim and final valuations.

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

Measurement of Work executed after every agreed stage should be done and the quantities so obtained used alongside the rates in the schedule to arrive at interim valuation [for each stage]and the final valuat

## II. DRAWINGS



## SEC1: BUILDERS WORKS

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>ELEMENT NO. 1</b>				
	DEMOLITIONS				
	DEMOLITIONS AND ALTERATIONS				
	The items of demolitions and removal shall include shoring making good disturbed areas to match existing and loading and carting away debris unless otherwise specified. Salvaged material will be re- used and credit issued on measured works.				
A	Carefully demolish and hand over the existing 50mm Thick overall dry wall partition comprising timber studs faced with MDF boards (Approximately 100 sm) from concrete and block work)		ITEM		
B	Carefully demolish the aluminium door (2100X1500) (1No)		ITEM		
C	Ditto, for aluminium double door(2100X1500) (1No)		ITEM		
D	Carefully remove the existing vertical window blinds fixed to the windows approximately 32sm		ITEM		
<b>TOTAL FOR DEMOLITION CARRIED TO SUMMARY</b>					



ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	ELEMENT NO. 2				
	ALUMINIUM PARTITION				
	Aluminium Partitions				
	The following in heavy duty powder coated aluminium framing in 100 x 50 x 2mm Thick to approved colour and beadings to BS 10 BS15; with channels on both sides at 1200mm centers vertically:-				
A	100mm Thick x 3000mm High partitions comprising of approx. 600mm High vertical-lourved Top panel;1200mm High glazed middle panel; and 1200mm High laminated MDF boarding bottom panel; including 20 x 20mm aluminium glazing beads; 20mm rubber strips; glazing to partitions (m.s)	144	SM		
B	<b>Glazing</b>				
	6mm Thick clear glass fixed to metal with aluminium connectors and rubber strips; panes exceeding 0.5 square meters but not exceeding 1.0 square meters	49	SM		
C	<b>Films</b>				
	Supply and fix one-way stripped films (as per sample on site) to ditto as directed by the Project Manager	49	SM		
D	20x20mm glazing beads	824	LM		
E	20mm rubber strips	412	LM		
<b>Total carried collection</b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>DRY WALL PARTITIONING.-GYPSUM(DIRECTOR'S OFFICE)</b>				
	<b>Gypsum partitioning</b>				
A	75mm thick composite partitions comprising of 12 mm thick gypsum boards partition both sides screwed on and including 50x 50 x1.2 mm thick aluminium frame at 600mm centres screwed onto concrete beams	47	SM		
	<b>Painting and Decoration</b>				
F	Carefully prepare the gypsum surface by sanding and skimming with gypsum powder to achieve the smooth surface.	84	SM		
G	Apply three finishing coats silk vinyl plastic emulsion paint to gypsum as before described on:	84	SM		
<b>Total carried to collection</b>					
<b>Collection</b>					
<b>Brought forward from Page BW / 2</b>					
<b>Brought forward from Above</b>					
<b>TOTAL FOR ALUMINIUM AND GYPSUM WORKS CARRIED TO SUMMARY</b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<u>ELEMENT NO. 3</u>				
	<b><u>DOORS</u></b>				
	<u>Aluminium framed glass door</u>				
	Aluminium standard section framed doors and accessories by an approved specialist subcontractor: powder coated to Architect's approval; including 6 mm thick toughened glass infill to panels in 100 x 50 mm aluminium edge plates: glazing beads bedded in mastic: to concrete or block wall surfaces with screws plugged: bedded and pointed all round in mastic				
A	900 x 2400mm high powder coated aluminium door in standard aluminium sections to approval hang to and including 100 x 50mm powder coated aluminium plugged frame all round and the leaf divided into 2No. 580 x 850mm high equal glazed fixed lights , by 1No. transome including aluminium glazing beads and complete with and including 900mm high glazed fanlight and all necessary ironmongery accessories.	5	NO		
B	Ditto but double door 1500 x 2400mm	1	NO		
	<b>Timber door</b>				
	<b>Director Office</b>				
	Supply and fix " Matrix line" type door of approved colour and including frame, and all necessary iron mongeries as supplied by 64 Door Factory or any approved supplied.				
C	Door overall size 900 x 2400mm high.	2	NO		
<b>Carried to collection</b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	Approved wrot hardwood frames and framings; prime grade, cut and polished smooth for painting.				
A	100 x 50 mm; 2 No. labours; plugged door frame.	13	LM		
B	40 x 35 mm moulded architrave	13	LM		
C	25 x 25mm moulded quadrants	13	LM		
	Supply and fix the following to UNION catalogue or other equal and approved; To softwood, hardwood or the like fixing with screws				
D	Three lever mortice lock complete with furniture.	2	NO		
E	100mm brass butt hinges	3	PRS		
F	Aluminium oval door stop	2	NO		
G	Door closer with cover	2	NO		
H	Stainless steel signage plate -	2	NO		
	Painting				
	Prepare and apply one undercoat and two finishing coats of approved first quality polyurethane varnish on:-				
I	Surfaces of wooden doors both sides.	12	SM		
J	Ditto. 100-200mm girth	13	LM		
<b>carried to collection</b>					
<b>Brought forward from Page BW / 4</b>					
<b>Brought down from above</b>					
<b>TOTAL FOR DOORS CARRIED TO SUMMARY</b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>ELEMENT NO. 4</b>				
	<b>WINDOWS</b>				
	<b>Vertical blinds</b>				
	Supply and fix 'Hunter Douglas' or other equal and approved hunting green colour Venetian blinds system with high quality horizontal louvers with opening and closing mechanism as per manufacturer's specifications subject to approval of sample by Project Manager.	32	SM		
<b>TOTAL FOR WINDOWS CARRIED TO SUMMARY</b>					

