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**INVITATION TO TENDER (ITT) No; RFX No. 1000001332**

**SUPPLY, INSTALLATION, TESTING, AND COMMISSIONING OF 1X750KVA  
AND 1X500KVA DIESEL GENERATORS COMPLETE WITH ASSOCIATED  
EQUIPMENT & ACCESSORIES IN DADAAB, GARISSA COUNTY**

## Table of Contents

INVITATION TO TENDER (ITT) PROCURING ENTITY .....	5
SECTION I -INSTRUCTIONS TO TENDERERS .....	1
SECTION II - TENDER DATA SHEET .....	20
SECTION III - EVALUATION AND QUALIFICATION CRITERIA .....	25
3 Evaluation .....	27
(v) Functional Guarantees of the Facilities .....	29
1.1 Nationality .....	32
1.2 Conflict of Interest .....	32
1.3 PPRA Ineligibility (if debarred/Sanctioned) .....	32
1.4 State Owned Enterprise or Institution .....	32
1.5 Ineligibility based on a United Nations resolution or Kenya laws .....	32
1.6 Tax Obligations for Kenyan Tenderers .....	32
(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022) .....	35
TENDERER'S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE.....	38
CERTIFICATE OF INDEPENDENT TENDER DETERMINATION .....	41
SELF DECLARATION FORMS .....	42
FORM SD1 .....	42
FORM SD2 .....	43
SCHEDULE OF RATES AND PRICES .....	45
Price Adjustment.....	47
Sample Price Adjustment Formula .....	48
SITE ORGANIZATION.....	51
Personnel.....	56
Form PER-2 .....	56
Others - Time Schedule.....	57
Tenderers Qualification without prequalification.....	58
Form ELI 1.1 .....	59
Form ELI 1.2 .....	60
Form CON – 2 .....	61
Year 1.....	64
Year 2.....	64
Year 3.....	64
Year.....	64
Year n.....	64
Avg .....	64
Avg. Ratio.....	64
Information from Balance Sheet .....	64
Total Assets (TA).....	64
Total Liabilities (TL) .....	64
Net Worth (NW) .....	64
Current Assets (CA).....	64
Current Liabilities (CL).....	64
Information from Income Statement .....	64
Total Revenue (TR) .....	64
Profits Before Taxes (PBT).....	64
Form FIN - 3.2 .....	65
Form FIN3.3 .....	65
Form EXP 4.1 .....	66
Form EXP –4.2(a).....	66
TENDER-SECURING DECLARATION FORM {r 46 and 155(2)} .....	70
MANUFACTURER'S AUTHORIZATION FORM.....	71
SCOPE OF SUPPLY OF PLANT AND INSTALLATION SERVICES BY THE CONTRACTOR .....	74
Scope of work .....	75
Submittals .....	76
Warranty – Basic One Year Cover.....	76
Single Tenderer.....	76
 <b>1. GENERATOR SETS: 1 X 500 KVA AND 1 X 750 KVA.....</b>	<b>77</b>
Specifications:.....	77
2.4 AC Generator – Prime Power .....	78
2.5.0 Engine-Generator Set Control.....	78
2.5.1 Three-position control switch labeled RUN/OFF/AUTO .....	79

2.5.2	Generator Set AC Output Metering .....	79
2.5.3	Generator Set Alarm and Status Display.....	79
2.5.4	Engine Status Monitoring .....	79
2.5.5	Control Functions.....	80
2.5.6	Generator Control Functions.....	80
2.6	Base Design and Anti-vibration Mountings.....	80
2.7	Auxiliaries.....	80
<b>2.</b>	<b>SPECIFICATIONS FOR 415 V AC METAL-CLAD SWITCHGEAR BOARD.....</b>	<b>81</b>
3.1	Scope .....	81
3.2	Standards.....	82
3.3	Service Conditions .....	82
3.4	Climatic Conditions & Geo-Reference .....	82
3.5	Working Stress and Equipment/Apparatus Design .....	83
3.6	Basic Requirements for Electrical Equipment .....	84
3.7	Equipment and Switchgear Earthing.....	85
3.9	Protection, Cleaning and Painting .....	86
4.0	Drawings.....	86
6.0	Testing at Place of Manufacture.....	87
7.0	Software .....	88
8.0	Spare Parts .....	88
9.0	Detailed Specifications for 415 V Ac Metal-Clad Indoor Switchgear Panels.....	88
9.2	Circuit Breakers .....	89
9.3	Current Transformers .....	89
9.4	Protection Relays .....	90
9.5	Indications and Instruments .....	90
9.7.3	Tests .....	91
9.9	Protection Relays and Control Devices.....	93
10.10	Detailed Specifications for the Energy Meters.....	97
<b>3.</b>	<b>SPECIFICATIONS FOR 1MVA 0.415/33KV STEP-UP TRANSFORMER .....</b>	<b>99</b>
1	Scope .....	99
2	References.....	99
3	Terms and Definitions .....	99
4	Requirements .....	99
4.1	Service Conditions .....	99
<b>4.</b>	<b>LV SINGLE CORE ALUMINIUM CABLES (PVC) .....</b>	<b>103</b>
	Foreword.....	103
<b>5.</b>	<b>CABLE TRAY SPECIFICATIONS.....</b>	<b>105</b>
<b>6.</b>	<b>GENERATOR CRITICAL SPARES.....</b>	<b>106</b>
<b>7.</b>	<b>MINIMUM CONSUMABLE SPARES FOR 500KVA AND 750KVA .....</b>	<b>106</b>
<b>8.</b>	<b>CONTROL PANEL SPARES.....</b>	<b>106</b>
<b>9.</b>	<b>STANDARD TOOLS.....</b>	<b>106</b>
<b>10.</b>	<b>GENERAL TECHNICAL PARTICULARS (GTPs) – 500KVA GENSET.....</b>	<b>108</b>
<b>11.</b>	<b>GENERAL TECHNICAL PARTICULARS (GTPs) – 750KVA GENSET.....</b>	<b>110</b>
<b>12.</b>	<b>GENERAL TECHNICAL PARTICULARS (GTPs) - SWITCHGEAR PANEL .....</b>	<b>112</b>
<b>13.</b>	<b>(GTP's) - AC AIR CIRCUIT BREAKER .....</b>	<b>113</b>
<b>14.</b>	<b>GTP's FOR CURRENT TRANSFORMERS. ....</b>	<b>114</b>
<b>15.</b>	<b>PROTECTION RELAYS, AUXILIARY RELAYS AND CONTROL DEVICES GTP'S.....</b>	<b>114</b>
<b>16.</b>	<b>TECHNICAL PARTICULARS FOR 0.415/33kV TX.....</b>	<b>118</b>

17.	Neutral Current Transformer .....	119
18.	TECHNICAL PARTICULARS FOR LAPTOP .....	120
19.	NOTES FOR PREPARING BILLS OF QUANTITIES .....	121
20.	BILLS OF QUANTITIES .....	123
	NOTE:.....	126
21.	SUMMARY OF PRICE SCHEDULE SUB-TOTALS .....	126
22.	APPENDIX.....	127
	FORMS AND PROCEDURES .....	128
	FORM OF OPERATIONAL ACCEPTANCE CERTIFICATE .....	129
	CHANGE ORDER PROCEDURE AND FORMS .....	130
	ANNEX 1. REQUEST FOR CHANGE PROPOSAL .....	131
	ANNEX 2. ESTIMATE FOR CHANGE PROPOSAL .....	132
	ANNEX 3. ACCEPTANCE OF ESTIMATE.....	133
	ANNEX 4. CHANGE PROPOSAL.....	134
	ANNEX 5. CHANGE ORDER.....	136
	ANNEX 6. PENDING AGREEMENT CHANGE ORDER.....	137
	ANNEX 7. APPLICATION FOR CHANGE PROPOSAL .....	138
	DRAWINGS .....	139
	SECTION IX - SPECIAL CONDITIONS OF CONTRACT .....	181
	SECTION VIII - CONTRACT FORMS.....	183
	APPENDIX 1: TERMS AND PROCEDURES OF PAYMENT .....	192
	APPENDIX 2. PRICE ADJUSTMENT .....	194
	APPENDIX 3. INSURANCE REQUIREMENTS .....	196
	APPENDIX 4. TIME SCHEDULE .....	198
	APPENDIX 6. SCOPE OF WORKS AND SUPPLY BY THE PROCURING ENTITY .....	200
	APPENDIX 7. LIST OF DOCUMENTS FOR APPROVAL OR REVIEW .....	201
	APPENDIX 8. FUNCTIONAL GUARANTEES .....	202
	PERFORMANCE SECURITY FORM .....	204
	PERFORMANCE SECURITY OPTION 2 – (Performance Bond) .....	206
	ADVANCE PAYMENT SECURITY - Demand Bank Guarantee .....	208
	BENEFICIAL OWNERSHIP DISCLOSURE FORM .....	209
	(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022) .....	209

## INVITATION TO TENDER

### Procuring Entity: Rural Electrification and Renewable Energy Corporation

**CONTRACT NAME AND DESCRIPTION: Rfx No; 1000001332;** Supply, Installation, Testing, and Commissioning of 1x750Kva and 1x500Kva Diesel Generators complete with Associated Equipment & Accessories in Dadaab, Garissa County-Retender.

1. Rural Electrification & Renewable Energy Corporation invites sealed tenders for Supply, Installation, Testing, and Commissioning of 1x750Kva and 1x500Kva Diesel Generators complete with Associated Equipment & Accessories in Dadaab, Garissa County-Retender.
2. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours **8.00am - 12.45pm to 1.45pm-4.00pm Monday to Friday** at *Rural Electrification and Renewable Energy Corporation* Offices situated in Kawi Complex, Block C, Ground floor.
4. A complete set of tender documents may be viewed and downloaded by interested tenderers free of charge electronically from the Website [www.rerec.co.ke](http://www.rerec.co.ke) under tender documents or through the e-procurement portal using <https://suppliers.rea.co.ke:44300/irj/portal> and on the Public Procurement Information Portal <https://tenders.go.ke>
5. Tenderers who are not yet registered with REREC must register their companies in order to participate in the tender using link below that can be found from the website [www.rerec.co.ke](http://www.rerec.co.ke) Procurement-Supplier registration:[https://suppliers.rea.co.ke:44200/supportal\(bD11biZjPTUwMCZkPW1pbg==\)/bspwdapplication.do#VI\\_EW\\_ANCHOR-ROS\\_TOP](https://suppliers.rea.co.ke:44200/supportal(bD11biZjPTUwMCZkPW1pbg==)/bspwdapplication.do#VI_EW_ANCHOR-ROS_TOP)
6. There shall be a mandatory site visit on **31st March, 2025** for the tenderers who did not carry out site visit in the previous tender.
7. Tenders shall be quoted in Kenya Shillings and shall include all taxes. Tenders shall remain valid for 147 days from the date of opening of tenders.
8. All Tenders must be accompanied by **tender Security** of **Kes; 1,460,000.00** in form of a bank guarantee. Original Bid security shall be delivered to the tender Box (Kawi Complex, Block C, Ground floor, Off Popo Road,) on or before **17<sup>th</sup> April, 2025 @ 10.00am**.
9. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
10. Completed tenders must be delivered to Rural Electrification and Renewable Energy Corporation electronically through <https://suppliers.rea.co.ke:44300/irj/portal> on or before **17th April, 2025 @ 10.00am**.
11. Only Electronic Tenders will be permitted.
12. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and times specified later. Tenders will be publicly opened in the presence of the tenderers' designated representatives who choose to attend at the address below.
13. Any addendum to this tender shall be uploaded to the Corporation's website [www.rerec.co.ke](http://www.rerec.co.ke) under tender documents.
14. Late tenders will be rejected.
15. The addresses referred to above are:  
**Address for obtaining further information on tender documents**  
Original Bid security delivered to the tender Box (Kawi Complex, Block C, Ground floor, Off Popo Road,).  
Contact Manager, Supply chain management, telephone number: 0709193000 and e-mail address: [tenders@rerec.co.ke](mailto:tenders@rerec.co.ke)  
**Address for Submission of Tenders:**  
**Online Through** <https://suppliers.rea.co.ke:44300/irj/portal>  
**Address for Opening of Tenders.**  
Kawi Complex, Block C, Ground floor, **online opening system**  
Name: **Dr. Rose N. Mkalama**  
Designation: **Chief Executive Officer**

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## **PART 1 - TENDERING PROCEDURES**

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## **SECTION I -INSTRUCTIONS TO TENDERERS**

### **A. General**

#### **1. Scope of Tender**

- 1.1 In connection with the Invitation to Tender (ITT), specified in the Tender Data Sheet (TDS), the Procuring Entity, issues this Tendering document for the Design, Supply and Installation of Plant and equipment as specified in Section VII, Procuring Entity's Requirements.

#### **2. Definitions**

- 2.1 Throughout this Tender document:

- a) The term “in writing” means communicated in written form (e.g.by mail, e-mail, fax, including if specified **in the TDS**, distributed or received through the electronic-procurement system used by the Procuring Entity) with proof of receipt;
- b) if the context so requires, “singular” means “plural” and vice versa; and
- c) “Day” means calendar day, unless otherwise specified as “Business Day.” A Business Day is any day that is an official working day in Kenya. It excludes the Kenya's official public holidays.

#### **3. Fraud and Corruption**

- 3.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 “Declaration not to engage in corruption”. The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.
- 3.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the “Certificate of Independent Tender Determination” annexed to the Form of Tender.
- 3.3 Unfair Competitive Advantage-Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the Data Sheet and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.
- 3.4 Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Procuring Entity.

#### **4. Eligible Tenderers**

- 4.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 4.6, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a Form of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the TDS.
- 4.2 Public Officers of the Procuring Entity and their relatives (i.e. spouse, child, parent, brother or sister and a child, parent, brother or sister of a spouse) their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

- 4.3 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
- a) Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
  - b) Receives or has received any direct or indirect subsidy from another Tenderer; or
  - c) Has the same legal representative as another Tenderer; or
  - d) Has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
  - e) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Plant and Installation Services that are the subject of the Tender; or
  - f) or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Project Manager for the Contract implementation; or
  - g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
  - h) has a close business or family relationship with a professional staff of the Procuring Entity who:
    - (i) are directly or indirectly involved in the preparation of the Tendering document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity.
- 4.4 A tenderer shall not be involved in corrupt, coercive, obstructive or fraudulent practice. A tenderer that is proven to have been involved in any of these practices shall be automatically disqualified and would not be awarded a contract
- 4.5 A firm that is a Tenderer (either individually or as a JV member) shall not participate as a Tenderer or as JV member in more than one Tender except for permitted alternative Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. However, this does not limit the participation of a Tenderer as subcontractor in another Tender or of a firm as a subcontractor in more than one Tender.
- 4.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.
- 4.7 A Tenderer that has been debarred by the PPRA shall be ineligible to be prequalified for, initially selected for, Tender for, propose for, financially or otherwise, during such period of time as the PPRA shall have determined. The list of debarred firms and individuals is available at PPRA Website [www.ppra.go.ke](http://www.ppra.go.ke).
- 4.8 Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the Procuring Entity.
- 4.9 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. Where the procurement is implemented across jurisdictional boundaries, then exclusion of a firm or individual on the basis of ITT 4.8 (a) above by any country may be applied to that procurement across other countries involved.



- 4.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in “SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9”.
- 4.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if it is registered in Kenya, has less than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price. JVs are considered as foreign tenderers if the individual member firms are registered in Kenya have less than 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price.
- 4.12 The Competition Act 2010 requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Act. JVs will be required to seek for exemption from the Competition Authority of Kenya. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website [www.cak.go.ke](http://www.cak.go.ke)
- 4.13 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

## **5. Eligible goods, Plant and equipment for Installation Services**

- 5.1 The Plant and equipment for Installation Services to be supplied under the Contract may have their origin in any eligible country.
- 5.2 For purposes of ITT 5.1 above, “origin” means the place where the plant, or component parts thereof are mined, grown, produced or manufactured, and from which the services are provided. Plant components are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that is substantially in its basic characteristics or in purpose or utility from its components.
- 5.3 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

## **B. Contents of Tendering Document**

### **6. Sections of Tendering Document**

- 6.1 The Tendering document consists of Parts 1, 2, and 3, which include all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT 10.

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

- i) Section I- Instructions to Tenderers (ITT)
- ii) Section II-Tender Data Sheet (TDS)
- iii) Section III- Evaluation and Qualification Criteria
- iv) Section IV-Tendering Forms
- v) Section V- Eligible Countries
- vi) Section VI- Fraud and Corruption

#### **PART 2 - Procuring Entity's Requirements**

- vii) Section VII-Procuring Entity's Requirements

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

- viii) Section VIII- General Conditions of Contract (GCC)

ix) Section IX- Special Conditions of Contract (SCC)

x) Section X- Contract Forms

6.2 The Invitation to Tender Notice issued by the Procuring Entity is not part of the Tendering document.

6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Tender meeting (if any), or Addenda to the Tendering document in accordance with ITT 10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

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

## **7. Site Visit**

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

## **8 Pre-Tender Meeting and a pre-arranged pretender visit of the site of the works**

8.1 The Procuring Entity shall specify in the **TDS** if a pre-tender conference will be held, when and where. The Procuring Entity shall also specify in the **TDS** if a pre-arranged pretender visit of the site of the works will be held and when. The Tenderer's designated representative is invited to attend a pre- arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

8.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.

8.3 Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT6.3. Minutes shall not identify the source of the questions asked.

8.4 The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the webpage identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre- Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre- Tender meeting will not be a cause for disqualification of a Tenderer.

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

9.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre- Tender meeting and the pre-arranged pretender visit of the site of the works if provided for in accordance with ITT8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the webpage identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT10.

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

10.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.

- 10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's webpage in accordance with ITT8.1.
- 10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT24.2 below.

## **C. Preparation of Tenders**

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

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

### **12. Language of Tender**

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

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

- 13.1 The Tender shall comprise the following:

- a) **Form of Tender** prepared in accordance with ITT 14.1;
- b) **Price Schedules** completed in accordance with ITT 14 and ITT 19;
- c) **Tender Security or Tender Securing Declaration**, in accordance with ITT 22;
- d) **Alternative Tender**, if permissible, in accordance with ITT 15;
- e) **Authorization**: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 23.3;
- f) **Eligibility of Plant and Installation Services**: documentary evidence established in accordance with ITT 16.1 that the Plant and Installation Services offered by the Tenderer in its Tender or in any alternative Tender, if permitted, are eligible;
- g) **Tenderer's Eligibility and Qualifications**: documentary evidence in accordance with ITT 17.1 establishing the Tenderer's eligibility and qualifications to perform the Contract if its Tender is accepted;
- h) **Conformity**: documentary evidence in accordance to ITT18 that the Plant and Installation Services offered by the Tenderer conform to the Tendering document;
- i) **Subcontractors**: list of subcontractors in accordance with ITT18.2; and
- j) Any other document required **in the TDS**.

- 13.1 In addition to the requirements under ITT 13.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered in to by all members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall serialize pages of all tender documents submitted.
- 13.2 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender

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

- 14.1 The Form of Tender and Price Schedules shall be prepared, using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed as instructed in each form without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 21.3. All blank spaces shall be filled in with the information requested.

## **15 Alternative Tenders**

- 15.1 Unless otherwise specified in the **TDS**, alternative Tenders shall not be considered.
- 15.2 When alternatives to the Time Schedule are explicitly invited, a statement to that effect will be included in the **TDS**, and the method of evaluating different time schedules will be described in Section III, Evaluation and Qualification Criteria.
- 15.3 Except as provided under ITT 15.4 below, Tenderers wishing to offer technical alternatives to the Procuring Entity's requirements as described in the Tendering document must also provide: (i) a price at which they are prepared to offer a Plant meeting the Procuring Entity's requirements; and (ii) all information necessary for a complete evaluation of the alternatives by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed installation methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.
- 15.4 When Tenderers are invited in the **TDS** to submit alternative technical solutions for specified parts of the facilities, such parts will be identified in the **TDS**, as will the method for their evaluation, and described in Section VII, Procuring Entity's Requirements.

## **16 Documents Establishing the Eligibility of the Plant and Installation Services**

- 16.1 To establish the eligibility of the Plant and Installation Services in accordance with ITT 5, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Tendering Forms.

## **17 Documents Establishing the Eligibility and Qualifications of the Tenderer**

- 17.1 To establish its eligibility and qualifications to perform the Contract in accordance with Section III, Evaluation and Qualification Criteria, the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tendering Forms.
- 17.2 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity a supplier or group of suppliers qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.
- 17.3 The purpose of the information described in ITT 15.1 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.
- 17.4 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 15.1. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
- 17.5 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.

- 17.6 If a tenderer fails to submit the information required by these requirements, its tenderer will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
- 17.7 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:
- i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
  - ii) if the contract has been awarded to that tenderer, the contract award will be set aside,
  - iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.
- 17.8 If a tenderer submits information pursuant to these requirements that is in complete, inaccurate or out- of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

## **18 Documents Establishing the Conformity of the Plant and Installation Services**

- 18.1 The Tenderer shall furnish the information stipulated in Section IV, Tendering Forms in sufficient detail to demonstrate substantial responsiveness of the Tenderers' proposal to the work requirements and the completion time.
- 18.2 For major items of Plant and Installation Services as listed by the Procuring Entity in Section III, Evaluation and Qualification Criteria, which the Tenderer intends to purchase or subcontract, the Tenderer shall give details of the name and nationality of the proposed Subcontractors, including manufacturers, for each of those items. In addition, the Tenderer shall include in its Tender information establishing compliance with the requirements specified by the Procuring Entity for these items. Quoted rates and prices will be deemed to apply to whichever Subcontractor is appointed, and no adjustment of the rates and prices will be permitted.
- 18.3 The Tenderer shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITT 4, and that any plant, or services to be provided by the Subcontractor comply with the requirements of ITT 5 and ITT 15.1.

## **19 Tender Prices and Discounts**

- 19.1 Unless otherwise specified in the **TDS**, Tenderers shall quote for the entire Plant and Installation Services on a "single responsibility" basis. The total Tender price shall include all the Contractor's obligations mentioned in or to be reasonably inferred from the Tendering document in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation and completion of the Plant. This includes all requirements under the Contractor's responsibilities for testing, pre-commissioning and commissioning of the plant and, where so required by the Tendering document, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as specified in the Tendering document, all in accordance with the requirements of the General Conditions. Items against which no price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed to be covered by the prices for other items.
- 19.2 Tenderers are required to quote the price for the commercial, contractual and technical obligations outlined in the Tendering document.
- 19.3 Tenderers shall give a breakdown of the prices in the manner and detail called for in the Price Schedules included in Section IV, Tendering Forms.
- 19.4 Depending on the scope of the Contract, the Price Schedules may comprise up to the six (6) schedules listed below. Separate numbered Schedules included in Section IV, Tendering Forms, from those numbered 1 to 4 below, shall be used for each of the elements of the Plant and Installation Services. The total amount from each



Schedule corresponding to an element of the Plant and Installation Services shall be summarized in the schedule titled Grand Summary, (Schedule 5), giving the total Tender price (s) to be entered in the Form of Tender. Tenderers shall note that the plant and equipment included in Schedule Nos. 1 and 2 below exclude materials used for civil, building and other construction works. All such materials shall be included and priced under Schedule No.4, Installation Services. The Schedules comprise:

**Schedule No. 1:** Plant (including Mandatory Spare Parts) Supplied from Abroad

**Schedule No. 2:** Plant (including Mandatory Spare Parts) Supplied from within Kenya

**Schedule No. 3:** Design Services

**Schedule No. 4:** Installation Services **Schedule No. 5:**

Grand Summary (Schedule Nos.1to4) **Schedule No. 6:**

Recommended Spare Parts

19.5 In the Schedules, Tenderers shall give the required details and a breakdown of their prices as follows:

a) Plant to be supplied from a broad (Schedule No.1):

The price of the Plant shall be quoted on CIP-named place of destination basis as specified **in the TDS**, including all taxes payable in Kenya.

b) Plant manufactured within Kenya (Schedule No.2):

i) The price of the plant shall be quoted on an EXW Incoterm basis (such as “ex-works,” “ex-factory,” “ex-warehouse” or “off-the-shelf,” as applicable);

ii) Sales tax and all other taxes payable in Kenya on the plant if the contract is awarded to the Tenderer; and

iii) The total price for the item.

c) Design Services (Schedule No.3);

d) Installation Services shall be quoted separately (Schedule No.4) and shall include rates or prices for local transportation to named place of final destination as specified **in the TDS**, insurance and other services incidental to delivery of the plant, all labor, contractor's equipment, temporary works, materials, consumables and all matters and things of whatsoever nature, including operations and maintenance services, the provision of operations and maintenance manuals, training, etc., where identified in the Tendering document, as necessary for the proper execution of the installation and other services, including all taxes, duties, levies and charges payable in Kenya as of twenty-eight (28) days prior to the deadline for submission of Tenders;

e) Recommended spare parts shall be quoted separately (Schedule 6) as specified in either subparagraph (a) or (b) above in accordance with the origin of the spare parts.

19.6 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce, as specified in the **TDS**.

19.7 The prices shall be either fixed or adjustable as specified in the **TDS**.

19.8 In the case of Fixed Price, prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the contract and not subject to variation on any account. A Tender submitted with an adjustable price quotation will be treated as non-responsive and rejected.

19.9 In the case of Adjustable Price, prices quoted by the Tenderer shall be subject to adjustment during performance of the contract to reflect changes in the cost elements such as labor, material, transport and contractor's equipment in accordance with the procedures specified in the corresponding Appendix to the Contract Agreement. A Tender submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero. Tenderers are required to indicate the source of labor and material indices in the corresponding Form in Section IV, Tendering Forms.

19.10 If so indicated in ITT 1.1, Tenders are being invited for individual lots (contracts) or for any combination of lots (packages). Tenderers wishing to offer any price reduction (discount) for the award of more than one Contract shall specify in their Form of Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package, and the manner in which the price reductions will apply.

19.11 Tenderers wishing to offer any unconditional discount shall specify in their Form of Tender the offered discounts and the manner in which price discounts will apply.

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

20.1 The currency(ies) of the Tender and the currency(ies) of payments shall be the same. The Tenderer shall quote in the currency of Kenya the portion of the Tender price that corresponds to expenditures incurred in the currency of Kenya, unless otherwise specified in the **TDS**.

20.2 The Tenderer may express the Tender price in any currency. If the Tenderer wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three foreign currencies in addition to the currency of Kenya.

## **21. Period of Validity of Tenders**

21.1 Tenders shall remain valid for the Tender Validity period specified **in the TDS**. The Tender Validity period starts from the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 23.1). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

21.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 20, the Tenderer granting the request shall also extend the Tender Security for twenty-eight (28) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 19.3.

21.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Tender validity period, the Contract price shall be determined as follows:

- a) In the case of **fixed price** contracts, the Contract price shall be the Tender price adjusted by the factor or factors specified **in the TDS**;
- b) In the case of **adjustable price** contracts, no adjustment shall be made; or
- c) in any case, Tender evaluation shall be based on the Tender price without taking into consideration the applicable correction from those indicated above.

## **22. Tender Security**

22.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified **in the TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified **in the TDS**.

22.2 A Tender-Securing Declaration shall use the form included in Section IV Tendering Forms.

22.3 If a Tender Security is specified pursuant to ITT 20.1, the Tender security shall be a demand guarantee in any of the following forms at the Tenderer's option:

- a) cash;
- b) a bank guarantee;
- c) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
- d) a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,

22.4 If a Tender Security or a Tender-Securing Declaration is specified pursuant to ITT 20.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.

22.5 If a Tender Security is specified pursuant to ITT 20.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's furnishing of the Performance Security pursuant to ITT 47.

- 22.6 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security.
- 22.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:
- a) If a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender; or
  - b) If the successful Tenderer fails to:
    - i) Sign the Contract in accordance with ITT 47; or
    - ii) Furnish a performance security in accordance with ITT 48.
- 22.8 Where the Tender-Securing Declaration is executed the Procuring Entity will recommend to the PPRA to debar the Tenderer from participating in public procurement as provided in the law.
- 22.9 The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender Security or the Tender Securing Declaration shall be in the names of all future members as named in the Form of intent referred to in ITT 4.1 and ITT 11.2.

### **23 Format and Signing of Tender**

- 23.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "Original." Alternative Tenders, if permitted in accordance with ITT 13, shall be clearly marked "Alternative". In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them "Copy." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 23.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information.
- 23.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 23.4 In the case that the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 23.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

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

#### **24 Submission, Sealing and Marking of Tenders**

- 24.1 The Tenderer shall deliver the Tender in a single, sealed envelope (one (1) envelope process). The Tenderer shall place the following separate, sealed envelopes:

##### Inner Envelops:

- a) In an envelope marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and
- b) In an envelope marked "COPIES", all required copies of the Tender; and
- c) If alternative Tenders are permitted in accordance with ITT 13, and if relevant:
  - i) In an envelope marked "ORIGINAL-ALTERNATIVE TENDER" the alternative Tender; and
  - ii) in the envelope marked "COPIES – ALTERNATIVE TENDER" all required copies of the alternative Tender.



The inner envelopes shall:

- a) Bear the name and address of the Tenderer;
- b) Be addressed to the Procuring Entity in accordance with ITT 23.1;
- c) Bear the specific identification of this Tendering process indicated in accordance with ITT 1.1; and
- d) Bear a warning not to open before the time and date for Tender opening.

The outer envelope (s) in which the inner envelopes are enclosed shall:

- a) Be addressed to the Procuring Entity in accordance with ITT 23.1;
- b) Bear the specific identification of this Tendering process indicated in accordance with ITT 1.1; and
- c) Bear a warning not to open before the time and date for Tender opening.

- 24.2 If all envelopes are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

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

- 25.1 Tenders must be received by the Procuring Entity at the address and no later than the date and time indicated in the **TDS**. When so specified in the **TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the **TDS**.
- 25.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the Tendering document in accordance with ITT8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

## **26. Late Tenders**

- 26.1 The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 23. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

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

- 27.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
- a) prepared and submitted in accordance with ITT 21 and ITT 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "Withdrawal," "Substitution," "Modification"; and
  - b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 23.
- 27.2 Tenders requested to be withdrawn in accordance with ITT25.1 shall be returned unopened to the Tenderers.
- 27.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

## **28. Tender Opening**

- 28.1 Except as in the cases specified in ITT24 and ITT25.2, the Procuring Entity shall publicly open and read out in accordance with ITT26.5 all Tenders received by the deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives and anyone who choose to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT

23.1, shall be as specified **in the TDS**.

- 28.2 First, the written notice of withdrawal in the envelopes marked “Withdrawal” shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.
- 28.3 Next, envelopes marked “Substitution” shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
- 28.4 Next, envelopes marked “Modification” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 28.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and the Tender Price(s), including any discounts and alternative Tenders, and indicating whether there is a modification; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.
- 28.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further. The Form of Tender and the Price Schedules are to be initialed by representatives of the Procuring Entity attending Tender opening in the manner specified in the **TDS**.
- 28.7 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 24.1).
- 28.8 The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:
- a) The name of the Tenderer and whether there is a withdrawal, substitution, or modification;
  - b) The Tender Price, per lot if applicable, including any discounts;
  - c) Any alternative Tenders; and
  - d) The presence or absence of a Tender Security or a Tender-Securing Declaration.
  - e) Number of pages for each tender
- 28.9 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Tenderers.

#### **D. Evaluation and Comparison of Tenders**

##### **29. Confidentiality**

- 29.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 42.
- 29.2 Any effort by a Tenderer to influence the Procuring Entity in the evaluation of the Tenders or Contract award decisions may result in the rejection of its Tender.
- 29.3 Notwithstanding ITT 27.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

##### **30. Clarification of Tenders**

- 30.1 To assist in the examination, evaluation, and comparison of the Tenders, and qualification of the Tenderers, the Procuring Entity may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the Tenders, in accordance with ITT32.

- 30.2 If a Tenderer does not provide clarifications of its Tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

### **31 Deviations, Reservations, and Omissions**

31.1 During the evaluation of Tenders, the following definitions apply:

- a) "Deviation" is a departure from the requirements specified in the Tendering document;
- b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Tendering document; and
- c) "Omission" is the failure to submit part or all of the information or documentation required in the Tendering document.

### **32 Determination of Responsiveness**

32.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 11.

32.2 A substantially responsive Tender is one that meets the requirements of the Tendering document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- a) If accepted, would:
  - i) Affect in any substantial way the scope, quality, or performance of the Plant and Installation Services specified in the Contract; or
  - ii) Limit in any substantial way, in consistent with the Tendering document, the Procuring Entity's rights or the Tenderer's obligations under the proposed Contract; or
- b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

32.3 The Procuring Entity shall examine the technical aspects of the Tender in particular, to confirm that all requirements of Section VII, Procuring Entity's Requirements have been met without any material deviation, reservation, or omission.

32.4 If a Tender is not substantially responsive to the requirements of the Tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

### **33 Nonmaterial Non-conformities**

33.1 Provided that a Tender is substantially responsive, the Procuring Entity may waive any nonconformity in the Tender.

33.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial non-conformities in the Tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

33.3 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable non material non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the TDS.

### **34 Correction of Arithmetical Errors**

34.1 Provided that the tender is substantially responsive, the Procuring Entity shall correct arithmetical errors on the following basis:

- i) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- ii) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- iii) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

34.2 Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive. The method of determining the error as a major deviation shall be specified in the **TDS**.

34.3 Corrected tender prices shall not be used in the evaluation of tenders, comparison of tender prices.

34.4 The Procuring Entity shall calculate the difference between the corrected price and tender price and work out the percentage difference, which will be plus or minus tender price as the case may be; [i.e. (corrected tender price– tender price)/ tender price X100]. This percentage difference between corrected tender price and tender price may be used to determine if the error so detected is considered a major deviation that affects the substance of the tender.

34.5 On award of contract, all payment valuation certificates, variation orders on omissions and additions valued based on rates in the Bill of Quantities will be adjusted by such a percentage specified in ITT 31.4 to ensure contractor is not paid less or more relative to the contract price which would be the tender price.

### **35. Conversion to Single Currency**

35.1 For evaluation and comparison purposes, the currency(ies) of the Tender shall be converted into a single currency as specified in the **TDS**.

### **36. Margin of Preference**

36.1 A margin of preference may be allowed on locally manufactured goods (plant and equipment) only when the contract is open to international tendering, where the tender is likely to attract foreign goods and where the contract exceeds the threshold specified in the Regulations.

36.2 A margin of preference shall not be allowed unless it is specified so in the **TDS**.

36.3 Contracts procured on basis of international tendering and competition shall not be subject to reservations exclusive/ specific groups under women, youth and persons living with disability.

36.4 Where it is intended to reserve a contract to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by a competent authority, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses or firms belonging to the specified group are eligible to tender. Tender shall be reserved to only one group. If not so stated in the Tender documents, the invitation to tender will be open to all interested tenderers.

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

37.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine the Best Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and that has been determined to be:

- a) Most responsive to the Tendering document; and
- b) The lowest evaluated cost.

**37.2 Technical Evaluation.** The Procuring Entity will carry out a detailed technical evaluation of the Tenders not previously rejected to determine whether the technical aspects are in compliance with the Tendering document. The Tender that does not meet minimum acceptable standards of completeness, consistency and detail, and the specified minimum (or maximum, as the case may be) requirements for specified functional guarantees, will be rejected for non-responsiveness. In order to reach its determination, the Procuring Entity will examine and compare the technical aspects of the Tenders on the basis of the information supplied by the Tenderers, taking into account the following:

- a) Overall completeness and compliance with the Procuring Entity's Requirements; conformity of the Plant and Installation Services offered with specified performance criteria, including conformity with the specified minimum (or maximum, as the case may be) requirement corresponding to each functional guarantee, as indicated in the Specification and in Section III, Evaluation and Qualification Criteria; suitability of the Plant and Installation Services offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the Tender;
- b) type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services; and
- c) other relevant factors, if any, listed in Section III, Evaluation and Qualification Criteria.

**37.3** Where alternative technical solutions have been allowed in accordance with ITT 13, and offered by the Tenderer, the Procuring Entity will make a similar evaluation of the alternatives. Where alternatives have not been allowed but have been offered, they shall be ignored.

**37.4 Economic Evaluation.** To evaluate a Tender, the Procuring Entity shall consider the following:

- a) the Tender price, excluding provisional sums and the provision, if any, for contingencies in the Price Schedules;
- b) price adjustment due to discounts offered in accordance with ITT 17.11;
- c) price adjustment due to quantifiable non material non-conformities in accordance with ITT 31.3;
- d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITT 33; and
- e) the evaluation factors specified in the TDS and in Section III, Evaluation and Qualification Criteria.

**37.5** If price adjustment is allowed in accordance with ITT 17.7, the estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Tender evaluation.

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

## **38 Comparison of Tenders**

**38.1** The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 35.4 to determine the Tender that has the lowest evaluated cost.

## **39 Abnormally Low Tenders and Abnormally High Tenders**

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

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

**39.3** After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to deliver the contract for the offered tender price, the Procuring Entity shall reject the Tender.



- 39.4 An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.
- 39.5 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:
- i) If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.
  - ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.
- 39.6 If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

#### **40. Unbalanced or Front Loaded Tenders**

- 40.1 If the Tender that is evaluated as the lowest evaluated cost is, in the Procuring Entity's opinion, seriously unbalanced or front loaded the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the Tender prices with the scope of works, proposed methodology, schedule and any other requirements of the Tendering document.
- 40.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may:
- a) Accept the Tender; or
  - b) If appropriate, require that the total amount of the Performance Security be increased, at the expense of the Tenderer, to a level not exceeding twenty percent (10%) of the Contract Price; or
  - c) Reject the Tender.

#### **41. Eligibility and Qualification of the Tenderer**

- 41.1 The Procuring Entity shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender is eligible and meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 41.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 15.1. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tendering document) or any other firm (s) different from the Tenderer.
- 41.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated cost to make a similar determination of that Tenderer's qualifications to perform satisfactorily.
- 41.4 The capabilities of the manufacturers and subcontractors proposed in its Tender to be used by the Tenderer with the Lowest Evaluated Tender for identified major items of supply or services will also be evaluated for acceptability in accordance with Section III, Evaluation and Qualification Criteria. Their participation should be confirmed with a Form of intent between the parties, as needed. Should a manufacturer or subcontractor be determined to be unacceptable, the Tender will not be rejected, but the Tenderer will be required to substitute an acceptable manufacturer or subcontractor without any change to the Tender price. Prior to signing the Contract,

The corresponding Appendix to the Contract Agreement shall be completed, listing the approved manufacturers or subcontractors for each item concerned.

#### **42 Procuring Entity's right to Accept Any Tender and to Reject Any or All Tenders**

- 42.1 The Procuring Entity reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to Contract Award, without there by incurring any liability to Tenderers. In case of annulment, all Tenders submitted and specifically, Tender securities shall be promptly returned to the Tenderers.

#### **E. Award of Contract**

#### **43 Award Criteria**

- 43.3 Subject to ITT 40, the Procuring Entity shall award the Contract to the successful Tenderer. This is the Tenderer whose Tender has been determined to be the Lowest Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:
- a) Substantially responsive to the Tendering Document; and
  - b) The lowest evaluated cost

#### **44 Notice of Intention to Enter into a Contract/ Notification of Award**

- 44.1 When a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Award the Contract to the successful Tenderer. The Notification of Intention to Award shall contain, at a minimum, the following information:
- a) The name and address of the Tenderer submitting the successful Tender;
  - b) The Contract price of the successful Tender;
  - c) A statement of the reason (s) the Tender (of the unsuccessful Tenderer to whom the Form is addressed) was unsuccessful, unless the price information in c) above already reveals the reason;
  - d) The expiry date of the Standstill Period; and
  - e) Instructions on how to request a debriefing and/ or submit a complaint during the standstill period.

#### **45 Standstill Period**

- 45.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.
- 45.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter in to a Contract with the successful Tenderer.

#### **46 Debriefing by the Procuring Entity**

- 46.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 43, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.
- 46.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

#### **47. Letter of Award**

- 47.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 43.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

## **48. Signing of Contract**

- 48.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.
- 48.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Procuring Entity.
- 48.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period
- 48.4 Notwithstanding ITT 46.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Procuring Entity, to the country of the Procuring Entity, or to the use of the Plant and Installation Services to be supplied, where such export restrictions arise from trade regulations from a country supplying those Plant and Installation Services, the Tenderer shall not be bound by its Tender, always provided, however, that the Tenderer can demonstrate to the satisfaction of the Procuring Entity that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Tenderer in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the Plant and Installation Services under the terms of the Contract.

## **49. Performance Security**

- 49.1 Within twenty-one (21) days of the receipt of the Form of Acceptance from the Procuring Entity, the successful Tenderer shall furnish the Performance Security in accordance with the General Conditions GCC 13.3, subject to ITT 38, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Procuring Entity. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent financial institution is not required.
- 49.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.

## **50. Publication of Procurement Contract**

- 50.1 Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:
- a) Name and address of the Procuring Entity;
  - b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;
  - c) the name of the successful Tenderer, the final total contract price, the contract duration.
  - d) Dates of signature, commencement and completion of contract;
  - e) Names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

## **51. Appointment of Adjudicator**

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

## **52. Procurement Related Complaint and Administrative Review**

- 51.1 The procedures for making a Procurement-related Complaint are as specified in the **TDS**.
- 51.2 A request for administrative review shall be made in the form provided under contract forms.



## SECTION II - TENDER DATA SHEET

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

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>A. General</b>	
<b>ITT 1.1</b>	<p>The reference number of the Invitation to Tender (ITT) is: <b>Rfx No; 1000001332; Supply, Installation, Testing, and Commissioning of 1x750Kva and 1x500Kva Diesel Generators complete with Associated Equipment &amp; Accessories in Dadaab, Garissa County-Retender</b></p> <p>The Procuring Entity is: <b>Rural Electrification and Renewable Energy Corporation</b></p> <p>The name of the ITT is: <b>Rfx No; 1000001332</b></p> <p>The number and identification of lots (contracts) comprising this ITT is: <b>N/A</b></p>
<b>ITT 2.1</b>	<p>The name of the Project is: <b>Supply, Installation, Testing, and Commissioning of 1x750Kva and 1x500Kva Diesel Generators complete with Associated Equipment &amp; Accessories in Dadaab, Garissa County</b></p> <p>Electronic –Procurement System shall <b>be used</b></p> <p>The Procuring Entity shall use the following electronic-procurement system to manage this Tendering process: e-Procurement (SRM)</p>
<b>ITT 4.1</b>	Maximum number of members in the Joint Venture (JV) shall be: <b>2</b>
<b>B. Tendering Document</b>	
<b>ITT 8.1</b>	<p>The pre-tender conference <b>will not be held</b>.</p> <p>If it will be held, it will be held on <i>N/A</i> (date and time)</p> <p>And at <i>N/A</i></p> <p>Physical Address (City, street, building, Floor/Room number) <i>N/A</i></p> <p>The pre-arranged pretender visit of the site of the works <b>will be held on 31.03.2025 in Dadaab diesel power station, Dadaab town, Garissa County</b></p>
<b>ITT 8.2</b>	Any questions in writing, shall reach the Procuring Entity not later than <b>10.04.2025 @ noon</b>
<b>ITT 8.4</b>	Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works will be published at the website <a href="http://www.rerec.co.ke">www.rerec.co.ke</a> under tender documents
<b>ITT 9.1</b>	The Procuring Entity shall publish its response at the website <a href="http://www.rerec.co.ke">www.rerec.co.ke</a> under tender documents
<b>C. Preparation of Tenders</b>	
<b>ITT 13.1 (j)</b>	<p>The Tenderer shall submit the following additional documents in its Tender</p> <ul style="list-style-type: none"> <li>• The tenderer SHALL provide latest Audited financial reports for the last three (3) years, 2024, 2023, 2022, signed and stamped by the auditor and company directors. A valid ICPAK Practicing License for the year of each audit must be attached.</li> <li>• The tenderer SHALL submit Manufacturers Authorizations &amp; Warranty form for the major equipment on manufacturer's letterhead duly filled, signed and stamped. – Generators, switchgear, transformer, and other major equipment.</li> <li>• The tenderer SHALL submit detailed drawings and cable schedules of the proposed system configuration, switchgear wiring diagram, layout and civil /</li> </ul>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>structural designs signed and stamped by professional engineer, registered by EPRA.</p> <ul style="list-style-type: none"> <li>• Submission of manufacturers contact details including a valid official email address (Gmail or yahoo email address will not be accepted) and secure website for international companies.</li> <li>• Submission of details of experience and past performance on works of a similar nature within the past five years and details of current work on hand and other contractual commitments. The tenderer to attach at least 3 completion certificates from the owner of the works undertaken. Tenderer should have at least 2 years past experience in relevant works.</li> <li>• Submission and verification of Professional Qualification and experience for key staff, which key staff shall be the Project Supervisor and two (2) Technicians. At least one key staff shall be a holder of a valid EPRA Class B license as provided in form Personnel.</li> <li>• Confirmation of business Premise, workshops and service center with relevant tools and equipment whether owned or leased with evidence of valid lease agreements and OSHA registration of workplace certificate.</li> <li>• Submission of valid EPRA License (Company's Valid EPRA license Class B electrical and above).</li> <li>• Submission of valid NCA 7 and above – electrical services or Mechanical services and valid current annual contractor's practicing license.</li> <li>• Submission of Manufacturer's ISO 14001:2015 certificate OR NEMA license for key equipment - Generators, switchgear, transformer and other major equipment.</li> <li>• Submission of Manufacturer's ISO 9001:2015 certificate for quality management OR KEBS certification for the key equipment - Generators, switchgear, transformer and other major equipment.</li> <li>• Submission of evidence of an established up to date safety program, policies and work practices. Bidder to provide a written occupational health and safety policy.</li> </ul>
ITT 15.1	Alternative Tenders <i>shall not be</i> considered.
ITT 15.2	Alternatives to the Time Schedule <i>shall not be</i> permitted.
ITT 15.4	Alternative technical solutions shall be permitted for the following parts of the Plant and Installation Services: <b>None</b>
ITT 19.1	<p>Tenderers shall quote for the following components or services on a single responsibility basis:</p> <p>Entire Plant and Installation Services</p>
ITT 19.5 (a) and (d)	Place of destination: <b>DDP</b> Dadaab, Garissa County
ITT 19.6	The Incoterms edition is: <b>DDP</b>
ITT 19.7	The prices quoted by the Tenderer <i>shall not</i> be subject to adjustment during the performance of the Contract.
ITT 20.1	The Tenderer <i>is</i> required to quote in Kenya Currency the portion of the Tender price that corresponds to expenditures incurred in that currency.
ITT 21.1	The Tender validity period shall be <b>147</b> days.