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	<b>ELEMENT NO. 5</b>				
	<b>INTERNAL FINISHES</b>				
	<b>FLOOR FINISHES</b>				
	Supply and fix 8mm thick executive carpet complete with underlay to approval color of choice including all accessories and approved by the Project Manager				
A	Over 300mm wide; to floors level; internal	45	SM		
B	Skirting; 100mm wide mahogany with rounded junction with wall finish and coved junction with floor finish	33	LM		
	<b>PROVISIONAL SUMS</b> The Following provisional sums to be spent/deducted in whole or in part at the discretion of the project manager				
	<u>Allow for Kenya Shillings Two Hundred and fifty thousand (KSHS. 250,000) only for structural cabling</u>		ITEM		250,000
<b>TOTAL FOR FINISHES CARRIED TO GRAND SUMMARY</b>					

MAIN BUILDING WORKS			
SUMMARY			
S/NO	ITEM		KSHS
A	DEMOLITIONS	FROM PAGE BW / 1	
B	ALUMINIUM AND GYPSUM WORKS	FROM PAGE BW/ 3	
C	DOORS	FROM PAGE BW/ 5	
D	WINDOWS	FROM PAGE BW/6	
E	FINISHES	FROM PAGE BW/7	
F	PROVISSIONAL SUM	FROM PAGE BW/8	<b>Kshs. 250,000.00</b>
<b>TOTAL CARRIED TO GRAND SUMMARY</b>			
<b>TOTAL FOR BUILDERS WORKS CARRIED TO GENERAL SUMMARY</b>			

## SEC 2: GRAND SUMMARY

BILL NO.	DESCRIPTION	
	PROPOSED REPARTITIONING OFFICE SPACE FOR QUALITY ASSURANCE DEPARTMENT ON 2ND FLOOR , TSC BUILDING UPPER HILL, NAIROBI	
		FOR TENDERER USE ONLY
		K.SHS.
	<u>GENERAL SUMMARY</u>	
	Builders works for QAS BW/9	
	TOTAL CARRIED TO FORM OF TENDER	KSHS.
	<b>Amount in Words:</b>	
	<b>Official Stamp</b>	
	Signed:	
	Designation:	
	Date:	
	<b>WITNESSED BY:</b>	
	Name: .....	
	Address: .....	
	Date: .....	

## **SECTION V**

### **STANDARD FORMS**

#### List of Standard Forms

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

# FORM OF INVITATION FOR TENDERS

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

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

Dear Sirs:

Reference: \_\_\_\_\_ [Contract Name]

You have been prequalified to tender for the above project.

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

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

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

Upon payment of a non-refundable fee of Kshs \_\_\_\_\_

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

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

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

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

Yours faithfully,

\_\_\_\_\_ Authorized Signature

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



## FORM OF TENDER

TO: \_\_\_\_\_ [Name of Employer] \_\_\_\_\_ [Date]  
\_\_\_\_\_ [Name of Contract]

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities/Schedule of Rates for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs. \_\_\_\_\_ [Amount in figures] Kenya Shillings \_\_\_\_\_ [Amount in words]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Employer's Representative's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
3. We agree to abide by this tender until \_\_\_\_\_ [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.
5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Signature \_\_\_\_\_ in the capacity of \_\_\_\_\_

duly authorized to sign tenders for and on behalf of  
\_\_\_\_\_ [Name of Tenderer] of  
\_\_\_\_\_ [Address of Tenderer]

Witness; Name \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

(Amend accordingly if provided by Insurance Company)

# LETTER OF ACCEPTANCE

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

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

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

Dear Sir,

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

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

Authorized Signature .....

Name and Title of Signatory .....