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 21.3 (a)	The Tender price shall be adjusted by the following factor(s): N/A
ITT 22.1	A Tender Security <i>shall be</i> required. The Tender Security (Bid Bond) to the procuring entity that is in the required format, amount, from a reputable bank and that is valid for at least 180 days from the date of tender opening. The amount and currency of the Tender Security shall be; <b>Kes; 1,460,000.00</b>
ITT 23.1	In addition to the original of the Tender, the number of copies is: <i>N/A (e-procurement)</i>
ITT 23.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: <b>A written Power of Attorney commissioned by a Commissioner of Oaths which shall accompany the tender if the tenderer/company is owned by more than one director or if the signatory to the tender is not a director of the company (provide name and attach proof of citizenship of the signatory to the tender</b>
<b>D. Submission and Opening of Tenders</b>	
ITT 25.1	For <u>Tender submission purposes</u> only, the Procuring Entity's address is:  Attention:
Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p><b>Chief Executive Officer</b> Kawi House, South C, P.O. Box 34585, 00100 <b>Nairobi, Kenya</b> <b>e-mail:</b><a href="mailto:info@rerec.co.ke">info@rerec.co.ke</a>; <a href="mailto:tenders@rerec.co.ke">tenders@rerec.co.ke</a>;  TEL NO.254-20-2710955/2713921</p> <p><b>The deadline for Tender submission is:</b> Date: <b>17<sup>th</sup> April, 2025</b> Time: <b>10:00am</b></p> <p>Tenderers <i>shall</i> submit their Tenders electronically as follows;</p> <p>(a) Login to REREC portal via url <a href="https://suppliers.rea.co.ke:44300/irj/portal">https://suppliers.rea.co.ke:44300/irj/portal</a></p> <p><b>N/B:</b> It is assumed that you have already completed the registration process and that your registration has been approved by REREC and you have created an employee user account to transact with REREC via url;</p> <p><a href="https://suppliers.rea.co.ke:44200/supportal(bD1lbiZjPTUwMCZkPW1pbg==)/bsp da pplication.do#VIEW_ANCHOR-ROS_TOP">https://suppliers.rea.co.ke:44200/supportal(bD1lbiZjPTUwMCZkPW1pbg==)/bsp da pplication.do#VIEW_ANCHOR-ROS_TOP</a></p> <p><b>For the purpose of bidding, each firm must ensure the following</b></p> <ul style="list-style-type: none"> <li>• Each company must have two user accounts; <b>Admin Account and Employee Account</b>. Ensure that the following roles are <b>NOT ASSIGNED</b> to the employee; <b>Employee Administrator and Supplier Master Data manager</b>.</li> <li>• Ensure that the admin account and employee account does not share same email address</li> <li>• Ensure that the Employee user name is between 4 and 12 characters.</li> <li>• For the purpose of this tender bidding, <b>the employee account</b> shall be used to submit your RFX responses.</li> </ul> <p>(b) Choose RFX and Auction link in the navigation pane</p> <p>(c) Click on the RFX number to open it</p> <p>(d) Click Register and then Click Participate</p>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>(e) Click Create response; You will get a unique number for your response for the RFx</p> <p>Navigate to the Notes and Attachments tab and click on Collaboration link at the bottom of the screen (the link will be in the format “RFX Response No: Company Name”. If under your notes and attachment no link is formed in the collaboration room, you are advised to delete the response and create a new one until the link is formed, in this link all the documents of the tender shall be uploaded</p>
ITT 28.1	<p>The Tender opening shall take place at:</p> <p><b>Rural Electrification &amp; Renewable Energy Corporation</b>  Kawi House, South C,  Procurement Office, Ground Floor  P.O. Box 34585, 00100  <b>Nairobi, Kenya</b>  Date: <b>17.04.2025</b>  Time: <b>10:00am</b></p> <p>The electronic Tender opening procedures shall be:</p> <p>The electronic Tender shall be opened promptly thereafter in REREC Procurement Office at Kawi House, Ground Floor as follows;</p> <ol style="list-style-type: none"> <li>The opening committee logs in SAP-SRM</li> <li>Click on initiate RFX opening</li> <li>Click on open RFx prices</li> <li>Download the excel file, which is the opening schedule contains the tender number, tenderer’s name and quoted prices</li> </ol> <p>The Opening schedule shall be uploaded on the Corporation’s website under opening minutes tab</p>
ITT 28.6	<p>The Form of Tender and Price Schedules shall be initialed by <b>3 representatives</b> of the Procuring Entity conducting Tender opening.</p>
<b>E. Evaluation, and Comparison of Tenders</b>	
ITT 33.3	<p>The adjustment shall be based on the _____ [<i>insert “average” or ‘highest’</i>] price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate. N/A</p>
ITT 34.2	<p>The error shall be determined as a major deviation if it is more than _____% or less than _____%. N/A</p>
ITT 35.1	<p>The currency that shall be used for Tender evaluation and comparison purposes to convert (at the selling exchange rate) all Tender prices expressed in various currencies into a single currency is: <b>KES</b></p> <p>The source of exchange rate shall be: <i>the Central Bank in Kenya</i></p> <p>The date for the exchange rate shall be: <i>17<sup>th</sup> April, 2025</i></p>
ITT 36.2	<p>A margin of preference <b><u>shall not be</u></b> allowed.</p>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 37.4 (e)	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: <i>N/A</i></p> <p>(a) Deviation in Time for Completion: <i>No</i>.</p> <p>(b) Life cycle costs: the projected operating and maintenance costs during the life of the goods or equipment <i>No</i></p> <p>(c) Functional Guarantees of the Facilities <i>No</i></p> <p>(d) Work, services, facilities, etc., to be provided by the Procuring Entity <i>No</i></p>
ITT 37.6	<p>Tenderers shall <b>be allowed</b> to quote separate prices for different lots (contracts) and the methodology to determine the lowest tenderer is specified in Section III, Evaluation and Qualification Criteria.</p>
ITT 45 Standstill Period	<p>The Standstill Period is <b>10</b> Business Days after the date the Procuring Entity has transmitted to all Tenderers that submitted a Tender, the Notification of its Intention to Award the Contract to the successful Tenderer.</p>
ITT 51	<p>The hourly fee specified is _____ plus reimbursable expenses. (<i>As per First Schedule of NCIA Arbitration rules</i>)</p>
ITT 52.1	<p>The procedures for making a Procurement-related Complaints are detailed in the “Regulations” available from the PPRA Website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a>. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p>For the attention: <b>Dr. Rose N. Mkalama</b>  Title/position: <b>Chief Executive Officer</b>  Procuring Entity: <b>Rural Electrification and Renewable Corporation</b>  Email address: <a href="mailto:info@rerec.co.ke">info@rerec.co.ke</a> and <a href="mailto:tenders@rerec.co.ke">tenders@rerec.co.ke</a></p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <p>(i) the terms of the Tender Documents; and</p> <p>1. (ii) The Procuring Entity’s decision to award the contract.</p>

## SECTION III - EVALUATION AND QUALIFICATION CRITERIA

### 1. General Provision

- 1.2 Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:
- For construction turn over or financial data required for each year -Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
  - Value of single contract -Exchange rate prevailing on the date of the contract signature.
  - Exchange rates shall be taken from the publicly available source identified in the ITT 33.1. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.
- 1.3 This section contains the criteria that the Procuring Entity shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. The Procuring Entity should use **the Standard Tender Evaluation Report for Goods and Works** for evaluating Tenders.
- 1.4 **Evaluation and contract award Criteria**
- 1.4 The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents, and (iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

### 2 Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria (including requirements in the qualification forms, tenderer's eligibility- confidential business questionnaire) and other requirements in the ITT and that the tender is complete in all aspects in meeting the requirements of "*Part 2 - Procuring Entity's Requirements*", including checking for tenders with unacceptable errors, abnormally low tenders, and abnormally high tenders. The Standard Tender Evaluation Report for Goods and Works provides clear guidelines on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will not be considered further.

The following are the **MANDATORY** Requirements that **SHALL** constitute the evaluation criteria at the Preliminary Evaluation Stage:

- Confirmation that the Bidder documents/Attachments have been submitted in the Collaboration folder of the SAP SRM System. Bidders shall not attach their documents at any other Tab of the Portal. Attachments placed elsewhere in the portal shall be declared non-responsive and the attachments shall not be evaluated.
- Confirmation that the bidder's prices appear during tender opening. The entered prices in the items tab of SRM portal must be the same as the prices in the tender form/price schedules and the same prices are read out during opening (Award shall be based on read out price).
- Confirmation of Submission of a valid tender security during opening in form of a Bank guarantee. The value of the Tender Security shall be as specified in TDS and valid for 180 days.
- Submission of copies of Company or Firm's Registration Certificate, Company's E-PIN Certificate with both VAT & Income Tax obligations & Valid Tax compliance certificate.
- Submission of a valid (CR12/CR13) form from Registrar of Companies, not more than Three (3) months old from the date of tender closing for all companies as is applicable and certified by a Commissioner of Oaths or a Magistrate of the Kenyan Judiciary. Attach commissioner's current year practicing license and copies of Directors' National Identity Cards.
- Submission of a copy of valid Trade License/Business permit in the county of operation. (To be verified using scan codes). In addition the company must submit up to date company profile with organization chart.

7. Power of attorney authorizing the signatory of the tender to commit the tenderer in accordance with the Tender requirements. The Power of attorney shall be commissioned by a Commissioner of Oaths or a Magistrate of the Kenyan Judiciary which shall accompany the tender if the tenderer/company is owned by more than one director or if the signatory to the tender is not a director of the company (provide name and attach proof of citizenship of the signatory to the tender. Attach commissioner's current year practicing license. Companies owned by one director need not to submit Power of Attorney.
8. Confirmation of Submission and verification that the tender form is duly completed, stamped and signed by the bidder in the format provided in the tender and all the instructions on it complied to.
9. Submission of a duly filled Certificate of Independent Tender Determination commissioned by commissioner for oaths or a magistrate of the Kenyan Judiciary in the format provided in the tender document.
10. Submission of a duly filled Self-declaration form that the person/tenderer is not debarred in the matter of the Public Procurement and Asset Disposal Act 2015, commissioned by commissioner for oaths or a magistrate of the Kenyan Judiciary in the format provided in the tender document - Form SD1.
11. Submission of a duly filled Self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice commissioned by commissioner for oaths or a magistrate of the Kenyan Judiciary in the format provided in the tender document - Form SD2.
12. Submission of a duly filled Declaration and Commitment to The Code of Ethics commissioned by commissioner for oaths or a magistrate of the Kenyan Judiciary in the format provided in the tender document.
13. Submission of duly filled, stamp and signed confidential business questionnaire form commissioned by commissioner for oaths or a magistrate of the Kenyan Judiciary in the format provided in the tender document.
14. Submission of a dully filled, signed and stamped price schedule/BoQs form.
15. Submission of dully filled Qualification forms
  - i. Form EQU
  - ii. Form Personnel
  - iii. Tenderer Information Form
  - iv. Form Con -2
  - v. Form Fin 3.1, 3.2, 3.3
  - vi. Form CCC
  - vii. Form Exp 4.1, 4.2 (a) & 4.2 (b)
16. The tenderer SHALL provide latest Audited financial reports for the last three (3) years, 2024, 2023, 2022, signed and stamped by the auditor and company directors. A valid ICPAK Practicing License for the year of each audit must be attached.
17. The tenderer SHALL submit Manufacturers' Authorizations, Warranty forms for the major equipment on manufacturer's letterhead duly filled, signed and stamped in the format provided in the tender document. – Generators, switchgear, transformer, and other major equipment.
18. The tenderer SHALL submit detailed drawings and cable schedules of the proposed system configuration, switchgear wiring diagram, layout and civil / structural designs signed and stamped by professional engineer registered by EBK.
19. Submission of manufacturers' contact details form in the format provided in the tender document including a valid official email address (Gmail or yahoo email address will not be accepted) and secure website for international companies.
20. Submission of details of experience and past performance on works of a similar nature within the past five years and details of current work on hand and other contractual commitments. The tenderer to attach at least 3 completion certificates from the owner of the works undertaken. Tenderer should have at least 2 years past experience in relevant works.
21. Submission and verification of Professional Qualification and experience for key staff, which key staff shall be the Project Supervisor and two (2) Technicians. At least one key staff shall be a holder of a valid EPRA Class B license as provided in form Personnel.



22. Confirmation of business Premise, workshops and service center with relevant tools and equipment whether owned or leased with evidence of valid lease agreements and OSHA registration of workplace. certificate.
23. Submission of valid EPRA License (Company's Valid EPRA license Class B electrical and above).
24. Submission of valid NCA 7 and above – electrical services or Mechanical services and valid current annual contractor's practicing license.
25. Submission of Manufacturer's ISO 14001:2015 certificate OR NEMA license for key equipment - Generators, switchgear, transformer and other major equipment.
26. Submission of Manufacturer's ISO 9001:2015 certificate for quality management OR KEBS certification for the key equipment - Generators, switchgear, transformer and other major equipment.
27. Submission of evidence of an established up to date safety program, policies and work practices. Bidder to provide a written occupational health and safety policy.
28. Confirmation that the contractor has no REREC pending works beyond the project implementation period provided in the contract. This is a mandatory fulfillment and a bidder who fails on this parameter shall be deemed non responsive.

*NB: Tenders which do not satisfy any of the requirements set out above shall be rejected as per public procurement and disposal Act, 2015 and SHALL not proceed to financial evaluation stage.*

### **3 Evaluation**

#### **3.1 Technical Evaluation**

In addition to the criteria listed in ITT 35.2(a) - c) the following factors shall apply:

1. Full compliance to technical specifications for – Generators, switchgear, transformer and other major equipment. This is a mandatory fulfillment and a bidder who fails on any of the critical parameters shall be deemed non responsive. Only one brochure / technical specification per equipment should be offered, bids with more than one brochure / technical specifications per equipment will be considered non-responsive.
2. Verification of Professional Qualification and experience for key staff, which key staff shall be the Project Supervisor, two (2) Technicians. The Project Supervisor shall have at least a degree in Electrical or Mechanical Engineering and Registered with EBK as a graduate engineer and with at least five (5) years of experience. The technicians shall have at least a Diploma in Electrical or Mechanical Engineering with a minimum of two (2) years of experience. Signed CV's by the technicians and the owner/director and Certified copies of Certificates MUST be submitted. At least one key staff member with EPRA license minimum class B electrical.
3. Confirmation of relevant Drawings and Technical Data as requested. The Drawings should be legible and the dimensions and ratings should be clearly marked accurate. All cable sizing designs and calculations to be provided.
4. Detailed Mobilization Plan & Detailed Construction Schedule. This should be clear and demonstrate/indicate for each activity for period not exceeding 36 weeks.
5. Previous works undertaken. The tenderer to attach at least 3 completion certificates from the owner of the works undertaken one of which should be of a diesel power plant or back-up system not less than 350kVA.



## **FINANCIAL EVALUATION**

The following constituted the evaluation criteria at the Financial Evaluation stage:-

- i. Confirmation of and considering BOQ/Price Schedule duly completed and signed.
- ii. Tenderer's conformance with REREC delivery schedule in the tender document.
- iii. Compliance with the stated REREC terms of payments

### **3.2 Economic Evaluation**

**Price evaluation:** in addition to the criteria listed in ITT 35.4 (a) – (e) the following criteria shall apply:

- i) **Alternative Completion Times**, if permitted under ITT 13.2, will be evaluated as follows:  
.....N/A

- ii) **Alternative technical solutions for specified parts**

The acceptability of alternative technical solutions for parts of the facilities, if permitted under ITT 13.4, will be determined as follows:

.....  
.....N/A

- iii) **Life Cycle Costs**

*[Lifecycle costing should be used when the costs of operation and/ or maintenance over the specified life of the goods or works are estimated to be considerable in comparison with the initial cost and may vary among different Tenders/proposals. It shall be evaluated on a net present value basis. When using lifecycle costing, the Procuring Entity shall specify the following information:]*

Since the operating and maintenance costs of the facilities being procured form a major part of the **life cycle cost** of the facilities, these costs will be evaluated according to the principles given here after, including the cost of spare parts for the initial period of operation stated below and based on prices furnished by each Tenderer in Price Schedule Nos. 1 and 2, as well as on past experience of the Procuring Entity or other Procuring Entity's similarly placed. Such costs shall be added to the Tender price for evaluation. The operating and maintenance costs factors for calculation of the life cycle cost are:

- i) Number of years for lifecycle: \_\_\_\_\_ *[Insert number of years]*
- ii) Operating costs *[state how they will be determined]*
- iii) Maintenance costs, including the cost of spare parts for the initial period of operation *[state how they will be determined]*, and
- iv) Discount rate: \_\_\_\_\_ *[insert discount rate in percent]* to be used to discount to present value all annual future costs calculated under (ii) and (iii) above for the period specified in (i).

***The price of recommended spare parts quoted in Price Schedule No.6 shall not be considered for evaluation.***

(v) **Functional Guarantees of the Facilities**

The minimum (or maximum) requirements stated in the Specification for functional guarantees required in the Specification are:

Functional Guarantee	Minimum (or Maximum, as appropriate) Requirement
1.	
2.	
3.	
...	

For the purposes of evaluation, for each percentage point that the functional guarantee of the proposed Plant and Installation Services is below the norm specified in the Specification and in the above table, but above the minimum acceptable levels also specified there in, an adjustment of\_\_\_will be added to the Tender price. If the drop below the norm or the excess above the minimum acceptable levels is less than one percent, the adjustment will be appropriated accordingly.

- vi) Work, services, facilities, etc., to be provided by the Procuring Entity.

Where Tenders include the under taking of work or the provision of services or facilities by the Procuring Entity in excess of the provisions allowed for in the Tendering document, the Procuring Entity shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the Tender price for evaluation.

- vii) Specific addition criteria The relevant evaluation method, if any, shall be as follows:

.....

Any adjustments in price that result from the above procedures shall be added, for purposes of comparative evaluation only, to arrive at an “Evaluated Tender Price.” Tender prices quoted by Tenderers shall remain unaltered.

4 **Multiple Contracts (ITT 35.6)**

- 4.1 Multiple contracts will be permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

**OPTION1**

- i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.
- ii) If a tenderer wins more than one Lot, the tender will be awarded contracts for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the Lots. The tenderer will be awarded the combination of Lots for which the tenderer qualifies and the others will be considered for award to second lowest the tenderers.

**OPTION 2**

The Procuring Entity will consider all possible combinations of won Lots [contract(s)] and determine the combinations with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combinations provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

## 5 MARGIN OF PREFERENCE

- 5.1 If the **TDS** so specifies, the Procuring Entity will grant a margin of preference of 15% (fifteen percent) to Tenderers offering goods manufactured, mined, extracted, grown, assembled or semi-processed in Kenya. Goods assembled or semi-processed in Kenya shall have a local content of not less than 40%.
- 5.2 The margin of preference will be applied in accordance with, and subject to, the following provisions:
- a Tenderers applying for such preference on goods offered shall be asked to provide, as part of the data for qualification, such information, including details of the goods produced in Kenya, so as to determine whether, according to the classification established by the Procuring Entity, a particular category of goods or group of goods qualifies for a margin of preference.
  - b After Tenders have been received and reviewed by the Procuring Entity, goods offered in the responsive Tenders shall be assessed to ascertain they are manufactured, mined, extracted, grown, assembled or semi-processed in Kenya. Responsive tenders shall be classified in to the following groups:
    - i) **Group A:** Tenders offering goods manufactured in Kenya, for which (a) labor, raw materials, and components from within Kenya account for more than forty (40) percent of the Ex-Works price; and the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of Tender submission date;
    - ii) **Group B:** All other Tenders offering Goods manufactured in Kenya;
    - iii) **Group C:** Tenders offering Goods manufactured outside Kenya that have been already imported or that will be imported.
- 5.3 To facilitate this classification by the Procuring Entity, the tenderer shall complete whichever version of the Price Schedule furnished in the Tendering document is appropriate, provided however, that the completion of an in correct version of the Price Schedule by the Tenderer shall not result in rejection of its Tender, but merely in the Procuring Entity's reclassification of the Tender into its appropriate Tender group.
- 5.4 The Tenders in each group will then be compared to determine the Tender with the lowest evaluated cost in that group. The lowest evaluated cost Tender from each group shall then be compared with each other and if as a result of this comparison a Tender from Group A or Group B is the lowest, it shall be selected for the award.
- 5.5 If as a result of the preceding comparison, a Tender from Group C is the lowest evaluated cost, an amount equal to or 15% of the respective tender price, including unconditional discounts and excluding provisional sums, if any, shall be added to the evaluated price offered in each tender from Group C. If the tender from Group C is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group A or B based on the first evaluation price shall be selected.

## 6 Alternative Tenders (ITT 13.1)

*An alternative if permitted under ITT 13.1, will be evaluated as follows:*

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2- Procuring Entity's requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

## 7 Post qualification and Contract award (ITT 39), more specifically

- a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of prequalification data, if so required.
- b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.

- i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of Kenya Shillings **28,000,000.00**
- ii) Minimum average annual construction turnover of Kenya Shillings **211,000,000.00**, equivalent calculated as total certified payments received for contracts in progress and/ or completed within the last **[5]** years.
- iii) At least **Three (3)** contract (s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings **60,000,000.00** equivalent.
- iv) Contractor's Representative and Key Personnel, which are specified as **Project Supervisor and Two Technicians**
- v) Contractors key equipment listed on the table “Contractor's Equipment” below and more specifically listed as:
  - Primary injection kit
  - Secondary injection kit
  - Insulation resistance meter
  - Earth resistance meter
  - Clamp on meter
  - AC/DC Multimeter
  - Phase rotation meter
  - Frequency meter
  - BDV Tester
  - Transformer Turn Ratio Tester
  - Circuit breaker analyzer

Other conditions depending on their seriousness.

a) **History of non-performing contracts:**

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last **Five (5)** years. The required information shall be furnished in the appropriate form.

b) **Pending Litigation**

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above i fall pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

c) **Litigation History**

There shall be no consistent history of court/ arbitral award decisions against the Tenderer, in the last **Five 5years**. All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

## 8. Qualification

Factor	1 Eligibility					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer		Joint Venture (existing or intended)		
		Single Entity	All members combined	Each Partner	At least one Partner	
1.1 Nationality	Nationality in accordance with ITT 4.6.	Must meet requirement	must meet requirement	Must meet requirement	N / A	Form ELI –1.1 and 1.2, with attachments
1.2 Conflict of Interest	No- conflicts of interests as described in ITT 4.3	Must meet requirement	must meet requirement	Must meet requirement	N / A	Form of Tender
1.3 PPRA Ineligibility (if debarred/Sanctioned)	Not having been declared ineligible by the PPRA as described in 4.5.	Must meet requirement	must meet requirement	Must meet requirement	N / A	Form of Tender
1.4 State Owned Enterprise or Institution	Compliance with conditions of ITT 4.8	Must meet requirement	Must meet requirement	Must meet requirement	N / A	Form ELI –1.1 and 1.2, with attachments
1.5 Ineligibility based on a United Nations resolution or Kenya laws	Not having been excluded as a result of the Kenya laws or official regulations, or by an act of compliance with UN Security Council resolution, in accordance with ITT 4.9 and Section V.	Must meet requirement	must meet requirement	Must meet requirement	N / A	Form of Tender
1.6 Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 4.13.	Must meet requirement	must meet requirement	Must meet requirement	N / A	Attach certificate
Factor	2. Historical Contract Non-Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer		Joint Venture (existing or intended)		
		Single Entity	Joint Venture (existing or intended)			

			All members combined	Each member	At least one member	
<b>2.1 History of non-performing contracts</b>	Non-performance <sup>1</sup> of a contract did not occur within the last <b>Five (5)</b> years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the Tenderer have been exhausted.	Must meet requirement by itself or as member to past or existing JV	Must meet requirement	Must meet requirement <sup>2</sup>	N / A	Form CON - 2
<b>2.2 Suspension</b>	Not under suspension based on execution of a Tender Securing Declaration or Proposal Securing Declaration pursuant to ITT 4.7 and ITT 20.9	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form of Tender
<b>2.2 Pending Litigation</b>	Tender's financial position and prospective long-term profitability still sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Tenderer	Must meet requirement	N / A	Must meet requirement	N / A	Form CON – 2
<b>2.3 Litigation History</b>	No consistent history of court/arbitral award decisions against the Tenderer <sup>3</sup> since <b>1<sup>st</sup> January [2020]</b>	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form CON – 2

Factor	3 Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture (existing or intended)			
			All members combined	Each member	At least one member	
<b>3.1 Financial Capabilities</b>	Submission of audited balance sheets or if not required by the law of the Tenderer's Country, other financial statements acceptable to the Procuring Entity, for the last <b>Five [5]</b> years to demonstrate the current soundness of the Tenderers financial position and its prospective long-term profitability.	Must meet requirement	Must meet requirement	Must meet requirement	N / A	Form FIN – 3.1 with attachments

<sup>1</sup> Nonperformance, as decided by the Procuring Entity, shall include all contracts where (a) nonperformance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Nonperformance shall not include contracts where Procuring Entity's decision was overruled by the dispute resolution mechanism. Nonperformance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Tenderer have been exhausted.

<sup>2</sup> This requirement also applies to contracts executed by the Tenderer as JV member.

<sup>3</sup> The Tenderer shall provide accurate information on the related Tender Form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of awards against the Tenderer or any member of a joint venture may result in failure of the Tender.

Factor	3 Financial Situation					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture (existing or intended)			
			All members combined	Each member	At least one member	
3.2 Average Annual Turnover	Minimum average annual turnover in <i>[plant and installation services]</i> of <b><u>Kshs.211,000,000.00</u></b> , calculated as total certified payments received for contracts in progress or completed, within the Last <b>Five(5)</b> years	Must meet requirement	Must meet requirement	Must meet _____ percent (____%) of the requirement	Must meet _____ percent (____%) of the requirement	Form FIN –3.2
3.3 Financial Resources	The Tenderer must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet: (i) the following cash-flow requirement: <b>Kshs.28,000,000.00</b> and (ii) the overall cash flow requirements for this contract and its current commitments.	Must meet requirement	Must meet requirement	Must meet _____ percent (____%) of the requirement	Must meet _____ percent (____%) of the requirement	Form FIN –3.3
Factor	4 Experience					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture (existing or intended)			
			All members combined	Each member	At least one member	
4.1 General Experience	Experience in <i>[plant and installation services]</i> under contracts in the role of <i>contractor</i> , subcontractor, or management contractor for at least the last <i>[5]</i> years starting 1 <sup>st</sup> January <i>[2020]</i> .	Must meet requirement	N / A	Must meet requirement	N / A	Form EXP-4.1

<b>4.2(a) Specific Experience</b>	(a) Participation as contractor, joint venture member <sup>4</sup> , management contractor, or subcontractor, in at least <u>three (3)</u> contracts within the last <u>five (5)</u> years, each with a value of at least <u>60,000,000.00</u> that have been successfully and substantially <sup>5</sup> completed and that are similar to the proposed Plant and Installation Services. The similarity of the contracts shall be based on the following: <i>[Based on Section VII, Scope of Works, specify the minimum key requirements in terms of physical size, complexity, construction method, technology and/or other characteristics Indicate, if any, of this key requirement may also be met through a specialized subcontractor.]</i>	Must meet requirement	Must meet requirements <sup>6</sup>	N / A	Must meet the following requirements for the key activities listed below [list key activities and the corresponding minimum requirements to be met by one member otherwise state: “N/A”]	Form EXP 4.2(a)
<b>4.2(b) Specific Experience</b>	(b) For the above or other contracts executed during the period stipulated in 4.2(a) above, a minimum experience in the following key activities: .... <i>Indicate, if any, of this key requirement may also be met through a specialized subcontractor.</i>	Must meet requirements	Must meet requirements <sup>7</sup>	N / A	Must meet the following requirements for key activities listed below <i>[if applicable, out of the key activities in the first column of this 4.2 b), list key activities (volume, number or rate of production as applicable) and the corresponding minimum requirements that have to be met by one member, otherwise this cell should state: “N/A”.]</i>	Form EXP-4.2(b)

***Note: [For Multiple lots (contracts) specify financial and experience criteria for each lot under Sub-Factors 3.1, 3.2, 4.2(a) and 4.2(b)]***

<sup>4</sup> For contracts under which the Tenderer participated as a joint venture member or sub-contractor, only the Tenderer’s share, by value, shall be considered to meet this requirement

<sup>5</sup> Substantial completion shall be based on 80% or more plant and installation completed under the contract.

<sup>6</sup> In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.

<sup>7</sup> In the case of JV, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JV meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.



## 9 Personnel

The Tenderer must demonstrate that it will have the personnel for the key positions that meet the following requirements:

No.	Position	Total Work Similar Experience (years)	In Similar Works Experience (years)
1			
2			
3			
...			

The Tenderer shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Tendering Forms.

## 10. Equipment

The Tenderer must demonstrate that it will have access to the key Contractor's equipment listed hereafter:

No.	Equipment Type and Characteristics	Minimum Number required
1		
2		
3		
...		

The Tenderer shall provide further details of proposed items of equipment using the relevant Form in Section IV.

## 11. Subcontractors

Subcontractors/ manufacturers for the following major items of supply or services ('Specialized Subcontractors') must meet the following minimum criteria, here in listed for that item:

Item No.	Description of Item	Minimum Criteria to be met
1		
2		
3		
...		

Failure to comply with this requirement will result in rejection of the subcontractor.

In the case of a Tenderer who offers to supply and install major items of supply under the contract that the Tenderer did not manufacture or otherwise produce, the Tenderer shall provide the manufacturer's authorization, using the form provided in Section IV, showing that the Tenderer has been duly authorized by the manufacturer or producer of the related plant and equipment or component to supply and install that item Kenya. The Tenderer is responsible for ensuring that the manufacturer or producer complies with the requirements of ITT 4 and 5 and meets the minimum criteria listed above for that item.

## SECTION IV - TENDERING FORMS

### 1. FORM OF TENDER

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

#### INSTRUCTIONS TO TENDERERS

- i) *All italicized text is to help the Tenderer in preparing this form.*
- ii) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.*

**Date of this Tender submission:**.....[insert date (as day, month and year) of Tender submission] **Tender**

**Name**                      **and**                      **Identification:**.....[insert                      identification] **Alternative**

**No.:**.....[insert identification No if this is a Tender for an alternative]

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

- a) **No reservations:** We have examined and have no reservations to the Tendering document, including Addenda issued in accordance with ITT 8;
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 4;
- c) **Tender-Securing Declaration:** We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender Securing Declaration or Proposal-Securing Declaration in Kenya in accordance with ITT 4.7;
- d) **Conformity:** We offer to provide design, supply and installation services in conformity with the Tendering document of the following: *[insert a brief description of the Plant, Design, Supply and Installation Services];*
- e) **Tender Price:** The total price of our Tender, excluding any discounts offered in item (f) below is: *[Insert one of the options below as appropriate]*

Option1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies];*

Or Option 2, in case of multiple lots: (a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies];* and (b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];*

- f) **Discounts:** The discounts offered and the methodology for their application are:
  - i) The discounts offered are: *[Specify in detail each discount offered.]*
  - ii) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts];*
- g) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 19.1 (as amended if applicable) from the date fixed for the Tender submission deadline specified in TDS 23.1 (as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- h) **Performance Security:** I four Tender is accepted; we commit to obtain a Performance Security in accordance with the Tendering document;
- i) **One Tender Per Tenderer:** We are not submitting any other Tender (s) as an individual Tenderer, and we are not participating in any other Tender (s) as a Joint Venture member, and meet the requirements of ITT 4.3, other than alternative Tenders submitted in accordance with ITT 13;

- j) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension. Further, we are not ineligible under the Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;
- k) **State-owned enterprise or institution:** *[select the appropriate option and delete the other]* [We are not a state-owned enterprise or institution]/ [We are a state-owned enterprise or institution but meet the requirements of ITT 4.6];
- l) **Commissions, gratuities and fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

*(If none has been paid or is to be paid, indicate “none.”)*

- m) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Form of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- n) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and
- o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- p) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent tender Determination” attached below.
- q) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from [www.pppra.go.ke](http://www.pppra.go.ke) during the procurement process and the execution of any resulting contract.
- r) **Beneficial Ownership Information:** We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.
- s) We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:
- (i) Tenderer’s Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
  - (ii) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
  - (iii) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
  - (iv) declaration and commitment to the code of ethics for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya,
- t) Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in “**Appendix 1- Fraud and Corruption**” attached to the Form of Tender.

**Name of the Tenderer:** *\*[insert complete name of person signing the Tender]*

**Name of the person duly authorized to sign the Tender on behalf of the Tenderer:** *\*\*[insert complete name of person duly authorized to sign the Tender]*

**Title of the person signing the Tender:** *[insert complete title of the person signing the Tender]*

**Signature of the person named above:** *[insert signature of person whose name and capacity are shown above]*

**Date signed** *[insert date of signing]* **day of** *[insert month]*, *[insert year]*.

## TENDERER'S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE

### Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, one form for each entity if Tender is a JV. Tenderer is further reminded that it is an offence to give false information on this Form.

#### a) Tenderer's details

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

#### General and Specific Details

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

Name in full \_\_\_\_\_ Age \_\_\_\_\_

Nationality \_\_\_\_\_ Country of Origin \_\_\_\_\_

Citizenship \_\_\_\_\_

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

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

d) Registered Company, provide the following details.

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

ii) State the nominal and issued capital of the Company: -

Nominal Kenya Shillings (Equivalent)\_\_\_\_\_

Issued Kenya Shillings (Equivalent)\_\_\_\_\_

iii) Give details of Directors as follows.

	<b>Names of Director</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

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

i) Are there any person/ persons in ..... (Name of Procuring Entity)  
who has/ have an interest or relationship in this firm?

Yes/No. ....If yes, provide details as follows.

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

ii) Conflict of interest disclosure

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

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

**f) Certification**

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

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

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)



## CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the under signed, in submitting the accompanying Letter of Tender to the \_\_\_\_\_ [Name of Procuring Entity] for: \_\_\_\_\_ [Name and number of tender] in response to the request for tenders made by: \_\_\_\_\_ [Name of Tenderer] do here by make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of \_\_\_\_\_ [Name of Tenderer] that:

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

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

---

[Name, title and signature of authorized agent of Tenderer and Date]

## SELF DECLARATION FORMS

### FORM SD1

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

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

1. THAT I am the Company Secretary/ Chief Executive/ Managing Director/ Principal Officer/ Director of  
..... (*insert name of the Company*) who is a Bidder in respect of Tender No.  
..... for ..... (*insert tender title/description*) for ..... (*insert  
name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the afore said Bidder, its Directors and subcontractors have not been debarred from participating in  
procurement proceeding under Part IV of the Act.
3. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder's Official Stamp

## FORM SD2

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

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

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

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder's Official Stamp

## DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

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

Name of Authorized signatory.....

Sign.....

Position.....

Office address.....Telephone.....

E-mail.....

Name of the Firm/Company.....

Date.....

(*Company Seal/ Rubber Stamp where applicable*)

Witness

Name.....

Sign.....

Date.....

## SCHEDULE OF RATES AND PRICES

### Schedule No. 1. Plant and Mandatory Spare Parts Supplied from Abroad

Item	Description	Code <sub>1</sub>		Qty.		Unit Price <sup>2</sup>		Total Price <sup>2</sup>
							<i>CIP</i>	
				(1)		(2)	(3)	(1) x (3)
		TOTAL (to Schedule No. 5. Grand Summary)						

## Country of Origin Declaration Form

Item	Description	Code	Country

### Schedule No. 2. Plant and Mandatory Spare Parts Supplied from Within Kenya

Item	Description	Qty.	EXW Unit Price <sup>1</sup>	EXW Total Price <sup>1</sup>
		(1)	(2)	(1) x (2)
TOTAL (to Schedule No. 5. Grand Summary)				
Name of Tender _____ Signature _____  <sup>1</sup> Specify currency in accordance with ITT 18				

### Schedule No. 3. Design Services

Item	Description	Qty.	Unit Price <sup>1</sup>		Total Price <sup>1</sup>
			Local Currency Portion	Foreign Currency Portion	
		(1)	(2)	(optional)	(1) x (2)
TOTAL (to Schedule No. 5. Grand Summary)					

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

### Schedule No. 4. Installation and Other Services

Item	Description	Qty.	Unit Price <sup>1</sup>		Total Price <sup>1</sup>	
			Foreign Currency Portion	Local Currency Portion	Foreign	Local
		(1)	(2)	(3)	(1) x (2)	(1) x (3)
TOTAL (to Schedule No. 5. Grand Summary)						

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

<sup>1</sup> Specify currency in accordance with ITT 18



## Schedule No. 5. Grand Summary

Item	Description	Total Price <sup>1</sup>	
		Foreign	Local
	Total Schedule No. 1. Plant, and Mandatory Spare Parts Supplied from Abroad		
	Total Schedule No. 2. Plant, and Mandatory Spare Parts Supplied from Within Kenya		
	Total Schedule No. 3. Design Services		
	Total Schedule No. 4. Installation and Other Services		
<b>TOTAL (to Tender Form)</b>			

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

<sup>1</sup>Specify currency in accordance with ITT 18. Create and use as many columns for Foreign Currency requirement as there are foreign currencies

## Schedule No. 6. Recommended Spare Parts

Item	Description	Qty.	Unit Price		Total Price
			CIF or CIP (foreign parts)	EXW (local parts)	
		(1)	(2)	(3)	(1) x (2) or (3)

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

## Price Adjustment

Where the Contract Period (excluding the Defects Liability Period) exceeds eighteen (18) months, it is normal procedure that prices payable to the Contractor shall be subject to adjustment during the performance of the Contract to reflect changes occurring in the cost of labor and material components. In such cases the Tendering document shall include in this form a formula of the following general type, pursuant to SCC Sub-Clause 11.2.

Where Contracts are of a shorter duration than eighteen (18) months or in cases where there is to be no Price Adjustment, the following provision shall not be included. Instead, it shall be indicated under this form that the prices are to remain firm and fixed for the duration of the Contract.

<sup>1</sup>Specify currency in accordance with ITT 18. Create and use as many columns for Foreign Currency requirement as there are foreign currencies

## Sample Price Adjustment Formula

If in accordance with GCC 11.2, prices shall be adjustable, the following method shall be used to calculate the price adjustment:

Prices payable to the Contractor, in accordance with the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components, in accordance with the following formula:

$$P_1 = P_0 \left( a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right)$$

$P_1$  = adjustment amount payable to the Contractor

$P_0$  = Contract price (base price)

$a$  = percentage of fixed element in Contract price ( $a=\%$ )

$b$  = percentage of labor component in Contract price ( $b=\%$ )

$c$  = percentage of material and equipment component in Contract price ( $c=\%$ )

$L_0, L_1$  = labor indices applicable to the appropriate industry in the country of origin on the base date and the date for adjustment, respectively

$M_0, M_1$  = material and equipment indices in the country of origin on the base date and the date for adjustment, respectively

N.B.  $a+b+c=100\%$ .

## Conditions Applicable to Price Adjustment

The Tenderer shall indicate the source of labor, source of exchange rate and materials indices and the base date indices in its Tender.

Item Source of Indices Used Base Date Indices.

The base date shall be the date thirty (30) days prior to the Tender closing date.

The date of adjustment shall be the mid-point of the period of manufacture or installation of component or Plant. The following conditions shall apply:

- (a) No price increase will be allowed beyond the original delivery date unless covered by an extension of time awarded by the Procuring Entity under the terms of the Contract. No price increase will be allowed for periods of delay for which the Contractor is responsible. The Procuring Entity will, however, be entitled to any price decrease occurring during such periods of delay.
- (b) If the currency in which the Contract price,  $P_0$ , is expressed is different from the currency of the country of origin of the labor and/or materials indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be:  $Z_0/Z_1$ , where,  
 $Z_0$ =the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price  $P_0$  on the Base date, and  
 $Z_1$ =the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price  $P_0$  on the Date of Adjustment.
- (c) No price adjustment shall be payable on the portion of the Contract price paid to the Contractor as an advance payment.

## **TECHNICAL PROPOSAL**

- Site Organization
- Method Statement
- Mobilization Schedule
- Construction Schedule
- Plant
- Contractor's Equipment
- Personnel
- Proposed Subcontractors for Major Items of Plant and Installation Services
- Others

## **SITE ORGANIZATION**

## METHOD STATEMENT

## MOBILIZATION SCHEDULE

## CONSTRUCTION SCHEDULE



## Contractor's Equipment

### Form EQU

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key Contractor's equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer.

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the Tenderer.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

## Functional Guarantees

The Tenderer shall copy in the left column of the table below, the identification of each functional guarantee required in the Specification and stated by the Procuring Entity in para.1.2 (c) of Section III, Evaluation and Qualification Criteria, and in the right column, provide the corresponding value for each functional guarantee of the proposed plant and equipment.

Required Functional Guarantee	Value of Functional Guarantee of the Proposed Plant and Equipment
1.	
2.	
3.	
...	

## Personnel

### Form PER -1- Proposed Personnel

Tenderers should provide the names of suitably qualified personnel to meet the specified requirements stated in Section III. The data on their experience should be supplied using the Form below for each candidate.

1.	Title of position*
	Name
2.	Title of position*
	Name
3.	Title of position*
	Name
4.	Title of position*
	Name

\*As listed in Section III.

### Form PER-2

#### Resume of Proposed Personnel

Name of Tenderer \_\_\_\_\_

Position		
Personnel information	Name	Date of birth
	Professional qualifications	
Present employment	Name of Procuring Entity	
	Address of Procuring Entity	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present Procuring Entity

Summarize professional experience over the last 20 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	To	Company / Project / Position / Relevant technical and management experience

### Proposed Subcontractors for Major Items of Plant and Installation Services

A list of major items of Plant and Installation Services is provided below.

The following Subcontractors and/or manufacturers are proposed for carrying out the item of the facilities indicated. Tenderers are free to propose more than one for each item

Major Items of Plant and Installation Services	Proposed Subcontractors/Manufacturers	Nationality

### Others - Time Schedule

(to be used by Tenderer when alternative Time for Completion is invited in ITT 13.2)

## **Tenderers Qualification without prequalification**

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

Form ELI 1.1

### **Tenderer Information Sheet**

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

ITT No.: \_\_\_\_\_

1. Tenderer's Legal Name
2. In case of JV, legal name of each party:
3. Tenderer's actual or intended Country of Registration:
4. Tenderer's Year of Registration:
5. Tenderer's Legal Address in Country of Registration:
6. Tenderer's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of:  Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITT 4.1 and ITT 4.4. In case of JV, Form of intent to form JV including a draft agreement, or JV agreement, in accordance with ITT 4.1 and ITT 11.2. In case of state-owned enterprise or institution from Kenya, documents establishing legal and financial autonomy and compliance with the principles of commercial law, and is not under the supervision of the Procuring Entity in accordance with ITT 4.6.

Please note that a written authorization needs to be attached to this sheet as required by ITT 21.3

## Form ELI 1.2

### Party to JV Information Sheet

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

ITT No.: \_\_\_\_\_

1. Tenderer's Legal Name:
2. JV's Party legal name:
3. JV's Party Country of Registration:
4. JV's Party Year of Registration:
5. JV's Party Legal Address in Country of Registration:
6. JV's Party Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITT 4.1 and ITT 4.4. In case of state-owned enterprise or institution from Kenya, documents establishing legal and financial autonomy and compliance with the principles of commercial law and is not under the supervision of the Procuring Entity, in accordance with ITT 4.6.

**Form CON – 2****Historical Contract Non-Performance**

Tenderer's Legal Name: \_\_\_\_\_

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

JV Member Legal Name: \_\_\_\_\_

ITT No.: \_\_\_\_\_

**Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria**

☐ Contract non-performance did not occur since 1<sup>st</sup> January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.

☐ Contract(s) not performed since 1<sup>st</sup> January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, requirement 2.1

<b>Year</b>	<b>Non- performed portion of contract</b>	<b>Contract Identification</b>	<b>Total Contract Amount (current value, currency, exchange rate and K Shilling equivalent)</b>
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert City/ street/building/floor number/room number/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

**Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria**

☐ No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.

☐ Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.

<b>Year of dispute</b>	<b>Amount in dispute (currency)</b>	<b>Contract Identification</b>	<b>Total Contract Amount (currency), K Shilling Equivalent (exchange rate)</b>
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
		Contract Identification: Name of Procuring Entity: Address of Procuring Entity: Matter in dispute: Party who initiated the dispute: Status of dispute:	
<b>Litigation History in accordance with Section III, Evaluation and Qualification Criteria</b>			
<input type="checkbox"/> No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), K Shilling Equivalent (exchange rate)
<input type="checkbox"/> Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.			
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert City/street/building/floor number/room number/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Procuring Entity" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>



## Form CCC

### Current Contract Commitments / Works in Progress

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

Name of contract	Procuring Entity, contact address/tel	Value of outstanding work (current K Shilling equivalent)	Estimated completion date	Average monthly invoicing over last six months (K Shilling /month)
1.				
2.				
3.				
4.				
5.				
etc.				

**Form FIN – 3.1****Financial Situation****Historical Financial Performance**

Tenderer's Legal Name: \_\_\_\_\_

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

JV Member Legal Name: \_\_\_\_\_

ITT No.: \_\_\_\_\_

To be completed by the Tenderer and, if JV, by each member

Financial information in KShilling equivalent	Historic information for previous _____( ) years (KShilling equivalent in 000s)						
	Year 1	Year 2	Year 3	Year ...	Year n	Avg.	Avg. Ratio
<b>Information from Balance Sheet</b>							
<b>Total Assets (TA)</b>							
<b>Total Liabilities (TL)</b>							
<b>Net Worth (NW)</b>							
<b>Current Assets (CA)</b>							
<b>Current Liabilities (CL)</b>							
<b>Information from Income Statement</b>							
<b>Total Revenue (TR)</b>							
<b>Profits Before Taxes (PBT)</b>							

Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:

- Must reflect the financial situation of the Tenderer or member to a JV, and not sister or parent companies.
- Historic financial statements must be audited by a certified accountant.
- Historic financial statements must be complete, including all notes to the financial statements.
- Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

## Form FIN - 3.2

### Average Annual Turnover

Tenderer's Legal Name: \_\_\_\_\_ Date: \_\_\_\_\_

JV Member Legal Name: \_\_\_\_\_ ITT No.: \_\_\_\_\_

Annual turnover data		
Year	Amount and Currency	KSHILLING equivalent
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
*Average Annual Turnover	_____	_____

\*Average annual turnover calculated as total certified payments received for work in progress or completed, divided by the number of years specified in Section III, Evaluation Criteria, Sub-Factor 2.3.2.

## Form FIN3.3

### Financial Resources

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

Source of financing	Amount (KShilling equivalent)
1.	
2.	
3.	
4.	

## Form EXP 4.1

### General Experience

Tenderer's Legal Name: \_\_\_\_\_

JV Member Legal Name: \_\_\_\_\_

ITT No.: \_\_\_\_\_

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

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Tenderer
_____	_____		Contract name: Brief Description of the Works performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Works performed by the Tenderer: Name of Procuring Entity: Address:	_____

\*List calendar year for years with contracts with at least nine (9) months activity per year starting with the earliest year

## Form EXP –4.2(a)

### Specific Experience

Tenderer's Legal Name: \_\_\_\_\_

JV Member Legal Name: \_\_\_\_\_

<b>Similar Contract No. __[insert specific number] of [total number of contracts] required</b> Description of the similarity in accordance with Sub-Factor 4.2a) of Section III:	<b>Information</b>
Amount	_____ _____
Physical size	_____ _____
Complexity	_____ _____
Methods/Technology	_____ _____
Physical Production Rate	_____ _____

**Form EXP –4.2(b)**

**Specific Experience in Key Activities**

Tenderer's Legal Name: \_\_\_\_\_

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

JV Member Legal Name: \_\_\_\_\_

ITT No.: \_\_\_\_\_

Subcontractor's Legal Name: \_\_\_\_\_

	<b>Information</b>		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		KSHILLING____ _____
If member in a JV or subcontractor, specify participation of total contract amount	_____%	_____	KSHILLING____ _____
Procuring Entity's Name:	_____		
Address:	_____ _____ _____		
Telephone/fax number:	_____ _____		
E-mail:	_____ _____		

**FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]**

**Beneficiary:**\_\_\_\_\_

**Request for Tenders No:**

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

**TENDER GUARANTEE No.:**\_\_\_\_\_

**Guarantor:** \_\_\_\_\_

1. We have been informed that \_\_\_\_\_(here inafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here inafter called" the Tender") for the execution of \_\_\_\_\_ under Request for Tenders No. \_\_\_\_\_("the ITT").
2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_(\_\_\_\_\_) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:
  - (a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or
  - b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.
4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above onor before that date.

\_\_\_\_\_  
*[signature(s)]*

***Note: All italicized text is for use in preparing this form and shall be deleted from the final product.***

## FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: \_\_\_\_\_

1. Whereas ..... [*Name of the tenderer*] (hereinafter called “the tenderer”) has submitted its tender dated ..... [*Date of submission of tender*] for the ..... [*Name and/or description of the tender*] (hereinafter called “the Tender”) for the execution of \_\_ under Request for Tenders No. \_\_\_\_\_ (“the ITT”).
2. KNOW ALL PEOPLE by these presents that WE ..... of ..... [**Name of Insurance Company**] having our registered office at ..... (hereinafter called “the Guarantor”), are bound unto ..... [*Name of Procuring Entity*] (hereinafter called “the Procuring Entity”) in the sum of ..... (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:
  - a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or
  - b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers (“ITT”) of the Procuring Entity's Tendering document.

then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

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

\_\_\_\_\_  
[Signature of the Guarantor]

\_\_\_\_\_  
[Witness]

\_\_\_\_\_  
[Seal]

***Note: All italicized text is for use in preparing this form and shall be deleted from the final product.***



## TENDER-SECURING DECLARATION FORM {r 46 and 155(2)}

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

Date: \_\_\_\_\_ *[insert date (as day, month and year) of Tender*

*Submission]* Tender No.: \_\_\_\_\_ *[insert number of tendering process]*

To: \_\_\_\_\_ *[insert complete name of*

*Purchaser]* I/We, the under signed, declare that:

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

Signed: .....

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

.....Name:

.....

Duly authorized to sign the bid for and on behalf of..... *[insert complete name of Tenderer]*

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

Seal or stamp

## MANUFACTURER'S AUTHORIZATION FORM

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

ITT

No.: \_\_\_\_\_

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

WHEREAS

We \_\_\_\_\_, who are official manufacturers of \_\_\_\_\_, having factories at \_\_\_\_\_,

do hereby authorize \_\_\_\_\_ to submit a Tender the purpose of which is to provide the following goods, manufactured by us \_\_\_\_\_, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 27 of the General Conditions, with respect to the goods offered by the above firm.

Signed: \_\_\_\_\_

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

Title: \_\_\_\_\_

Duly authorized to sign this Authorization on behalf of: \_\_\_\_\_

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

## MANUFACTURER'S WARRANTY FORM

*[The tenderer shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer.]*

Date:.....*[insert date (as day, month and year) of Tender submission]*

ITT No.:.....*[insert number of ITT process]* Alternative

No.:.....*[insert identification No if this is a Tender for an alternative]*

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

### **WE HEREBY WARRANT THAT:**

- a) The goods to be supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender.
- b) The goods in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use of the goods under the conditions obtaining in Kenya.

The Warranty will remain valid for \_ *[Insert no. years]* year after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract.