Attachment : Agreement

## FORM OF AGREEMENT

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

WHEREAS THE Employer is desirous that the Contractor executes

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

NOW THIS AGREEMENT WITNESSETH as follows:

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

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

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

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

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

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

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

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

# TENDER SECURITY FORM

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

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

THE CONDITIONS of this obligation are:

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

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

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

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

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

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

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

# PERFORMANCE BANK GUARANTEE

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 recognised bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

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

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

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

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

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

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

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

Address \_\_\_\_\_

Date \_\_\_\_\_

(Amend accordingly if provided by Insurance Company)

## PERFORMANCE BOND

By this Bond, We \_\_\_\_\_ of (or whose registered office is situated at) \_\_\_\_\_ as Principal (hereinafter called "the Contractor") and \_\_\_\_\_ of [or whose registered office is situated at] \_\_\_\_\_ as Surety (hereinafter called "the Surety"), are held and firmly bound unto \_\_\_\_\_ of [or whose registered office is situated at] \_\_\_\_\_ as Obligee (hereinafter called "the Employer") in the amount of Kshs. \_\_\_\_\_ [amount of Bond in figures] Kenya Shillings

[amount of Bond in words], for the payment of which sum well and truly, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a Contract with the Employer dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ for the execution of

[name of Contract] in accordance with the Contract documents, Specifications and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a tender or tenders from qualified tenderers for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive tenderer, arrange for a Contract between such tenderer and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "Balance of the Contract Price", as used in this paragraph, shall mean the total amount payable by the Employer to the Contractor under the

Contract, less the amount properly paid by the Employer to the Contractor; or

- (3) pay the Employer the amount required by the Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issuance of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

SIGNED ON \_\_\_\_\_ SIGNED ON \_\_\_\_\_

On behalf of \_\_\_\_\_ On behalf of \_\_\_\_\_  
[name of Contractor] [name of Surety]

By \_\_\_\_\_ By \_\_\_\_\_

In the capacity of \_\_\_\_\_ In the capacity of \_\_\_\_\_

In the presence of;Name \_\_\_\_\_ In the presence of;Name\_\_\_\_\_

Address\_\_\_\_\_

Address\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

Date\_\_\_\_\_



**BANK GUARANTEE FOR ADVANCE PAYMENT**

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

Gentlemen,

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

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

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

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

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

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

Yours faithfully,

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

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

Address \_\_\_\_\_

Date \_\_\_\_\_

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

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

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

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

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

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

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

Bidder .....Signed ..... Date .....

Name ..... Title .....

(Bidder or his representative)

**KEY PERSONNEL**

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

I certify that the above information is correct.

.....  
*(Title)*

.....  
*(Signature)*

.....  
*(Date)*

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

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

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

.....  
(Title)

.....  
(Signature)

.....  
(Date)

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

**OTHER SUPPLEMENTARY INFORMATION**

1. Financial reports for the last five years, balance sheets, profit and loss statements, auditors' reports etc. List them below and attach copies.  
 .....  
 .....  
 .....
  
2. Evidence of access to financial resources to meet the qualification requirements. Cash in hand, lines of credit etc. List below and attach copies of supporting documents  
 .....  
 .....  
 .....
  
3. Name, address, telephone, telex, fax numbers of the Tenderer's Bankers who may provide reference if contacted by the Employer.  
 .....  
 .....  
 .....
  
4. Information on current litigation in which the Tenderer is involved.

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

I certify that the above information is correct.

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

*Designation:* .....

.....  
*Signature*

.....  
*Date*

## **1 Joint Ventures**

- 2.0 The information listed in 1.1 – 2.0 above shall be provided for each partner of the joint venture.
- 2.1 The information required in 1.11 above shall be provided for the joint venture.
- 2.2 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture
- 2.3 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 of tenderer;

.....

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

.....

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

.....

.....

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

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



**CONFIDENTIAL BUSINESS QUESTIONNAIRE**

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 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 Licence 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.....

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

Citizenship details .....

*Part 2 (b) – Partnership*

*Give details of partners as follows:*

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>
1	.....	.....	.....	.....
2	.....	.....	.....	.....
3	.....	.....	.....	.....

**INTEGRITY DECLARATION**

I/We/Messrs..... of .....

Street/avenue, .....Building,

P.O. Box .....Code ....., of ..... (town), ..... (Nationality), Phone ..... Email

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

process which should not be open to abuse.

I/We ..... declare that I/We

will not offer or facilitate,

directly or indirectly, any inducement or reward to any public officer, their relations or business associates,

pursuant to Section 62 of the Public Procurement & Asset Disposal Act, 2015, in connection with

Tender name: .....

Tender No. ....

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

Dated this ..... day of ..... 20.....

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

Name and Title of Signatory.....

**NON-DEBARMENT STATEMENT**

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

..... Building,

P. O. Box .....Code ....., of ..... (town), ..... (Nationality), Phone ..... Email

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

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

Name and Title of Signatory.....

## **DETAILS OF SUB-CONTRACTORS**

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

Failure to comply with this requirement may invalidate the tender.

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

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

.....

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

.....

.....

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

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

.....

.....

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

.....

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

\_\_\_\_\_  
Date

**LETTER OF NOTIFICATION OF AWARD**

Address of Procuring Entity

\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

*(FULL PARTICULARS)* \_\_\_\_\_  
\_\_\_\_\_

SIGNED FOR ACCOUNTING OFFICER

**REPUBLIC OF KENYA**  
**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

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

BETWEEN

.....APPLICANT

AND

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

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

**REQUEST FOR REVIEW**

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED .....(Applicant)

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

**FOR OFFICIAL USE ONLY**

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

SIGNED  
Board Secretary