Signed:..... *[Insert signature(s) of authorized representative(s) of the Manufacturer]*

Name:.....*[Insert complete name(s) of authorized representative(s) of the Manufacturer]*

Title:..... *[Insert title]*

Dated on\_\_day of\_\_\_\_\_,\_\_\_\_\_ *[insert date of signing]*

**MANUFACTURER'S CONTACT DETAILS FORM**

**(To Be Submitted on Manufacturer's Letterhead)**

To:

**Rural Electrification and Renewable Energy Corporation**

Ground Floor: Kawi House, South C

P.O. 34585 – 00100

NAIROBI,

KENYA

**Manufacturer Details:**

Company Legal Name \_\_\_\_\_

Company Trading Name \_\_\_\_\_

*(Write the names in full)*

**Manufacturer Contacts:**

Telephone No. \_\_\_\_\_ Postal

Address \_\_\_\_\_

Email \_\_\_\_\_ Website \_\_\_\_\_

Physical address \_\_\_\_\_

**Main Contact:**

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

Position \_\_\_\_\_

Telephone \_\_\_\_\_ cellular \_\_\_\_\_

**Describe your field of specialization.** \_\_\_\_\_

\_\_\_\_\_

**Signed (Authorized Signatory)** \_\_\_\_\_ **Name:** \_\_\_\_\_

**Stamp/Seal here**

## SITE VISIT FORM



REF NO: .....

DATE: .....

### **RE: SITE VIST FORM**

This is to confirm that ..... (Name of Representative)  
of ..... (Company Name)

P.o. BOX .....

did a site visist for **Supply, Installation, Testing, and Commissioning of 1x750Kva and 1x500Kva Diesel Generators complete with Associated Equipment & Accessories in Dadaab, Garissa County**

Name of Representative: .....

Name of Site visited .....

Company Name:-.....

Company                      Seal/Stamp

REREC REPRESENTATIVE

Name: .....

Sign.....

Company Stamp



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## **PART 2 - PROCURING ENTITY'S REQUIREMENTS**

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# **SCOPE OF SUPPLY OF PLANT AND INSTALLATION SERVICES BY THE CONTRACTOR**

## **DETAILED TECHNICAL SPECIFICATIONS AND SCOPE OF SUPPLY AND WORKS:**

### **PART I – GENERATORS AND ASSOCIATED COMPONENTS SPECIFICATIONS DIESEL GEN-SET PLUS OTHER EQUIPMENT AND ACCESSORIES SPECIFICATIONS**

#### **Scope of work**

Supply, installation, testing, and commissioning of a complete, functional, and operational electric generating system, including all devices and equipment specified herein or required for the service. Equipment shall be new and factory-tested.

The electric generating system shall consist of two sets of generators, which shall be synchronized and share the load with the existing generator in auto mode.

The Electric generating system shall comprise of:

1. 1 No. 500KVA enclosed containerized diesel generator and accessories inclusive of Air circuit breaker (ACB) & exhaust system complete with super-silenced residential exhausts. The exhaust height should be 6m above ground level, applying an extended pipe.
2. 1 No. 750KVA enclosed containerized diesel generator and accessories inclusive of Air circuit breaker (ACB) & exhaust system complete with super-silenced residential exhausts. The exhaust height should be 6m above ground level, applying an extended pipe.
3. 1 x 415V board comprising 5 No generator circuit breaker panels, 3200A TPN Copper Bus bar, and 2 No Feeder circuit breaker panels and synchronization devices. These shall be supplied in a clad and air-conditioned standard steel container detail design and drawing to be provided together with the bid.
4. 1MVA, 0.415/33KV Transformer with Power, Communications, Control Cables, and all inclusive of plinth for transformer, which shall be subject to approval by the Project Manager.
5. Synchronization of 5No. Generators to ensure seamless operation and efficient load sharing across the power system.
6. Parallel operation of 2No. 1MVA transformers, this include but not limited to; Necessary components (33KV bus bar), ensuring compatibility of the New transformer with the existing transformer for parallel operation and detail design and drawing to be provided together with the bid.
7. Two service diesel fuel day tanks of each capacity 1350L minimum, with a shared manual and automatic fuel transfer pump with associated fuel pipe works.
8. Lithium ion Battery Bank of Minimum Capacity 250Ah/10h or based upon the calculated consumption Considering the total DC load in the power station and battery charger which is able to charge a fully discharge batteries within 5 hours and still provide DC Loads.
9. Generators Sheds (The generator shade shall comprise a corrugated iron roof supported on adequate steel trusses and column frame), detail design and drawing will be provided which shall be subject to approval by the Project Manager.
10. Operating the station jointly with the personnel from KPLC and REREC for 30 days after commissioning.
11. Other accessories required to operationalize the system.

## **Submittals**

Within 28 days after the award of the contract, provide two sets of the following information:

- a) Manufacturer's product literature and performance data sufficient to verify
- b) Compliance with specification requirements.
- c) A paragraph-by-paragraph specification compliance statement describes the Differences between the specified and the proposed equipment.
- d) Shop drawings showing plan and elevation views with certified overall dimensions and wiring interconnection details.
- e) Interconnection wiring diagrams showing all external connections required, with field wiring terminals marked in a consistent point-to-point manner.
- f) Manufacturer's installation instructions.

## **Warranty – Basic One Year Cover**

The complete diesel generators and accessories are warranted against defects in materials and workmanship for one year from the date of system start-up. Coverage includes parts, labor, travel expenses, and labor to remove/re-install said equipment, per the manufacturer's standard published limited warrant.

### **Single Tenderer**

The Tenderer shall be the manufacturer or authorized distributor, providing initial start-up services, conducting field acceptance testing, and warranty service.

**The Tenderer shall have 24-hour service availability and factory-trained technicians authorized to perform warranty service on all products provided.**

### **Manuals**

Operation manuals shall be provided for all system equipment. The manuals shall include an outline, interconnection, wiring, and control drawings that accurately describe the equipment.

Provide three sets of:

- a) Operations and maintenance manuals
- b) Engine shop manuals
- c) Specification Catalogues

### **One Year Maintenance**

The Tenderer will be required to provide spares for the required maintenance for one year. The Tenderer will perform all required preventative maintenance per the manufacturer's recommendations. This will include but not be limited to parts, labor, and travel expenses at no extra cost. During this time, the Tenderer will train REREC/KPLC staff to ensure a smooth equipment handover.

### **One Month Operation**

The Tenderer will be required to operate the power plant for thirty (30) days, during which time he will train REREC/KPLC operators to operate the plant.

### **Note**

Contractor is requested to make his own assessment from the documentation supplied and site visits for the purposes of quantifying of materials and pricing. Any price omitted from the items listed shall be deemed to have been included in another.



## **1. GENERATOR SETS: 1 X 500 KVA AND 1 X 750 KVA**

### **2.1.0 Generator Set – Prime Power**

The generator set shall run at 1500 rpm to supply power at 50Hz. The prime Power rating of the set shall be equal to or slightly above the rated kVA at temperatures up to 45° degrees Centigrade and 636 meters ASL. A 10% overload capacity shall be available for one hour in twelve hours. The sets shall be enclosed in the standard canopy with soundproofing and a steel structure shed to protect the generator from harsh weather conditions. A super silenced residential silencer with stainless steel flexible bellows. The noise level must be less than 85 dB at 1m. The steel shed shall be new and have a protective painting of 2 coats to withstand normal atmospheric conditions for the tropics. The Tenderer shall provide the required physical protection for the cables between the generator and the control container.

### **2.1.2 Diesel Generator Canopy**

The generator canopy shall have doors with recessed stainless steel hinges on both sides to facilitate major engine maintenance. The features of the engine canopy shall be as follows:

- a) Doors to be provided on all sides for easy maintenance.
- b) An inspection window is to be provided for easy monitoring.
- c) Easy handling and easy transportation
- d) Be of a modular type for easy installation on site.
- e) Durable industrial locking system on the doors.
- f) The Door should be a gas kit with a high-quality (EDPN) gas kit.
- g) Should be painted and powder-coated.
- h) Forced ventilation systems to be engineered to provide airflow sufficient for removing heat generated by the generator
- i) Should be durable and fully detachable as it rests on nut/bolt systems.

### **Specifications:**

1. The enclosure is to be fabricated out of a 1.6 mm thick CRC sheet
- i. The canopy should meet noise 70 to 85 dB one-meter distance as per norms
- ii. Soundproofing of the enclosure should be done with soundproof acoustic rock wool 96/ m 3 density and thickness 100 mm (4)
- iii. Temperature difference between ambient and enclosure should be controlled below 5 to 10 degrees centigrade.

### **2.1.3 Diesel Generator shade**

- The generator shade shall comprise a corrugated iron roof supported on adequate steel trusses and column frame.
- The columns shall be steel round hollow sections with a base plate at the bottom, properly mounted on a concrete plinth with bolts and nuts.

### **Note:**

- All materials used shall be in good condition, and the roof shall be constructed to be weatherproof and regular in shape. The pitch of the roof shall allow water drainage.
- The canopy's size shall depend on the generator's size.
- The drawing for the Shade shall be submitted to REREC for approval before construction.

## **2.2.0 Generator Performance**

### **2.2.1 Voltage regulation**

The voltage regulation shall be +/- 0.5% at any power factor between 0.8 lagging and unity, at any load from no load or rated load, at any temperature from hot to cold, and speed droop variations up to 4.5% of rated speed.

### **2.2.2 Frequency regulation**

The frequency regulation shall be isochronous from steady-state no load to steady-state rated load. The random frequency variation shall not exceed +/- 0.25% of its mean value for constant loads at any load from no load to rated load.

### **2.3.0 Engine**

The engine shall be an approved, turbocharged-after-cooled, pressure-lubricated, four-stroke Engine. **Two-stroke engines are not acceptable.** Engine accessories and features shall include:

**2.3.1** Engine coolant drain tap.

**2.3.2** An electronic governor system will provide automatic frequency regulation. The speed control from no load to rated load shall be adjustable from 0% droop (isochronous) to 5%.

**2.3.3** A base frame shall cool the engine-mounted radiator and cooling system, which is rated for full load operation at an ambient temperature of 50 degrees centigrade, measured at the generator air inlet. The radiator shall be provided with a duct adapter flange. The equipment supplier shall fill the cooling system with a 50/50 ethylene glycol/water mixture. Rotating parts shall be guarded against accidental contact under EN 294 requirements.

**2.3.4** Liquid level switch to sense loss of engine coolant. When the coolant level is below the recommended level by the engine manufacturer, a "Low Coolant Level" alarm shall be given on the Generator Set Control panel.

**2.3.5** An engine-mounted sensor is used to detect engine coolant temperature. When the engine coolant temperature is above that recommended by the engine manufacturer, a "High Engine temperature" alarm shall be placed on the Generator Set Control panel.

**2.3.6** Electric starting motor(s) capable of three complete cranking cycles without overheating.

**2.3.7** Positive displacement, mechanical, full pressure, lubrication oil pump.

**2.3.8** An engine-mounted sensor is used to detect engine oil pressure. When the engine oil pressure is below that recommended by the engine manufacturer, a "Low Oil Pressure" alarm shall be given on the Generator Set Control panel.

**2.3.9** Engine-mounted manual pump to enable the lubricating oil to be pumped from the engine sump during routine oil change operation

**2.3.10** Engine-driven, mechanical, positive displacement fuel pump. Fuel filter with replaceable spin-on canister element.

**2.3.11** Heavy-duty replaceable dry element air cleaner with restriction indicator.

**2.3.12** Flexible supply and return fuel lines.

**2.3.13** Engine-mounted battery charging alternator, 35-ampere minimum, and solid-state voltage regulator.

## **2.4 AC Generator – Prime Power**

**2.4.1** The generator shall be capable of delivering rated output (kVA) at rated frequency and power factor at any voltage not more than 5 percent above or below rated voltage.

**2.4.2** A permanent magnet (PMG) exciter and 3-phase voltage regulator shall be included to provide optimum generator excitation and output voltage regulation performance.

**2.4.3** The generator shall be fitted with a kit to reduce RFI emissions and improve RFI immunity (Radio Frequency Interference).

**2.4.4** The generator shall be fitted with an embedded temperature detector (ETD) to detect the temperature of the windings. When the temperature of the windings is above that recommended by the generator manufacturer, a "High Alternator Temperature" warning shall be given on the Generator Set Control panel.

**2.4.5** The generator shall have a voltage regulator with shunt excitation to reduce field current in response to transient frequency dips when large electrical loads are connected to the generator set.

**2.4.6** The generator shall be provided with a paralleling droop compensator to adjust the share of total reactive current carried by each generator set.

## **2.5.0 Engine-Generator Set Control**

The enclosed control panel shall be mounted on the generator with anti-vibration mountings. The generator set-mounted control panel shall include the following features and functions.

### **2.5.1 Three-position control switch labeled RUN/OFF/AUTO**

- a) In the RUN position, the generator set shall manually start and accelerate to the rated speed and voltage.
- b) In the OFF position, the generator set shall immediately stop, bypassing all time delays. The position is also used to clear a fault and allow restarting. The generator is set after it has shut down for any fault condition.
- c) In the AUTO position, the generator set shall be ready to accept signals. A remote device to start and accelerate to rated speed and voltage.

### **2.5.2 Generator Set AC Output Metering**

The generator set shall be provided with a metering set with the following features and functions:

- a) Analog AC Voltmeter, dual range, 90-degree scale, 2% accuracy
- b) Three-number Analog AC Ammeter, dual range, 90-degree scale, 2% accuracy: Analog frequency/RPM meter, 45-65 Hz, 1350-1950 RPM, 90-degree scale, +/- 6% accuracy
- c) Seven position phase selector switch with OFF position to allow meter display of line-to-line and line-to-neutral voltages.
- d) With 0.5% accuracy, the digital metering set indicates the generator voltage and frequency, output current, kW, kWh, kVAR, and power factor. The generator output voltage display shall be available simultaneously at line-to-line or line-to-neutral voltage.

### **2.5.3 Generator Set Alarm and Status Display**

The generator set shall have alarm and status-indicating lamps to indicate alarm and shutdown conditions. The lamp condition shall be apparent under bright room lighting conditions. The generator set control shall indicate the existence of the following alarm and shutdown condition on the display panel:

- a) Low oil pressure (shutdown)
- b) High coolant temperature (shutdown)
- c) Emergency stop operated (shutdown)
- d) Over speed / over frequency (shutdown)
- e) Battery charge alternator failed (alarm)
- f) Under speed / under frequency (shutdown)
- g) Coolant low (alarm)
- h) Coolant low (shutdown)
- i) Set failed to start (shutdown)

### **2.5.4 Engine Status Monitoring**

The following information shall be available from devices and a digital status panel on the generator set control:

- a) Engine coolant temperature (degrees C)
- b) Engine oil temperature (degrees C)
- c) Engine speed (rpm)
- d) Number of hours of operation (hours).
- e) Number of start attempts.
- f) Battery voltage (DC volts)
- g) Fuel consumed (liters)
- h) Engine oil pressure (psi or Kpa)

## 2.5.5 Control Functions

**2.5.5.1** The control system shall include a cycle cranking system, which shall be for three cranking periods of 10 seconds each, with 10-second rest periods between cranking periods. **2.5.5.2** The control system shall include an engine speed governor control, which provides steady-state frequency regulation as noted in this specification. The governor control will include adjustments for gain, damping, and a ramping function to control engine speed and limit exhaust smoke while the unit starts. The governor control shall be suitable for paralleling applications without component changes.

**2.5.5.3** The control system shall include time delay start (adjustable 0-300 seconds) and time delay stop (adjustable 0- 600 seconds) functions.

**2.5.5.4** The control system shall include all interfaces necessary for proper operation with the paralleling equipment provided under this contract. The generator set Tenderer shall be responsible for complete compliance with all specification requirements for the generator set and the paralleling equipment.

## 2.5.6 Generator Control Functions

**2.5.6.1** The generator set shall include an automatic voltage regulation system matched and tested with the engine speed governing system provided. It shall be immune from malfunction due to load-induced voltage waveform distortion and provide a pulse width modulated output to the generator exciter.

**2.5.6.2** The voltage regulation system shall be equipped with three-phase RMS sensing and control the buildup of AC generator voltage to provide a linear rise and limit overshoot. The system shall include a torque-matching characteristic, which shall reduce output voltage proportionately to a frequency below a threshold of (48/49 or 58/59 HZ).

**2.5.6.3** The voltage regulator shall include gain, damping, and frequency roll-off adjustments. Adjustments shall be made via brad range and digital raise-lower switches with an alphanumeric LED readout to indicate the setting level.

**2.5.6.4** The voltage regulation system shall include provisions for reactive load sharing and Electronic voltage and frequency matching for paralleling applications. **A motorized voltage adjust pot is not acceptable for voltage matching.**

**2.5.6.5** Controls shall be provided to monitor the output current of the generator set and initiate an alarm when the load current exceeds 110% of the rated current of the generator set on any phase for more than 60 seconds. The controls shall shut down and lock out the generator set when the output current level approaches the thermal damage point of the generator.

**2.5.6.6** Controls shall be provided to monitor the kW load on the generator set and initiate an alarm condition when the total load on the generator set exceeds the generator set rating above 5 seconds.

**2.5.6.7** Controls shall include a load-shed control to operate a set of volt-free contacts (for use in shedding customer load devices) when the generator set is overloaded.

**2.5.6.8** An AC over/under voltage monitoring system that responds only to true RMS voltage conditions shall be provided. The system shall initiate shutdown of the generator set when the alternator output voltage exceeds 110% of the operator-set voltage level for more than 10 seconds or with no intentional delay when voltage exceeds 130%. Under voltage shutdown shall occur when the alternator's output voltage is less than 85% for more than 10 seconds.

**2.5.6.9** A battery monitoring system shall be provided that initiates an alarm when the DC control and starting voltage is less than 25 VDC or more than 32 VDC. During engine start, the low voltage limit shall be disabled, and if the DC voltage drops to less than 14.4 volts for more than two seconds, a "weak battery" alarm shall be initiated.

## 2.6 Base Design and Anti-vibration Mountings

The engine generator set shall be mounted on a heavy-duty steel baseplate to maintain alignment between components. Bonded rubber anti-vibration units are positioned between the engine and alternator support feet and the baseplate.

## 2.7 Auxiliaries

**2.7.1** Provide a 1,350-litre capacity, rectangular, mild steel, single-skin fuel storage tank for the generator set. All fuel piping is to use flanges for all steel pipe connections with gaskets to ensure no leakages; **threading will not be accepted.** The tank shall comply with the requirements of BS799: Part 5 and shall be complete with:

- a) Fill connection
- b) Vent connection
- c) Fuel level sight gauge
- d) Drain connection
- e) Delivery connection level switch connection
- f) Multi-position float switch with five positions to detect and control the following functions:-
  - i. Very high fuel level (warning)

- ii. Very low fuel level (warning)
- iii. High and low fuel levels (pump control)
- iv. Very low fuel level (shutdown)

### **2.7.2 Manual Fuel Hand Pump**

A manual fuel transfer hand pump transfers fuel by hand from service tank fuel storage or tap from existing feed pipes to the generator set day tank.

If the transfer pump fails, this should be installed as an integral bypass supply to the day tank.

### **2.7.3 Fuel Pipe-work**

Unless otherwise stated, all exterior pipe work shall be **Carbon Steel**, conforming to ASTM 53, Grade B.

The pipework design shall incorporate flanges for easy dismantling and service. The pipework shall be well secured by clamping to rigid supports to protect them from mechanical damage.

### **2.7.4 Super Silenced Residential Exhaust System**

A super silenced residential engine exhaust system shall be provided for each engine, size, and type recommended by the generator set manufacturer to meet the sound attenuation level of a residential environment of not more than 85 DBA at 1 meter. The exhaust system shall be installed according to the recommendations of the generator set manufacturer and applicable codes and standards. The exhaust system shall be designed and installed so exhaust fumes are released not less than six (6) meters above the ground.

### **2.7.5 Flexible Exhaust Pipe Connection**

Flexible exhaust pipe connecting the engine exhaust outlet to the exhaust system as recommended by the generator set manufacturer.

### **2.7.6 Lead-Acid Starting and Control Batteries**

A starting battery bank, heavy-duty conventional Lead-Acid type, 24-volt DC, sized as recommended by the generator set manufacturer, shall be supplied with battery leads and connectors for each generator set. A battery tray and holding-down clamps shall be incorporated within the rails of the baseplate.

### **2.7.7 Generator Circuit Breaker**

A 4-pole air circuit breaker (ACB) with a capacity of 800 amperes shall be fitted on the generator output. The ACB shall be fitted with an adjustable trip unit for protection.

The under-voltage trip coil and secondary trip coils are to be of 24VDC.

### **2.7.8 Audible Alarm**

Audible alarm horn to signal a generator set shutdown fault condition. When any condition causes the control to shut down the generator set, the audible alarm horn shall be activated, and means shall be provided to mute the alarm and reset the detection circuit in the generator Set Control panel.

### **2.7.9 Battery Charger – Lead Acid/ batteries**

A 10 Amp voltage regulated battery charger, suitable for lead acid batteries, shall be provided for each generator set. The charger may be set or wall-mounted at the discretion of the installer. Input AC voltage and output DC voltage shall be as required. The charger shall be equipped with means to select float or boost charge settings.

## **PART II: METAL-CLAD SWITCHGEAR BOARD**

## **2. SPECIFICATIONS FOR 415 V AC METAL-CLAD SWITCHGEAR BOARD**

### **3.1 Scope**

This Specification covers the Design and Engineering, Manufacture, Testing at The Manufacturer's Factory, painting, packing for transport, insuring, shipping, delivery to the port of Kenya, landing, customs clearing, Local Transportation and Delivery to the site, Installation, Test and Commissioning of 415 V AC Indoor metal-clad switchgear Panels.

Subsequent paragraphs will give detailed descriptions and requirements for the Switchgear Panels, including Air Circuit Breakers, Current Transformers, Protection Relays, Metering, Measuring, Indicating, and Control devices, and other equipment/Devices specified herein.

All these shall be housed in a 20-foot ISO (CSC-certified) steel container. The steel container shall be new, factory tested, and have a protective painting of 2 coats of RAL9001 epoxy and polyurethane to withstand normal atmospheric conditions for the tropics without requiring any housing. The Tenderer shall provide the required physical protection for the cables between the generators and the control container using cable trenches/ cable trays

The minimum requirements for the control room container shall be as follows:

- a) Soundproof by insulation panel
- b) Air Conditioning sufficient for the control room
- c) Door with anti-panic bar

- d) Lighting with fluorescent tube 2 x 40w
- e) 2 power socket 10/16 amps + earth British Type
- f) 1 extinguisher 9 kg CO2
- g) 1 office desk
- h) 2 office chairs with armrests
- i) Integration of cabinet

### 3.2 Standards

Ratings, characteristics, tests, and test procedures, etc., for the 415V AC Metal-clad switchgear board and all the protection relays, measuring and indicating instruments, control and monitoring devices, and Accessories, including Current transformers, shall comply with the provisions and requirements of the standards of the International Electro- technical Commission (IEC), and also relevant ANSI Standards where Specified.

The latest revision or edition in effect during the Bid Invitation shall apply. Where references are given to numbers in the old numbering scheme from IEC, they shall be taken to be the equivalent number in the new five-digit number scheme. The Bidder shall specifically state the Precise Standard, complete with an identification number, to which the various equipment and materials are manufactured and tested. The Bid Document may not contain a full list of standards to be used, as they are only referred to where useful for clarification of the text.

### 3.3 Service Conditions

Based on the geographical condition, the area where the switchgear panels shall be installed is categorized into the tropical climate zone.

In choosing materials and their finishes, due regard shall be given to the humid tropical conditions under which the switchgear panels shall be called upon to work. The manufacturer of the switchgear panels shall submit details of his usual practice of tropicalization, which has proven satisfactory for application to the switchgear panels and associated equipment to prevent rust and aging in the tropical climate zone. The Applicable standards for tropicalization shall be listed.

### 3.4 Climatic Conditions & Geo-Reference

Unless specified in Particular Technical Specifications, any equipment component or assembly shall be designed for the following service conditions.

Parameter	Max	Min
Ambient air temperature		
Outdoor	+40°C	-1°C
Indoor	+40°C	-1°C
24-hour average maximum	+30°C	-1°C
Relative humidity	90 -100%	
Height above sea level	1000 m	
EMC Class (IEC 61000)	Industrial environments	
Seismic coefficient	1.5	
Rainfall conditions		
Average	800-1700 mm/year	
Maximum	160mm in 24 hrs	
Annual mean isokeraunic level	Max 180 thunderstorm days	
Pollution (IEC 60815)	Heavy :class II	
Geo-Reference		
Latitude (°)		
Longitude (°)		
Altitude (m) a.s.l.		

#### 3.4.1 Switchgear Room Temperature

The Switchgear shall be installed in a room without Air conditioning but with ventilation to allow natural cooling.

Therefore, all the protection and control devices employed shall be capable of operating in this environment without failure for their designed lifetime. Particularly, the power supply modules of the Protection and Control devices shall be designed for minimum heat generation and effective heat dissipation to ensure that the temperature of these devices enclosed in the relay panels at the above-listed ambient temperatures shall not exceed the

Maximum operating temperature of the device.

### **3.4.2 Tropicalization**

All equipment must be designed for operations in severe tropic climate conditions and fully comply with climatic aging tests as per IEC 60932- class 2

### **3.4.3 Metals:**

Iron and Steel are generally to be painted or galvanized as appropriate. Indoor parts may alternatively have chromium or copper-nickel plates or other approved protective finish. Small iron and steel parts (other than rustless steel) of all instruments and electrical equipment, the cores of electromagnets, and the metal parts of relays and mechanisms shall be treated in an appropriate manner to prevent rusting.

### **3.4.4 Screws, Nuts, Springs, and others**

Iron and steel shall be avoided in instruments and electrical relays wherever possible. Steel screws shall be zinc, cadmium, or chromium plated, or, where plating is not possible owing to tolerance limitations, shall be of corrosion- resisting steel. Instrument screws (except those forming part of a magnetic circuit) shall be of brass or bronze. As much as possible, the springs shall be made of non-rusting material, e.g., phosphor-bronze or nickel silver.

## **3.5 Working Stress and Equipment/Apparatus Design**

### **3.5.1 General**

The design, dimensions, and materials of all parts shall be such that they will not suffer damage under the most adverse conditions nor result in deflections and vibrations, which might adversely affect the operation of the equipment. Mechanisms shall be constructed to avoid sticking due to rust or corrosion.

The equipment and apparatus shall be designed and manufactured in the best and most substantial and workmanlike manner with materials best suited to their respective purpose and generally in accordance with up-to-date recognized standards of good practice.

The equipment shall be designed to cope with 0.10G acceleration of seismology on the centers of gravity.

All equipment shall be designed to minimize the risk of fire and consequential damage, to prevent ingress of vermin and dust, and accidental contact with electrically energized or moving parts. The switchgear panels shall be capable of continuous operation with minimum attention and maintenance in the exceptionally severe conditions likely to be obtained in a tropical climate where the switchgear is called upon to frequently interrupt fault currents on the system and also where the duty of operation is high.

### **3.5.2 Strength and quality**

Liberal safety factors shall be used throughout, especially in the design of all parts subject to alternating stresses or shocks.

### **3.5.3 Design data low voltage equipment**

Low-voltage equipment and installation shall be designed per EMC directives. The rating and design criteria for low-voltage equipment shall be as follows:

#### **I. AC Supply Rating system**

- a) Rated voltage between phase 415 V
- b) Connection type 3phase 4wire
- c) Rated voltage between phase to earth 240 V
- d) Grounding system Solid Earthing
- e) Frequency 50 HZ
- f) Voltage variation +/-10%
- g) Frequency variation +/-2%
- h) Power frequency 1 min, Test Voltage 3kV

The three-phase supply shall be used for power circuit and the single- phase supply for lighting, indication, motor controls and similar small power circuits.

Unless otherwise specified, the equipment provided under this Tender is to be capable of reliable operation at voltages as low as 85% of the rated voltage, and to withstand continuously up to 110% supply voltage above the rated value of 240V single phase or 415V AC three phase.

#### **II. DC Auxiliary Supply Rating**

- a) Equipment/Device Rated voltage: 24V DC
- b) Connection type: 2 wire
- c) Voltage variation: 18-36 V DC

The Auxiliary DC Supply shall be used for controls, indication, alarm, protection relays, and Circuit breaker tripping and closing circuit, etc.

All equipment and apparatus including the Circuit Breakers, Protective relays, Control Devices and Accessories, Measuring and Indicating.

Instruments and electronic equipment shall be capable of satisfactory operation at 80% to 125% of the rated supply voltage.

### **3.6 Basic Requirements for Electrical Equipment**

All materials supplied under this Contract shall be new and of the best quality and of the class most suitable for working under the conditions specified. They shall withstand the variations of temperature and atmospheric conditions arising under working conditions without distortion, deterioration or undue stresses in any parts and also without affecting the suitability of the various parts of the Works for which they were designed.

#### **3.6.1 Electrical controls, auxiliaries and power supplies**

##### **a) Responsibility for electrical control and auxiliaries**

The Manufacturer shall provide all control, indication, alarm and protection devices and all auxiliary equipment with wiring and interconnecting cable which are integral parts of or are directly associated with or mounted on the Switchgear panels to be supplied under this Tender. The design of Protection and Control schemes for the switchgear panels shall be subject to approval by the Employer.

##### **b) Operation and Control**

Interlocking devices shall be incorporated in the control circuit to ensure safety, and proper sequence and correct operation of the equipment.

#### **3.6.2 Measuring instruments**

- i. All measuring instruments, including energy meters, shall be of flush-mounted, back-connected, dust-proof and heavy-duty switchboard type. Each measuring instrument shall have a removable cover, either transparent or with a transparent window. Each instrument shall be suitable for operation with the instrument transformers detailed in this specification, under both normal and short-circuit conditions.
- ii. For analog type instruments, scale plates shall be of a permanent white circular or rectangular finish with black pointer and markings. The scale range shall be determined from the current transformer and voltage transformer ratios and is given in the detailed specifications for each instrument.
- iii. All measuring instruments of analog type shall be approximately 110mm<sup>2</sup> enclosures and shall be provided with clearly readable long scale, approximately 240 degrees. The maximum error shall be not more than one and a half (1.5) percent of full-scale range.

#### **3.6.3 Indicating lamps**

Indicating lamp assemblies shall be of the switchboard type, insulated for 24 V D.C. service, with appropriately colored lens service. The lens shall be made of a material, which will not be softened by the heat from the lamps.

For the Circuit Breakers, Red indicating lamps shall be used for "ON" position, green lamps for "OFF" position Indication and Amber for Transition.

#### **3.6.5 Nameplate and Escutcheon Plates**

- i. Each cubicle, panel, meter, switch and device shall be provided with a nameplate or escutcheon plate for identification with English description and also where appropriate the IEC Number on the front of the panel directly below each device as appropriate. On the inside of the control compartment of the switchgear panel, a yellow label, engraved in Black Letters and Numbers shall be fixed below each device. The Device Name/Number fixed on the inside of the control compartment shall correspond to the Name/Number used in the drawings. Each equipment shall be provided with a rating plate containing the necessary information specified in the relevant IEC standards.
- ii. The plates shall be made of weatherproof and corrosion-proof materials and shall not be deformed under the service conditions at the site. The entries on the plates shall be indelibly marked by engraving with black letter on a white background.



### 3.6.6 Wiring General

All wiring inside the switchgear panel shall be done with PVC insulated wire not less than 2.5 sq.mm, flexible cable. A suitable wiring duct system firmly fixed on the panel and having covers shall be installed for all inter-panel and front-to-rear panel wiring as well as for wiring within the panels, which will provide easy access for inspection and replacement of the wires.

- i. Wiring between terminals of the various devices shall be point to point. **Splices or tee connection will not be accepted.** Wire runs from the duct to the device shall be neatly trucked or clamped.
- ii. Exposed wiring shall be kept to a minimum, but where used, shall be formed into compact groups suitably bound together and properly supported.
- iii. Instrument transformer secondary circuits shall be grounded only on the Terminal Block in the Control Compartment. Cable supports and clamp type terminal lugs shall be provided for all incoming and outgoing power wiring terminated at each panel. All wiring conductors (wires) shall be marked at each point of termination onto the terminal block or device. These wire markers shall be of an approved type and permanently attached to the conductor insulation. The method of ferruling shall be subject to approval by the Employer; It is however preferred that the Wire marker (ferrule) correspond to the device terminal Number of the device or the Terminal Block Number where it is terminated.

### Phase arrangement.

The standard phase arrangement when facing the front of the panel shall be R-S-T- N, and P-N from the left to right, from top to bottom, and front to back for A.C three-phase and single-phase circuits. For DC circuit it shall be N-P from left to right, P-N from top to bottom and front to back. All relays, instruments, other devices, buses and equipment involving three-phase circuit shall be arranged and connected in accordance with the standard phase arrangement wherever possible.

### 3.6.7 Terminal blocks

- i. Terminal blocks for control wiring shall be rated not less than 600V AC.
- ii. Each Individual Terminal Block shall be marked with a distinctive Number, which shall be the same Number used in the drawings, for identification purposes. The TB number shall be engraved in black numbers in white background.
- iii. A label shall identify each set of terminal blocks to distinguish it from another set with similar Numbers for the individual terminal blocks. The labels used will match those used in the drawings.

## 3.7 Equipment and Switchgear Earthing

All the Compartments, including the hinged doors of the Switchgear Panels and all the earthing points of the equipment installed/mounted in the Switchgear panels, shall be connected to the grounding conductor at the bottom of the panel for external connection to the substation earthing System.

Earthing conductors shall be of annealed high-conductivity copper. The earthing conductor on the primary equipment, such as the Earth Switch and also for inter-panel earth-bonding as well as for external connection to the substation Earthing – grid shall be adequate to carry the rated switchgear short-circuit current of 65kA for 1 second.

## 3.8 Materials and Workmanship

### a) General

Materials shall be new, of the best quality of their respective kinds, as usual, and suitable for work of like character. All materials shall comply with the latest standards' issues unless otherwise specified or permitted by the Employer.

Workmanship shall be of the highest class throughout to ensure reliable and vibration-free Operations. The design, dimensions, and materials of all parts shall be such that the stresses to which they may be subjected shall not cause distortion, undue wear, or damage under the most severe conditions encountered in service.

All parts shall conform to the dimensions shown and be  $\pm 0.05$  mm per approved drawings. All joints, datum surfaces, and meeting components shall be machined, and all castings shall be spot-faced for nuts. All machined finishes shall be shown on the drawings. All screws, bolts, studs and nuts, and threads for pipe shall conform to the latest standards of the International Organization for Standardization covering these components and shall all conform to the standards for

metric sizes.

All materials and works that have cracks, flaws, or other defects or inferior workmanship will be rejected by the Employer

**b) Assembly**

Necessary items of equipment shall be assembled in the factory before shipment and Routine tests shall be performed by the Manufacturer as per the requirements of the latest issue of IEC as specified under each equipment in these specifications to demonstrate to the satisfaction of the Employer that the Switchgear panels comply with the requirements of the relevant IEC standards.

**c) Casting**

Casting shall be true to pattern, of workmanlike finish and of uniform quality and condition, free from blowholes, porosity, hard spots, shrinkage defects, cracks or other injurious defects, shall be satisfactorily cleaned for their intended purpose.

**d) Operational Details**

Instructions shall be engraved on the switchgear panel, on the circuit breaker compartment describing in simple steps how to carry out correct and safe Isolation, racking-in and switching operations on the circuit breaker. Similar details should be provided for the operation of the earth switch.

### **3.9 Protection, Cleaning and Painting**

All outside panel surfaces shall be primed, filed where necessary, and given at least two coats of synthetic undercoat. The finishing coat for the indoor installations shall be gloss paint.

Primer shall be applied to surfaces prepared per the plant manufacturer's instructions. The surface shall be wiped clean immediately prior to applying the paint. The primer and finish coats of paint shall be applied using the methods and equipment the manufacturer recommends.

No painting or protection is required for finished or unfinished stainless steel parts.

The humid and tropical conditions shall be taken into account in the selection of the paints and painting procedure.

### **4.0 Drawings**

**4.1** Before starting the manufacture of the Switchgear panels, dimensioned drawings and data showing all significant details of the equipment and materials to be used shall be submitted to the Employer for approval. Four 4 weeks shall be allowed for discussions between the manufacturer and the employer, leading to the final Approval of the drawings by the Employer. Manufacturing of the switchgear panels shall not commence under any circumstances without receipt of Approved drawings by the Manufacturer from the employer.

**4.2** The drawings shall be modified as necessary if requested by the Employer, and resubmitted for final approval

**4.3** The manufacture of the switchgear shall then proceed strictly in accordance with the Approved drawings and also in accordance with the Detailed specifications as contained herein. Where conflict may arise between the specifications and the approved drawings, the Specifications will take precedence, unless it's specifically indicated in writing on the Approved drawings that the conflicting clause in the specifications is superseded, or where following discussions between the Manufacturer and the employer, the employer gives approval in writing to supersede the conflicting clause in the specifications.

**4.4** It is to be understood, however, that approval of the drawings will not relieve the manufacturer of any responsibility in connection with the works that the switchgear will fully comply with the relevant IEC/ANSI standards and with these specifications

**4.5 All drawings submitted for approval or sent to the Employer for any other reason shall be in hard copy form and shall be sent by courier. Drawings for Approval shall not by any means be forwarded via e-mail or any other media except in hard copy form.**

Following completion of the manufacture of the switchgear Panels, the manufacturer shall carry out the following Checks and Tests before Inviting the Employer for Factory Acceptance Tests. Dimensional checks are performed for the switchgear board and the busbars. Primary Injection Tests to check the correct connection of the current transformers to the relay instruments and measuring devices. Electrical Functional Tests Mechanical/Interlock checks.

Any problems noted will be rectified, and the switchgear panels shall only be shipped once the above tests and Checks are satisfactory.

Upon testing the panels, the drawings will be edited to capture any minor wiring errors detected and produce the final construction drawings. Courier shall send a copy of the final construction drawings signed by the Manufacturer to the employer before the panels are shipped.

All Protection and Control drawings shall be done on A4 - size paper. The function of each drawing shall be clearly

indicated. Related drawings shall be arranged sequentially, and have the same drawing number but different sheet numbers. The drawings shall include the following;

- i. Ac single line drawing
- ii. AC Schematics
- iii. DC Schematics
- iv. Functional Drawings
- v. Panel wiring and cable terminations and schedules
- vi. Panel device layout drawing
- vii. General layout drawings for the switchgear panels
- viii. Relays and accessories list.

**NOTE:-**

Five (5) Copies of Final As built drawings shall be supplied after commissioning of the Switchgear.

**5.0 Operating and Maintenance Instructions**

The Contractor shall supply detailed instructions manuals concerning the correct manner of assembling/Installing/Erection, configuring, setting, Testing and Commissioning, operating and maintaining the equipment and devices constituting the Switchgear Board, including the board itself.

The maintenance details of each component shall also be described, including the frequency of inspections and lubrication. The instruction manual shall include a separate and complete section describing the normal and emergency operating procedures for the Switchgear, and shall include explanatory diagrammatic drawings to facilitate understanding the instructions.

The Manufacturer shall, in preparing the instruction manuals, take into account the lack of experience and familiarity of the Operators with this type of equipment. The manual shall give specific information as to oil, grease, or any other materials needed for maintenance operations. This information shall include brand names and manufacturer's numbers or designations for at least two brands available in Kenya, preferably manufactured in Kenya.

A complete set of the Operating and Maintenance manuals for All the Plant, Equipment and Accessories to be installed/mounted in the switchgear panels shall be sent to the Employer together with the Drawings for Approval. The operating and maintenance manuals shall be original copies printed by the manufacturer. Any illegible copies of the operating and maintenance manuals submitted shall be rejected by the employer.

**Before Approval of Shipment of the switchgear Panels, Five (5) Copies of the Operating and Maintenance Instructions/Manuals shall be sent to the Employer by Courier.** The operating and maintenance manuals shall be original copies printed by the manufacturer. **Any illegible copies of the operating and maintenance manuals submitted shall be rejected**

In addition, three (3) Soft copies of the manuals shall be sent to the employer.

**6.0 Testing at Place of Manufacture**

The manufacturer shall be responsible for performing or for having performed all the required tests specified under the specification for the switchgear and all the Current Transformers, Protection Relays, Energy Meter, Measuring and Indicating instruments.

Tenderer shall confirm the manufacturer's capabilities in this regard when submitting tenders. Any limitations shall be clearly specified.

Tender documents shall be accompanied by copies of Type test and Routine test reports & certificates for similar rated equipment for the purpose of tender evaluation. Type test reports & certificates shall be certified by the National Standards and Testing Authority (NSTA) of the country of origin or by a third party Reputable Testing Authority. Where a body other than NSTA is used to certify the type-test reports, a copy of the certificate of accreditation shall be attached. Current contact information of the testing and certification authority shall be provided.

Tenderers should note that this requirement is Mandatory.

Upon completion of the manufacturing process, routine tests shall be carried out as per the respective IEC standards of each equipment as follows:

- a) Circuit Breaker IEC 60298, IEC 60947
- b) Switchgear panels, IEC 60294
- c) Current Transformers, IEC 60044-1
- d) Voltage Transformer, IEC 60044-2

e) Protection Relays and Measuring and Indicating Instruments, IEC 60255 & 51

Only Upon receipt of Authentic certified copies of the Routine Test Reports/certificates and special Tests shall the Employer give clearance for shipment of the Switchgear Board once all the other listed requirements on Drawings, Instruction and maintenance manuals and software are met.

### **7.0 Software**

One copy of each different type of Software in a CD Rom/flash disk, for Protection Relays and other measuring and Control Devices whose Configuration and Settings is Software based and the connection Cable (Two for each type of device) shall be sent to the employer by courier before Approval for Shipment of the Switchgear Board is granted by the Employer.

All the software indicated in the Technical Schedules shall be supplied. The software shall also be capable of downloading and analyzing data form the Relay/measuring device.

It shall be possible to load the software into at Least 2No. Different Laptop Computers without requirement for additional licenses, in order to facilitate Operations. Where additional licenses are required, the cost shall be considered to have been included in the bid.

One b (1) set of hard cover manuals for each type of software Supplied providing detailed instructions for programming settings and configuration of the relays and other devices and downloading of data, shall be supplied with the switchgear.

### **8.0 Spare Parts**

The manufacturer shall furnish spare parts as listed in the specifications. The spare parts supplied shall be packed or treated in such a manner as to be suitable for storage under the climate conditions at the site for a period of not less than two years, and each part shall be clearly marked with the description and purpose on the outside of the package. The manner of storage shall be recommended by the manufacturer.

Spare parts so provided shall be delivered with the switchgear to the employer's stores. Delivery of spare parts will not be deemed to be complete until the packages have been opened and their contents checked by a representative of the Employer.

## **9.0 Detailed Specifications for 415 V Ac Metal-Clad Indoor Switchgear Panels**

### **Construction for Each Panel**

**9.1.0** The whole switchgear equipment and components shall be designed and constructed in accordance with IEC 60298 and IEC 60947. The Board shall be complete with all the relevant components including, Busbars, Circuit Breaker, Cable Compartment, Instrument Transformers, Protection Relays, instruments and controls.

**9.1.1** The Switchgear Board, shall be constructed to IP42 degree of Protection in accordance with IEC 60529. A type test Report for the Degree of Protection of the Switchgear panels from a third party Reputable Testing Laboratory or Certified by the National Standards and Testing Authority (NSTA) or a laboratory Accredited to the NSTA shall be submitted with the Tender for Evaluation Purposes.

**9.1.2** The switchgear panel or cubicle shall be built up of separate metal clad- compartmented cubicles with earthed metal partitions. The compartments shall be for busbar, cable connection and current transformer, Air circuit breaker, and Protection and Control compartments.

**9.1.3** The Air circuit breakers shall be mounted on an inbuilt carriage to facilitate Isolation and withdrawal of the Air Circuit Breaker. Where the carriage is fixed in the compartment and does not allow complete withdraw of the Air circuit breaker outside it's compartment, then a purposely built Trolley shall be provided equipped with a lowering/raising gear to lower the Air circuit breaker to the floor, and to raise the circuit breaker to its compartment by one switching operator.

**9.1.4** The complete switchgear shall be such that the complete switchboard is of flush- front design.

**9.1.5** All the Protection Relays, Auxiliary Relays, Energy Meters Indication Lamps, Instruments, Control and selection switches and any other associated accessories will be mounted in the Protection and Control compartment. All the Protection Relays, Auxiliary Relays, Energy Meters Indication Lamps, Instruments, Control and selection switches and any other associated accessories will be mounted in the Protection and Control compartment.

**9.1.6** The cable compartment should have an anti-vermin guard plate giving protection against rats, rodents etc.

**9.1.7** The Circuit breaker compartment door shall be provided with provisions for padlocking

**9.1.8** The doors shall be capable of withstanding the effects of maximum internal arcing fault without being blown off and causing danger to other equipment/personnel.

**9.1.9** The busbar shall be single, three-phase, air-insulated. The primary Busbars and connections shall be of high conductivity and electrolytic material, high-grade copper, and shall be in unit lengths.

**9.1.10** Busbars, connections and their support shall be rated 3200Amps continuously under ambient conditions and capable of carrying the short-time current associated with the short circuit ratings of the circuit breakers, of 85kA for 1 Seconds.

**9.1.11** Busbars shall be extensible at both ends, such extension shall entail the minimum possible disturbance to the existing busbar.

**9.1.12** Provision shall be made for locking busbar and circuit shutters separately in the Circuit Breaker compartment

**9.1.13** Provision shall be made for integral circuit earthing and for busbar earthing. Means of earthing shall be by circuit breaker or purposely built earth switch. Mechanical interlocks to ensure correct switching operation shall then be provided.

**9.1.14** The earth switch shall be easy to operate by one operator and be spring loaded to ensure Effective Make Operation independent of the Operator Action. The earth switch shall be rated to make and carry for 3 seconds, the rated short-circuit current of the Air Circuit Breaker.

**9.1.15** The Status of the earth Switch shall be visible from the front of the Panel.

**9.1.16** The operation of the Earth Switch shall be set in such a way that during both the Close and Open Operations, a clearance of at least 9 inches shall be maintained between the operating handle and the bottom of the switchgear panel.

**9.1.17** It shall not be possible to insert the Earth switch Operating handle into Position except when the Circuit breaker is in the Test or Isolated Position.

**9.1.18** All earthing facilities shall be rated for fault making at the rated switchgear short-circuit current.

**9.1.19** The Panel wiring for protection, instruments, indication and metering circuits and other control accessories shall be completely done. All circuits for connection to external cables such DC & AC auxiliary supplies, external tripping, and Indications shall be wired up to the terminal Block at the Back of the panel where external cables shall be connected. At least 12 spare terminals shall be provided on the terminal board for any future requirements.

**9.1.20** It is emphasized that Each Switchgear panel will have a terminal block at the back of the panel where all external cables such as Auxiliary DC supply, shall be made.

**9.1.21** Auxiliary 24V DC supplies for Circuit Breaker control, Alarm circuits and Protection relays, shall be controlled by suitably rated Miniature Circuit Breakers.

**9.1.22** The cubicle shall be tropical vermin proof. The plates shall be of mild steel thoroughly cleaned by shot blasting or other approved methods. They shall then be given a primary coat and two coats of contrasting colour of durable and weather resisting paint. The final coat shall be gloss and of Admiralty Grey (Shade 632) as specified in BS 381C. The final thickness of the paint shall not be less than 80 Microns at any point within the switchgear panel.

**9.1.23** The 240V AC supply, for the heaters shall be controlled by a suitably rated single pole miniature circuit Breaker.

**9.1.24** All the switchgear panels shall be rodent and vermin proof.

## **9.2 Circuit Breakers**

**9.2.1** The circuit breakers shall be three pole operated, indoor type, Air Circuit Breakers.

**9.2.2** The moving portion of each circuit breaker shall consist of a three-pole circuit breaker, operating mechanism, primary and secondary disconnecting devices, auxiliary switches, position indicators and necessary control wiring. The Auxiliary switches shall be of the plug-in type, with the male contacts mounted on the Breaker carriage and the female contacts on the plug-in cable connected to the Panel wiring. Other options may be considered where there is adequate proof that the auxiliary contacts will always be making firmly without miss-alignment. **Finger contacts will however not be acceptable.**

**9.2.3** The circuit breakers of the same current and voltage ratings shall be fully interchangeable, both electrically and mechanically.

**9.2.4** Name plate for the circuit breaker shall be provided with all the required details as per IEC Standards

**9.2.5** The circuit breaker operating mechanism shall be motor wound spring operated, power closing with electrical release and with provision for hand charge.

**9.2.6** Mechanical indication shall be provided to indicate the state of the spring.

**9.2.7** The operating mechanism shall be completely trip free both mechanically and electrically.

**9.2.8** The circuit breaker shall have a mechanical operations counter

**9.2.9** One mechanical ON/OFF indicator, with inscription "ON" white letters on red background and inscription "OFF" white letters on green background shall be provided for the circuit breaker.

**9.2.10** One mechanical indication of the state of the spring inscription – SPRINGS CHARGED (white letters on red background); SPRINGS FREE, (white letters on green background) shall be provided for the circuit breaker.

**9.2.11** Where the Circuit Breaker is used for Circuit or Busbar Integral earthing, the control wiring of the breaker housing should be such that when the breaker is in circuit earth or busbar earth positions it shall only be Operated mechanically and not electrically.

**9.2.12** The Circuit Breaker Maintenance and Operations Manual shall contain clear instructions on the Maintenance requirements of the Circuit Breaker (if any), to prevent Switchgear failure in service, due to excessive Fault Current Clearance or any other cause.

## **9.3 Current Transformers**

**9.3.1** Current transformers shall be Cast Resin Type and shall be accommodated inside the cubicle in a separate compartment.

**9.3.2** The current transformers shall be in accordance with the requirement of IEC 60044-1 and shall have the specified accuracy under load conditions and shall be able to withstand the effect of short-circuit fault current rating of the switchgear, of 85kA for 1 seconds.

PS/89

**9.3.3** Current transformers shall have a rated burden as specified, sufficient for the connected Numerical Protection relays and Energy meters and instruments.

**9.3.4** Copies of Type Test certificates and routine Test Reports/Certificates as per IEC 60044-1, of CTs of similar Rating and Class as the specified CTs shall be submitted with the Tender for tender Evaluation Purposes. The Specified CTs must be within the Product Range of the manufacturer.

#### **9.4 Protection Relays**

**9.4.1** The Measurement relays shall be Flush mounted and of Numeric Design, with event recording, Fault recording, power measurement, and shall be in accordance to IEC 60255.\* **9.4.2** Besides the communication port, the relays shall have a human – machine interface facility (MMI) with and LCD Screen where one can easily access relay information.

**9.4.3** Relay contacts shall be suitable for making and breaking the maximum currents, which they are required to control in normal service. Where contacts of the protective relays are not sufficient for Circuit Breaker Tripping, auxiliary Trip relays shall be provided, in order to prevent Damage to output contacts of the Measuring relay.

**9.4.4** Relay contacts shall make firmly without bounce and the relay mechanism shall not be affected by Panel vibration or external magnetic fields.

**9.4.5** Relays shall be provided with clearly inscribed labels describing their functions and IEC Device Function numbers.

**9.4.6** Relays shall be suitable for operation on the station D.C. supply without use of dropping resistors or diodes.

**9.4.7** To reduce the effect of electrolysis, relay coils operating on DC shall be so connected such that they are not continuously connected from the positive pole of the station battery.

**9.4.8** The relay Thermal rating shall be such that the fault clearance times on any combination of current and time multiplier settings shall not exceed the thermal withstand capability of the relay. (Max. fault current = 100kA).

**9.4.9** The relays shall be EMC 89/336/EEC compliant.

#### **9.5 Indications and Instruments**

**9.5.1** All instruments shall be flush mounted and shall be in accordance with the requirement of IEC 51.

**9.5.2** Each cubicle shall have the following indications:-

- i. One indicator lamp to show the breaker in closed position - RED color
- ii. One indicator lamp to show the breaker in open position - GREEN color

**9.5.3** The instruments shall be supplied as described under each panel in the subsequent sections.

#### **9.5.4 Power Cable Termination**

Cable compartment design shall be suitable for heat shrinkable (or equivalent) jointing application termination. The compartment shall be adequate for connection of cables to evacuate the total load of 1600 Amps.

#### **9.5.5 Accessories:**

The following accessories shall be supplied with the switchboard at no extra cost:

- a) Spring charging handle - FOUR SETS
- b) Circuit breaker draw out handle - FOUR SETS
- c) The recommended set of circuit breaker maintenance tools - ONE SET

#### **9.6 Consumable Spares**

The following consumable spares shall be supplied with the switchgear board at no additional cost:

- a) Two (2) Electronic Fuel Control Units (Governor).
- b) Two (2) Automatic Voltage Control Unit (AVR)
- c) Two ( 2 ) Trip Coils
- d) Two ( 4 ) Closing Coils
- e) Five ( 5 ) Fuses of each type of fuse
- f) Two (2) MCB of each type
- g) Five (5) Bulbs of each type of bulb
- h) Two (2) Circuit Breaker Control Switch
- i) Two (2) Ammeters with MDI for Feeder, with face plates for both C.T. ratios
- j) Two (2) Generator Control Units for parallel operation and load sharing.

## 9.7 Ratings of Switchgear and Equipment's

### 9.7.1 Generator and Feeder Air Circuit Breaker

i.	Interrupting Medium:	Air
ii.	Number of poles:	3
iii.	Highest equipment Voltage:	600 V AC
iv.	Nominal System Voltage:	415 V AC
v.	One minute power frequency withstand voltage:	3 kV
vi.	Impulse withstand voltage (BIL):	8 kV
vii.	Frequency:	50 Hz
viii.	Rated short time current:	100 kA
ix.	Rated Short circuit current withstand:	85 kA, 1 seconds
x.	Auxiliary D.C. voltage for closing and tripping coils	:24 V DC
xi.	Auxiliary A.C. voltage:	240V AC
xii.	Tripping/closing coil auxiliary voltage:	24 V DC
xiii.	Spring charging motor supply:	240 V AC
xiv.	Rated normal Current:	1600Amps

### 9.7.2 Current Transformers for Generator and Feeder Panels

Ratings:

i.	Rated Short time current (STC) withstand:	65kA for 3 seconds
ii.	Rated Voltage of the CT:	600 V
iii.	One minute power frequency withstand voltage:	3kV
iv.	Impulse withstand voltage:	8 kVp
v.	Rated maximum continuous current:	1600Amps

**Ratio and class:**

#### i Feeder Panels:

Core 1:	C.T Ratio:	1600 -800/1 A
	Class:	5P10
	VA:	25VA

Core 2:	C.T Ratio:	1600 -800/1 A
	Class:	0.5
	VA:	25VA

#### ii Generator panels:

Core 1:	C.T Ratio:	1600-800/1(Turns-ratio)
	Class:	0.5
	Imag :	< 0.02 A
	Vk :	>250 V
	VRct:	10 Ohms

### 9.7.3 Tests

All switchgear shall be tested in accordance with the requirement of IEC 60298.

Tests shall be carried out on the circuit breakers as per the requirement of IEC 60947. Current transformers shall be tested in accordance with the requirement of IEC 60044-1.

#### 9.7.3.1 : Schedule of Tests to be carried out at the Manufacturer's plant

##### a Test on Complete 415 V AC Switchgear Board

- (a) Power frequency Withstand Test
- (b) Megger Test
- (c) Contact resistance test of Primary joints

- (d) Power frequency Withstand Test on secondary Wiring
- (e) Dimensional Checks
- (f) Operational/Functional Tests
- (g) Primary Injection Tests
- (h) Calibration Tests on Relays and Instruments

**b 600 V AC Air Circuit Breaker**

Routine tests.

- a) Operation test.
- b) High Voltage test, dry. 3kV Power frequency Voltage test on controls and auxiliary circuits.
- c) Measurement of resistance of the main circuit.

Type Tests: Submit copies of Type test Reports and Certificate

- 1) Mechanical endurance test
- 2) Temperature rise test.
- 3) Impulse voltage test
- 4) Interrupting Capacity test

**NB:** Copies of Type Test Certificates for similar rated Circuit Breakers and Certified by National Standards and Testing Authority body or Reputable Third Party Test Laboratory shall be submitted with the Tender for Evaluation Purposes.

**c Current Transformer**

Type and routine tests shall be carried out at the manufacturer's plant as per the requirement of IEC 60044-1, as listed below.

- 1) Polarity Test and Verification of terminal markings
- 2) Ratio and phase angle error test (accuracy class composite error test)
- 3) Power frequency Tests on Primary and secondary windings

**9.8 Protection Relays, Controls and Measuring Devices**

Requirements For 415 V Ac Switchgear Panels:

**9.8.1 General Requirements**

Protection against electrical faults and abnormal conditions on the 415 V AC Switchboard and the outgoing 33 kV feeders shall be conducted by the protective relays and associated switchgear. The Protection schemes shall be designed to ensure the detection of all faults and fast discriminative fault clearance in order to ensure the safety of personnel, equipment, and continuity of the Electric Power Supply.

**9.8.2 Bill of Materials:**

**I. Feeder Panels Requirements**

Each Feeder Panel shall be equipped with the following Protection Relays, Measuring and indicating devices, Controls and other Accessories.

- i. Three phase overcurrent and earth fault.
- ii. Combined Earth Fault and sensitive Earth Fault Relay.
- iii. Three Ammeters with MDI with face plates available for both CT ratios. The Ammeter shall indicate both the instantaneous Load current and also the Maximum Demand Load current since the last reset.
- iv. Energy Meter
- v. Voltmeter and Voltage Selector Switch, Circuit breaker control switch (Close, Open & Neutral), with a mechanical Lock, to prevent unintended tripping of the Circuit Breaker.
- vi. Sensitive Earth Fault (SEF) mechanical isolation link or switch.
- vii. Circuit Breaker ON (red) and OFF (green) Indication lamps.



- viii. Hygrostat with separate Humidity and Temperature control Setting.
- ix. Door switch Operated Lighting point and Bulb.
- x. 3 Pin - Square Power Socket Outlet with red neon indicator.
- xi. Suitably rated MCBs for Auxiliary 24V DC and for 240 V AC supplies.

## **II. Common Alarm System**

A common Alarm System shall be supplied equipped with the following:

- i. Urgent Alarm relay
- ii. Non-urgent Alarm relay. NB: The urgent and non-urgent Alarm relays will be separate Relays.
- iii. 16 window Annunciator relay.
- iv. Hooter.
- v. Suitably rated MCBs for Auxiliary 24V DC and 240 V AC supplies.

## **III. Generator Panels Requirements**

The Generator Panel shall be equipped with the following Protection Relays, Measuring and indicating devices, Controls, and other Accessories:

- i. Three-phase overcurrent and earth fault relay.
- ii. Reverse Power Relay.
- iii. Differential Protection Relay.
- iv. Synchronization Device- Generator Control Unit for parallel operation and load sharing.
- v. Three Ammeter with MDI, the Ammeter shall indicate both the instantaneous load current and the maximum demand load current since the last reset.
- vi. Energy Meter.
- vii. Kilowatt/Power Meter.
- viii. Power Factor Meter.
- ix. Voltage meter.
- x. Automatic Control Unit with Auto synchronizing Unit.
- xi. Auto/Manual Selector Switch.
- xii. Voltage selector switch.
- xiii. Circuit breaker control switch (Close, Open & Neutral) with mechanical locking to prevent un-intended operation.
- xiv. Circuit Breaker status ON (red) and OFF (green) Indication lamps.
- xv. Heater ON/OFF switch, for anti-condensation heater.
- xvi. Anti-condensation Heater.
- xvii. Hygrostat with separate Humidity and Temperature control Setting.
- xviii. Door switch Operated Lighting point and Bulb.
- xix. 3 Pin - Square Power Socket Outlet with neon indicator.
- xx. Suitably rated MCBs for Auxiliary 24V DC and 240 V supplies.

### **9.9 Protection Relays and Control Devices**

Reference Standards IEC 60255: Electrical Relays

### **9.9.1 General Requirements**

- (a) The electrical Measuring protective relays shall be of numerical design. The Protective Relays and Auxiliary Relays shall operate successfully for any value of the DC supply voltage between 85% and 125% of the rated voltage of 24 V DC without exceeding the temperature rise limits for the operating coils.
- (b) Each Measuring protection relay shall be of the Panel flush mounted, back connected, type with rectangular case. Each relay shall have a removable transparent cover or cover with a transparent window making the front of the relay visible. It is preferred that each measuring relay shall be of a withdrawable type from the front of the panel with sliding contacts, without opening the current transformer secondary circuits, disturbing external circuits or requiring disconnection of leads on the rear of the panels.
- (c) Each protection relay shall be equipped with adequate electrically independent contacts, of adequate rating for Trip and alarm functions.
- (d) Relays contacts shall be suitable for making and breaking the maximum currents, which they may be required to control in normal service. Where contacts of the protective relays are unable to deal directly with the tripping currents, Auxiliary Trip relays shall be provided. This will ensure safety for the protection relays output contacts.
- (e) Relays contacts shall make firmly without bounce and the whole of the relay mechanism shall be as far as possible unaffected by vibration or external magnetic fields.
- (f) Relays shall be provided with clearly inscribed labels on the surface of the panel describing their application in words e.g., “Three Overcurrent & Earth Fault Relay” in addition to the IEC numbering and outside.
- (g) The Numerical Relays will be equipped with an RS232 Communication Port to facilitate connection to a Laptop. Also a communication port shall be provided on each Numerical Relay for Remote Interrogation and Programming of the Numerical Relays.
- (h) The Relays will also have an MMI with LCD screen and Keypad to facilitate manual Relay programming and Data access.
- (i) Relay Operation due to system fault, shall be indicated by a Red L.E.D. and the fault details (flags) shall be displayed on the MMI. Both the Relay Fault flags and Red L.E.D shall be reset via Reset push buttons without opening the Relay Cover.

### **9.9.2 Detailed Specifications for Relays, Measuring And Indicating Instruments, Control Switches and Other Accessories**

These specifications indicate the required performance characteristics for each of the Protection Relays and are in accordance with IEC 60255.

#### **(a) Three-phase over-current and earth fault relay**

Should incorporate the following Features:

- i. Relay must be of Numerical Design.
- ii. Shall be suitable for mounting on the panel front.
- iii. The current setting range for overcurrent relays is  $0.2I_n$ - $2.4I_n$ .
- iv. The current setting range for the earth fault relay is  $0.05I_n$ - $0.8I_n$ .
- v. I.D.M.T characteristics according to BS142 or IEC255 i.e. SI, VI, EI, LTI, including definite time for the high-set Elements.
- vi. Time setting multiplier 0.05 - 1.0.
- vii. Broken conductor protection feature
- viii. The highest element is for both overcurrent and earth faults.
- ix. Protection, with a setting range of  $1-30I_n$  and a definite time delay setting of 0 - 60 Seconds.

- x. Drop off /pickup ratio >90%.
- xi. Low transient overreach < 10%.
- xii. LCD screen where the Settings and Measurements can be read
- xiii. Keypad for manual programming of settings and data access Serial RS232 Port for Programming of the Relay and Access of Data using a Laptop Computer on the front surface of the Relay.

**(b) Earth Fault Relay**

Should incorporate the following Features:

- i. Relay must be of Numerical Type.
- ii. Current setting range 0.05In-0.8In.
- iii. I.D.M.T characteristics according to BS142 or IEC255 i.e. SI VI, EI,
- iv. LTI, including definite time for the high-set Elements.
- v. Time setting multiplier 0.05 - 1.0.
- vi. Highest Element with a setting range of 1-30In.
- vii. Circuit Breaker Maintenance.
- viii. Drop off /pickup ratio >90%.
- ix. Low transient overreach < 10%.
- x. LCD screen where the Settings and Measurands can be read.
- xi. Keypad for manual programming of settings and data access Serial RS232 Port for Programming of the Relay and Access of Data using Laptop Computer on the front surface of the Relay.

**(c) Sensitive Earth Fault Relay**

Should incorporate the following Features:

- i. Relay must be of Numerical Type.
- ii. Current setting range for earth fault relay 0.010In- 0.8In.
- iii. Definite time delay characteristic; setting range, 0- 30 Seconds.
- iv. Drop off /pickup ratio >90%.
- v. Low transient overreach < 10%.
- vi. LCD screen where the Settings and Measurands can be read.
- vii. Keypad for manual programming of settings and data access.
- viii. Serial RS232 Port for Programming of the Relay and Access of Data using a Laptop Computer on the front surface of the Relay.

**(d) Reverse Power Relay**

Should incorporate the following Features:

- i. Relay must be of Numerical design.
- ii. Directional Power setting range, 0.2 to 20%.
- iii. Definite time Delay; 0.4 to 10 seconds in suitable steps.
- iv. LCD screen where the Settings and Measurands can be read.
- v. Keypad for manual programming of settings and data access Serial RS232 Port for Programming of the Relay and Access of data using a Laptop Computer on the front surface of the Relay.

**(e) Biased differential protection for a Generator**

This should incorporate the following Features

- i. The relay must have a numerical design.
- ii. Pick up setting range, 0.1 to 0.5In.
- iii. Should incorporate a high-set Element with a setting range of up to 20In.
- iv. Magnetizing current inrush restraint.
- v. Integral CT ratio compensation (0.1-2) and vector group compensation.
- vi. Measurement and indication of the MMI, of phase, differential, and bias currents.
- vii. Storage of Fault records and Event records; the Fault flags should be accessible on the relay LCD screen without opening the relay cover.
- viii. Overfluxing restraint on the differential function.
- ix. Separate function that performs overfluxing protection with alarm and trip functions.
- x. 5th harmonic restraint feature on the differential Element.
- xi. Appropriate Dual Bias characteristic to ensure relay stability for heavy through faults.
- xii. Should incorporate a disturbance recorder feature.
- xiii. Red L.E.D to indicate Tripping.
- xiv. Relay Self diagnostic and Alarm feature.
- xv. Ability to Latch output contacts to prevent TX re-energization before carrying out investigations.

**NB; High Impedance Differential Protection Relay to be offered as an option, in place of Biased differential Protection Relay.**

**(f) Annunciator Relay Unit**

- i. Shall have Silence, Accept and Reset, push buttons, to control the Alarms.
- ii. Shall be equipped with At Least 16 separate alarm Elements.
- iii. Each element shall be freely assigned to one of two common output.
- iv. Alarms; Urgent and NON-urgent Alarm.
- v. Each Alarm Element shall have a Red L.E.D. to indicate ON status. It shall also have a provision for fixing the Identification Label changeable on site. A flashing Alarm element shall be visible.
- vi. The Urgent and Non-Urgent common Alarms Shall be freely configurable to the output Relays.
- vii. High Immunity against Electrical interference.
- viii. Relay output for the audible alarm and self-supervision shall be provided.
- ix. Integrated event register to provide analysis of the latest sixteen (16) events.

**(g) Circuit breaker Close/Open Control Switch**

The switch shall have a mechanical interlock to prevent accidental operation of the switch. It shall have a close, Neutral and Open positions engraved on the switch. After an operation, the switch shall return to the neutral Position by spring Action.

**(h) Indicating Instruments, Directly connected**

ALL the instruments shall be of Moving Iron type

- i. The IP Protection Class shall be IP54.
- ii. Accuracy class shall be 1.5, with maximum tolerated error of  $\pm 1.5\%$  of final scale value.
- iii. Overload withstand shall be at least 20% continuous.
- iv. All instruments shall be suitable for continuous operation under Tropical Climatic conditions.

- v. Ammeter Instrument with MDI– 1600A Indicating Range, 0 – 1600 A for current input of 0 – 1A Full Scale Deflection, 1600 A Black Scale on white background Dimensions, 96X96 mm Shall have a resettable maximum demand indicator having a different color from the normal pointer as well as the normal instantaneous demand pointer. It shall be Suitable for Flush Mounting on the panel.
- vi. Voltmeter Instrument - 415 V AC Indicating Range, 0 – 500 V AC Black Scale on white background Dimensions, 96X96 mm. Suitable for Flush Mounting on the panel
- vii. Signaling Hooter The actuator system shall consist of a strong, non-polarized electromagnet with a sturdy casing. Rated frequency 50 HZ. Rated voltage shall be 240V AC; +6/-10 % Protection degree shall be IP 55 Operating mode continuous Volume approximately 108 dB(A) 1 ¼ m Connection terminals shall be 2.5 mm 2
- viii. Anti-condensation Heater

The heater should be suitable for mounting inside a Protection or Control panel with Protection Relays and other measuring and control devices. The Heater shall be rated at 200W or other suitable rating, and 240V AC and should be suitable for preventing condensation within the panels. The heater shall have terminals suitable for connection of 2.5 mm 2 conductors. The heater shall be suitable for mounting on a DIN rail inside the panel.

**(i) Indicating Lamps**

Shall be suitable for mounting on the front of the panel. The bulb shall be supplied together with the mounting base. The Lamp Indicators should be rated for 30V DC and equal or less than 2.5W rating.

The bulb should be designed for continuous operation and give a long life of at least 10 Years.

The bulb shall be easily replaceable without using a special tool. NB: LED Indicators are preferred

**10.10 Detailed Specifications for the Energy Meters**

**NB: These energy meters are for tariff metering similar to those used by Utilities**

These specifications are for energy meters to be installed on the switchgear panels for purposes of Recording delivered Electrical Energy, and are in accordance with IEC 61334-4-4-1(DLMS Standard protocol).

The Energy Meter Supplied shall meet all the requirements detailed below:

- The meters shall conform fully to IEC 687 for class 0.5S Energy Meters and any other relevant specifications.
- The meters shall be programmable and relevant software and connection cable to laptop shall be provided. Meters complying with IEC 61334-4-4-1(DLMS Standard protocol) shall be preferred.
- The meters shall have memory and be capable of storage of at least 12 months load profile and other data.
- The meters shall be capable of bi-directional metering so as to record faithfully, both export and import quantities. The accuracy shall be as per IEC 687 in both directions. The quantities to be displayed shall be determined by the user through use of Software that shall be provided.
- The meters shall be configurable for use in three phase 3/4-wire networks systems as follows:
  - 3x240/415 V, 10 (100) A
  - 3x240/415 V, /5 (1) A
  - 3x /110V, /5 (1) A
- The meters shall be usable on phase voltages of magnitudes ranging from 100V to 500V, 50 Hz. Meters with voltage-surge protection that meets IEC 687 specifications. The meters shall be for flush panel mounting.
- The meters shall have a non-volatile memory so as to ensure no loss of data during power failures. Security passwords and switches shall be provided to prevent unauthorized programming of the meter.
- The meters shall be fully year 2000 compliant and a certificate of confirmation shall accompany the tender.
- The meters shall be suitable for operation in any part of the Republic of Kenya where the climate varies largely from temperatures between -5 and 40 Degrees Celsius and relative humidity reaching 95% in some parts. Operating altitudes ranging from sea level to 2200 meters above sea level. The meters shall support multi-tariff metering.

- The Meters shall incorporate instrumentation for the following measured:- MW, MVAR, MVA, P.F , Phase Currents, Phase voltages and the angle between individual Phase Voltage and corresponding phase current. This measured shall be visible on the Meter display.
- The meters MUST have a capability of freezing billing readings on any selected date of the month.
- The meters will measure maximum demand for MW, MVAR and MVA and these will be accessible on the Meter display. The Demand integration period will be programmable.
- The CT and VT ratios shall be programmable. The meters shall have an accurate internal quartz controlled clock. It should be possible to reset the clock without loss of billing data.
- The supplier shall show proof of ISO 9000 and ISO 14000 standards compliance by attaching copies. The meters shall be provided with adequate sealing facilities to prevent tampering.
- The nameplate and meter details shall be clearly marked using materials and colors that are durable and indelible. In addition to requirements of IEC 687 the name-plate shall carry the following particulars:
  - The inscription “The property of REREC” Owner’s serial numbers as directed with a minimum 5mm figure height. Year of manufacture.
  - The meter base cover shall be of non-metallic, non-hygroscopic, flame retardant, polished material having high impact-resilience and low dirt absorption properties. The front cover may be of translucent material with a clear transparent front. The meter shall have a minimum of three sealing - provisions for the meter body, terminal cover and front cover (where applicable).
- The meter terminal cover shall be the normal short length with provisions of easy bottom breakage for cable entry. The terminals shall be of bottom entry, and the arrangement shall be:
  - L1 L 1: L2 L2: L3 L3: N or
  - I1 V1 I1: I2 V2 I2: I3 V3 I3: N
- The accuracy shall be Class 0.5. The meter errors shall comply with the requirement IEC 687 and shall be adjusted at the manufacturer’s works to be within between low and high load and shall exhibit good stability.
- The meter shall have a warranty against any defects, which may develop due to faulty material, calibration, transportation or workmanship for a period of not less than eighteen months from the date of delivery. All defective meters shall be replaced at the supplier’s cost.

The following drawings and information shall be required with the tender:

- (a) Meter drawing giving all the relevant dimensions.
- (b) Wiring diagrams.
- (c) Description leaflet including details of programming of the meters User’s and service manuals

## **PART III: STEP-UP TRANSFORMER**

### **3. SPECIFICATIONS FOR 1MVA 0.415/33KV STEP-UP TRANSFORMER**

This specification lays down requirements for a 0.415/33 kV Step-up Transformer. It is intended for use when purchasing the transformers.

It shall be the manufacturer's responsibility to ensure the adequacy of the design and good engineering practice in the manufacture of the 0.415/33kV Step-up Transformer. The manufacturer shall submit information, which confirms satisfactory service experience with products, which fall within the scope of this specification.

It is expected that manufacturers will provide energy efficient standard design that will provide high level of efficiency and significant initial cost saving.

#### **1.Scope**

This specification is for oil-immersed, air-cooled, outdoor type three phase 0.415/33 kV Step-up Transformer for AC system operated at 50 Hz.

The transformers shall be connected to an off-grid power station to step-up generator output of 415V to 33 kV distribution network.

#### **2 References**

The following documents were referred to during the preparation of this specification; in case of conflict, the requirements of this specification shall take precedence.

- IEC 60076: Power Transformers
- BS 381C: Specification for colors for identification, coding, and special purposes
- IEC 60296: Specification for unused mineral insulating oil for transformers and switchgear.
- IEC 60354: Loading guide for oil-immersed power transformers.
- BS 6436: Specification for Ground Mounted Distribution Transformers for Cable Box or Unit Substation Connection

#### **3 Terms and Definitions**

For the purpose of this specification the definitions given in the reference standards shall apply

#### **4 Requirements**

##### **4.1 Service Conditions**

##### **4.1.1 Operating conditions**

**4.1.1.1** The transformers shall be suitable for continuous operation outdoors in tropical areas at altitudes of up to 1500m above sea level, humidity of up to 90%, average ambient temperature of +30°C with a minimum of -1°C and a maximum of +40°C and heavy saline conditions along the coast.

##### **4.1.2 System characteristics**

**3.1.2.1** The primary shall be 415V, 50Hz while the secondary shall be 33 000V, 50Hz, three-wire (the neutral solidly earthed).

**3.1.2.2** The 33 kV overhead system is of unearthed construction (i.e. without aerial earth wire).

#### **3.2 Design and Construction**

##### **4.2.1General**

**4.2.1.1** The transformer shall be three phase, oil immersed type, air cooled, core type, outdoor and shall be designed, manufactured and tested as per IEC 60076 and this specification.

**4.2.1.2** The transformer shall be free breathing type provided with a conservator and a dehydrating breather (cobalt free). The conservator shall be in such a position as not to obstruct the electrical connections to the transformer and shall have oil sight gauge at one end marked with oil levels. The conservator shall have a feed valve.

**4.2.1.3** The complete transformer shall be painted and protected against corrosion, and the final color of the exterior surface shall be Dark Admiralty Grey color No. 632, as per BS 381C. The inside of the tank shall be coated with oil-resisting varnish or paint so that oil cannot come into contact with the tank or metal at any point.

**4.2.1.4** The transformer shall be suitable for ground mounting (on a plinth).

**4.2.1.5** Drawings and documentation for the transformer offered shall be given, clearly detailing important dimensions, clearances, accessories, fittings, internal assembly, material details, and any special features of the offered design.

#### **4.2.2 Tank**

**4.2.2.1** The transformer tank shall be constructed of mild steel plates. Tank thickness shall be stated in the Technical Particulars (Annex A).

**4.2.2.2** The transformer tank shall be sealed by means of suitable gasket and be fitted with earthing terminals. Eight (8No.) non-standard shearing bolts to deter unauthorised opening shall be used on bolted corners and centres of sides of the top cover. Relevant tools for unbolting the transformer shall be delivered with the transformer.

#### **4.2.3 Core**

**4.2.3.1** The cores shall be constructed of high quality low loss grain oriented electrical steel laminations. The design shall ensure no hot sections due to overfluxing or circulating currents across the laminations. The flux density at any point shall not exceed 1.65 Tesla.

**4.2.3.2** The cores shall be clamped effectively with metal cross-arms and be fitted with core lifting lugs. The manufacturer shall demonstrate experimentally or via a previous test report, that the whole structural frame-work supporting the transformer windings and the core can definitely withstand repeated transformer short-circuits.

#### **4.2.4 Windings**

**4.2.4.1** The windings shall be of electrolytic copper capable of sustaining short circuit forces on the transformer.

**4.2.4.2** The primary windings shall be of full coil copper wires as opposed to segmented winding and the secondary windings shall be coil or foil of copper.

**4.2.4.3** The HV and LV windings shall be separated so as to allow for cooling and ease of repair. Insulating sleeves for the transformer tapplings shall be in crepe paper or better.

#### **4.2.5 Tapping**

**4.2.5.1** The secondary winding (33 kV) shall have tapplings at 2 X 2.5% operated by an off-circuit self-positioning tapping switch with marked position indicators. Tapping details shall be included on the transformer name plate.

**4.2.5.2** Switch position No. 1 shall correspond to maximum plus tapping. The make contacts of the tap changer shall be robust and of sufficient surface area.

#### **4.2.6 Vector Group**

**4.2.6.1** The three-phase transformer shall be wound to IEC vector reference dYN1.

**4.2.6.2** The star point of the secondary winding shall be brought out to a neutral bushing.



#### **4.2.7 Cable Boxes, Bushings and Clearances**

**4.2.7.1** The transformer shall be fitted with cable box on the primary side (LV) and have open bushings on the secondary side (33 kV). The LV cable box shall be unfilled type and suitable for terminating up to 7No. Single core PVC cables of 600 mm<sup>2</sup> on a clamp pad, cables entry from bottom.

**4.2.7.2** The 33 kV bushings shall be open and shall have outdoor brown glazed weatherproof bushings provided with external studs for conductor sizes from 8mm to 20mm diameter mounted on the tank top cover.

(a) Clamp connector shall be provided on each bushing.

(b) The bushings shall be constructed, arranged, and fitted in such a manner as to be changed without opening the transformer.

(c) Each bushing shall be fitted with adjustable double-gap arcing horns set at 2 X 25mm gaps.

(d) The minimum external electrical clearances and minimum creep age distances of the 33 kV bushings shall be as indicated below:

<b>Description</b>	<b>Unit</b>	<b>Value</b>
Nominal System Voltage between Phases	kV	33 kV
Minimum clearances between phase to earth	mm	320 Min
Minimum Clearances between phases	mm	350 Min
Creepage distance	mm	350 Min

#### **4.2.8 Oil and Cooling**

**4.2.8.1** Cooling of the transformer shall be by natural circulation of oil and natural circulation of air (ONAN). Loading will be as per IEC 60354.

**4.2.8.2** The transformer shall be dispatched, filled with oil to the correct level, and ready for service. The oil shall be new (unused), uninhibited mineral insulating oil class I as per IEC 296. The oil shall be PCB-free.

#### **4.2.9 Fittings and Accessories**

**4.2.9.1** No drain valve shall be fitted.

**4.2.9.2** Oil gauge shall be provided on each transformer and shall be of dial or floater type. The oil gauge shall be clearly readable by an operator standing at a distance of 5 meters away from the transformer. The maximum and minimum oil level marks shall fall within 50% of the full range of the gauge with the nominal oil level being at the centre of the range.

**4.2.9.3** Each transformer shall be complete with an oil temperature thermometer in a visible and secure position.

**4.2.9.4** Each transformer shall be complete with a pressure relief device fitted in a visible and secure position. No part of the pressure relief device shall extend to a height greater than the HV bushings.

#### **4.2.10 Rating**

**4.2.10.1** The transformer shall be capable of carrying its full normal rated current continuously under the tropical conditions stated (maximum ambient temperature of 40°C and at any tappings without the temperature rise in the hottest region exceeding 55°C and 60°C in oil and winding, respectively. Documents to support this shall accompany the tender. <sup>PS/101</sup>

**4.2.10.2** The transformer shall be capable of sustaining a three-phase symmetrical short circuit on the secondary side with power maintained on the primary side without damage or distress for 2 seconds.

**4.2.10.3** The transformers shall be rated 1MVA

**4.2.10.4** The rated withstand voltages for the transformers shall be as follows:

4.2.11		<b>Rated short power withstand (r.m.s.)</b>	<b>Duration frequency voltage</b>	<b>Rated lightning impulse withstand voltage (peak)</b>
	0.415/33kV Transformers	38kV	50 Hz	95kV

#### **Impedance Voltage**

**4.2.11.1** The impedance voltage measured at the principal tap shall not exceed 5.0%.

#### **4.2.12 Losses and Capitalization**

**4.2.12.1** The guaranteed transformer losses, measured at full load operation, unity power factor and rated voltage shall be submitted with the tender. The loss measurements (no-load and full-load) shall be adjusted to 75 degree Celsius and submitted for evaluation.

**4.2.12.2** Evaluation will be carried out to establish the capitalized values of no-load losses and load losses at the nominal rating of a transformer. This cost will be added to the bid price (landed cost) of the tender. Transformer losses shall be capitalized at the following rates:

<b>Full load (winding) Losses</b>	US\$ 1902 per kW for 15 years
<b>No load (core) Losses</b>	US\$ 4504 per kW for 15 years

Where tenders are being compared, losses will be capitalized at the above rate and added to the bid price according to the formula below:

- $Gep = Gbp + G(\$)$ ,  $Gep$  = Bid evaluation price,  $Gbp$  = Bid price
- $G(\$)$  = Adjustment for the cost of the operation and maintenance for 15 years
- And is obtained by using the following formula
- $G(\$) = 1902 \times \text{full load winding losses(kW)} + 4504 \times \text{no load losses(kW)}$

## **5.0 Tests and Inspection**

**5.1** Type tests and routine tests shall be done in accordance with the requirement of IEC 60076 and this specification. It shall be the responsibility of the manufacture to perform or to have performed all the tests specified.

**5.2** Certified true copies of previous type test reports by the relevant International or National Testing/Standards Authority of the country of manufacture (or ISO/IEC 17025 accredited laboratory) shall be submitted with the offer for evaluation (all in English Language). A copy of accreditation certificate for the laboratory shall also be submitted.

**5.3** Routine test reports for the transformer to be supplied shall be submitted to REA for approval before shipment/delivery. REA shall witness routine tests as well as impulse withstand voltage and temperature rise tests at the factory before dispatch.

## **6.0 Marking and Labelling**

**6.1** Each transformer shall be provided with a rating plate of weatherproof material, fitted in a visible position, showing the appropriate details listed in IEC 76. The entries on the plate shall be indelibly marked (either by etching, engraving or stamping).

**6.2** In addition, the name plate shall include load and no load losses for the highest, lowest and principle tap positions, temperature class of insulation, connection diagram and the inscription 'PROPERTY OF KENYA POWER' all marked indelibly as in 6.1.

## PART IV: SINGLE CORE ALUMINIUM CABLES (PVC)

### 4. LV SINGLE CORE ALUMINIUM CABLES (PVC)

#### Foreword

- i. This standard lays down specifications for LV single-core PVC insulated cables.
- ii. This specification is intended for procurement of materials and does not include contract provisions.
- iii. This specification is based on IEC 502 and BS 6346. It is subject to revision as and when required.
- iv. This specification supersedes all specifications for LV single-core PVC insulated cables issued before the revision date.

#### Scope

- 1 This specification is for single core, stranded aluminium conductors, polyvinyl chloride (PVC) insulated, armoured, PVC outer sheathed power cables for operation up to and including 600 volts to sheath and 1000 volts between conductors.
- 2 This specification is for the following cable sizes:
  - 630 sq. mm Aluminium conductor PVC insulated single core cable.
  - 300 sq. mm copper conductor PVC insulated single core cable.

#### Materials and Construction

- a) The cable shall be made from the circular stranded compact plain aluminum conductor as per IEC 228.
- b) The insulation shall be polyvinyl chloride (PVC), complying with the requirement of IEC 502 for type PVC/A.
- c) The insulation shall be applied by extrusion process and shall form a compact homogeneous body. The insulation shall concentrically cover the conductor
- d) Extruded over-sheath shall be of black polyvinyl chloride (PVC).
- e) The cable shall be clearly and permanently embossed with the following information throughout the length of the over-sheath. Letters and figures raised and consist of upright block characters. Minimum size of characters not less than 15% of average overall cable diameter.
  - 600/1000 VOLTS PVC CABLE
  - Year of manufacture
  - (Example: '600/1000 VOLTS PVC CABLE 1996')

#### Standard Sizes And Characteristics

The characteristics of the cables shall comply with the following table

Item	Characteristics	
Conductor resistance	Not more than the value indicated	
A.C. withstand voltage	To withstand the indicated value for 5 min.	
Insulation resistance	Not less than the value indicated.	
Tensile PVC strength	Tensile strength, 12.5N/mm (1.27 Kg/mm) minimum	
Ageing PVC requirement*	Elongation, 150% Minimum percentage of unaged value 75 - 125%	
Treatment: PVC temperature 100 - 20°C duration 168 hrs		
The cable shall conform to the following requirements.  PS/103		Aluminum
Cable size	630 sq. mm	300 sq. mm
Nominal sectional area	630 sq. mm	300 sq. mm

Thickness of insulation	2.8 mm	2.4 mm
Thickness of outer sheath	2.2 mm	2.2 mm
Nominal overall diameter	38.8mm	28.0 mm
Approximate net weight	6200 kg/km	3100 kg/km
Test voltage	3kV/5min	3kV/5min
Maximum conductive resistance	0.007 ohms/km	0.0120 ohms/km

### Tests

The cable core, sheath and completed cable shall be tested in accordance with the requirements of BS 6346.

### Packing

The cable shall be wound on wooden drums such as to prevent damage during transportation. The wooden drums shall be made from treated timber resistant to termite attack.

The following description shall be marked on one flange of the reel

- a) Direction of rotation of the reel
- b) Type of cable
- c) Number of conductors and size
- d) Length
- e) Net weight and gross weight
- f) Manufacturer's name
- g) Year of manufacture

### References

The following documents were referred to during the preparation of this specification. In cases of conflict, the provisions of this specification shall take precedence. Unless otherwise specified, the latest revision, edition and amendments shall apply.

- IEC 502:(1983): Extruded solid dielectric insulated power cables for rated voltages from 1 kV up to 30kV.
- IEC 228(1978): Conductors of insulated cables.
- BS 6346 PVC insulated cables for electricity supply

## **PART V: CABLE TRAY**

### **5. CABLE TRAY SPECIFICATIONS**

Route the cable trays to cause the minimum amount of obstruction. Independent cable trays shall be provided for power and communication cables. Obtain approval of the route and fixing method before erecting cable trays.

#### **i. Power cable trays**

Extra heavy duty return flange; gauges shall be a minimum of 1.5mm over 600mm and Flange height shall be a minimum of 75mm.

#### **ii. Communication cable trays**

Gauges shall be a minimum of 1mm for tray up to 225mm, 1.2mm between 225-300mm, and 1.5 mm above 300mm. flange height shall be a minimum of 12mm.

#### **iii. Cable trays general.**

- (a) All cable trays shall be manufactured from pre-galvanized mild-steel to BS EN 101442 and BS EN 10143:2006 with a minimum coating weight of 275g/m<sup>2</sup>.
- (b) Cable tray and cable fitting shall be fully perforated, slot sizes shall be 20mm x 7mm (or similar) running parallel to the length of the cable tray and 13.5 x 11.0 (mm) (or similar) running perpendicular to the length of the cable tray and shall be
- (c) Cable trays shall be supported on purposely made suitably treated mild steel supports which shall permit easy adjustments and modification or by suitable channel, brackets and accessories to BS 6946 at intervals necessary to provide a rigid fixing in accordance with manufacturers recommended fixing centers.
- (d) The Channels shall be manufactured to BS 6946 from 2.5mm materials conforming to BSEN10142:2000 and BSEN 10143:2006.
- (e) The Brackets shall be manufactured to BS6946 from 6mm mild steel, 40mm wide, hot dip galvanized after manufacture to BSEN ISO 1461 and shall have a hole size of 14mm dia. to accept M12 setscrews
- (f) The cable trays shall be capable of carrying without undue deflection, the total weight of the cables likely to be inserted regardless of the location of the joints.
- (g) Ventilated Cable tray covers shall be provided to all external trays and shall be secured using proprietary clips and fixing in accordance with manufacturers recommendations.
- (h) Cables shall be fixed to the trays by means of copper or brass saddles and clips. All saddles, clips, straps etc. shall be fixed to the trays by means of brass screws or bolts or nuts.

**NB. Steel wire or PVC tie-wraps of any description will not be permitted.**

Earth continuity connectors shall be fitted between each length of the cable tray to ensure compliance with BS 7671

## PART VI: MANDATORY SPARES/TOOLS

The following mandatory tools and spares are required, and they shall be checked during the inspection and commissioning of the project.

### 6. GENERATOR CRITICAL SPARES

Item	Description	Unit	Qty
1	Fan belt- Per Generator	Pc	2
2	Water pump (complete)	Pc	2
4	Alternator belt-Per Generator	Pc	2
5	Oil pressure sensor-Per Generator	Pc	2
6	Temperature sensor-Per Generator	Pc	2
7	Diodes set-Per Generator	Pc	2
8	AVR Set-For each generator	Pc	2
9	Genset controller (Similar to Genset) N.B- 1	Pc	2
10	Governor Module/Fuel Control Module (Similar to Genset)	Pc	2

### 7. MINIMUM CONSUMABLE SPARES FOR 500KVA AND 750KVA

Bidder To Provide Listed Spares For Each Generator			
Item	Description	Unit	Qty
1	Oil filter (Primary)	Pc	10
2	Oil filter (Secondary) if applicable	Pc	10
3	Fuel filter (primary)	Pc	10
4	Fuel filter (secondary) if applicable.	Pc	10
5	Water filter	Pc	2
6	Engine Oil (Litres)	Pc	420
7	Engine coolant 50/50 premix ethylene-glycol (Litres)	Pc	80

### 8. CONTROL PANEL SPARES

Item	Description	Unit	Qty
3	Trip Coils	Pc	2
4	Closing Coils	Pc	2
5	Fuses of each type of fuse	Pc	2
6	MCB of each type	Pc	2
7	Bulbs of each type of bulb	Pc	5
8	Air Circuit Breaker	Pc	1
9	Two (2) Ammeters with MDI for Feeder,	Pc	2
10	Generator Control Units for parallel operation and load sharing.	Pc	2

### 9. STANDARD TOOLS

No.	Description	Unit	Qty
1	<b>Mechanical Workshop 450+ Pieces (Cr-V) Drawer Tool Trolley</b> (with plastic/foam modular inlay tool control system) –robust, sturdy and lockable.	Set	1
2	<b>Socket Spanner Tool Set (Cr-V)</b> in sturdy sheet steel case - ¾” Drive 12 point (bi- hexagon) heavy duty.	Set	1
3	<b>Electrical Workshop 55+ Piece Inlay Tool Set</b> with case	Set	1

## PART VII: GENERAL TECHNICAL PARTICULARS

### 10. GENERAL TECHNICAL PARTICULARS (GTPs) – 500KVA GENSET

#### GENERATOR

<i>GENERATOR</i>			
ITEM	DESCRIPTION	RREC'S REQUIREMENT	BIDDERS' RESPONSE
1	Name of the assembling manufacturer	State	
2	Model No. and the Manufacturer's name for the engine	State and attach catalogue	
3	Model No. and the Manufacturer's name for the alternator	State and attach catalogue	
4	Model No. and Manufacturer name for the generator control panel	State and attach the catalogue	
5	Assembling Manufacturer's Letter of Authorization for gen. set	Provide copy	
6	Prime power rating	Min. 500kVA	
7	Warranty period	Minimum 1.5 years Or 10,000 hours, whichever comes first	
8	ISO 9001:2015 certification of Assembling manufacturer	Provide copy	
9	ISO 9001:2015 certification of original equipment manufacturer - Engine and alternator	Provide copy	
10	Generator standard canopy with soundproofing and steel structure shed to protect the generator from harsh weather conditions.	Attach a drawing of the proposed design.	
11	Noise reduction	Provide material and attach the proposed design	
12	Engine type - Turbocharged– After cooled, pressure lubricated, 4-Stroke diesel engine.	State and attached the catalogue	
13	Engine coolant drain tap	To Provide	
14	Governor Type - Electronic with automatic voltage regulation	To Provide	
15	Engine cooling type - Base frame mounted radiator. Shroud to be fitted for maximum cooling	To provide	
16	Coolant levels switch to sense loss of engine coolant.	To provide	
17	Coolant temperature detector to detect engine coolant temperature	To provide	



<b>GENERATOR</b>			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>RREC'S REQUIREMENT</b>	<b>BIDDERS RESPONSE</b>
18	Electric starter motor	To provide	
19	Lubrication pump - Positive displacement, mechanical full pressure lubrication oil pump	To provide	
20	Engine oil pressure detection mounted sensor	To provide	
21	Lubrication oil drain pump	To provide	
22	Fuel pump type - mechanical, positive displacement	To provide	
23	Battery Charging type - 35-ampere minimum and solid- state voltage regulator	To provide	
24	Fuel tanks: Service fuel tank -1350 Litre minimum capacity, rectangular mild steel complying with requirements of BS 799: part 5, to be fitted with a ball valve at the lowest level for daily water draining	Attach proposed design	
25	Exhaust system Super silenced so that noise level to be not more than 85 dBA at one metre. The exhaust system shall be designed and installed in such a way that the exhaust fumes are released not less than six (6) metres above the top of the genset canopy.	Attach detailed drawing of proposed design	
26	Starting batteries - heavy duty lead acid type, as recommended by the set manufacturer, battery tray and holding down clamps incorporated within the rails of the base plate	To provide	
27	Audible alarm horn to signal generator set shutdown fault condition	To Provide	
28	Hand pump	To Provide	
29	Cabling to switchgear	Provide a detailed design with dimensions and lengths for all cables based on site visit	

## 11. GENERAL TECHNICAL PARTICULARS (GTPs) – 750KVA GENSET

ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
1	Name of the assembling manufacturer		
2	Model No. and the Manufacturer's name for the engine	State and attach catalogue	
3	Model No. and the Manufacturer's name for the alternator	State and attach catalogue	
4	Model No. and Manufacturer name for the generator control panel	State and attach the catalogue	
5	Assembling Manufacturer's Letter of Authorization for gen. set	Provide copy	
6	Prime power rating	Min. 750kVA	
7	Warranty period	Minimum 1.5 years Or 10,000 hours, whichever comes first	
8	ISO9001:2015 certification of Assembling manufacturer	Provide copy	
9	ISO 9001:2015 certification of original equipment manufacturer – Engine and alternator	Provide copy	
10	Generator standard canopy with soundproofing and steel structure shed to protect the generator from harsh weather conditions.	Attach a drawing of the proposed design.	
11	Noise reduction	Provide material and attach the proposed design	
12	Engine type - Turbocharged – After cooled, pressure lubricated, 4-Stroke diesel engine.	Attach catalogue	
13	Engine coolant drain tap	To Provide	
14	Governor Type – Electronic with automatic voltage regulation	To Provide	
15	Engine cooling type - Base frame mounted radiator. Shroud to be fitted for maximum cooling	To provide	
16	Coolant levels switch to sense loss of engine coolant.	To provide	
17	Coolant temperature detector To detect engine coolant temperature	To provide	
18	Electric starter motor	To provide	

ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
19	Lubrication pump - Positive displacement, mechanical full pressure lubrication oil pump	To provide	
20	Engine oil pressure detection mounted sensor	To provide	
21	Lubrication oil drain pump	To provide	
22	Fuel pump type - mechanical, positive displacement	To provide	
23	Battery Charging type - 35- ampere minimum and solid- state voltage regulator	To provide	
24	Fuel tanks: Service fuel tank -1350 Litre minimum capacity, rectangular mild steel complying with requirements of BS 799: part 5, to be fitted with a ball valve at the lowest level for daily water draining	Attach proposed design	
25	Exhaust system Super silenced so that noise level to be not more than 85 dBA at one metre. The exhaust system shall be designed and installed in such a way that the exhaust fumes are released not less than six (6) metres above the top of the genset canopy.	Attach detailed drawing of proposed design	
26	Starting batteries - heavy duty lead acid type, as recommended by the set manufacturer, battery tray and holding down clamps incorporated within the rails of the base plate	To provide	
27	Audible alarm horn to signal a generator set shutdown fault condition	To Provide	
28	Hand pump	To Provide	
29	Cabling to switchgear	Provide a detailed design with dimensions and lengths for all cables based on site visit	

## 12. GENERAL TECHNICAL PARTICULARS (GTPs) - SWITCHGEAR PANEL

<b>I SWITCHGEAR PANEL</b>			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>REREC'S REQUIREMENT</b>	<b>BIDDERS RESPONSE</b>
1	Manufacturers name	State	
2	Manufacturers letter of authorization	Provide copy	
3	Copy of ISO 9001/2certificate.	Provide copy	
4	Type or designation number of Switchgear offered.	State	
5	enclosure [IP] class of protection	IP42	
6	Rated voltage	600 V	
7	Rated power frequency withstand	2kV	
8	Rated lighting impulse withstand	8 kVp	
9	Metal clad compartments[CB, Busbar, LV, CT& Cable] attach layout drawing	4	
10	Busbar material	Tinned copper (Provided detailed design with busbar sizing)	
11	Dimensions [WxHxD [attachlayout drawing]	Provide	
12	Short circuit withstand	25kV, 3 sec	
13	Lockable door with viewingglass in CB compartments.	Yes	
14	Shutters for Busbars [red] and circuit [yellow]provided.	Provide	
15	Anti-condensation heater	Provide	
16	Hygrostat with variable and temperature control setting	Provide	
17	Incomers Circuit breaker Panel (Rating )	1600A(5Nos)	
18	Feeder Circuit breakers Panel ( Rating	1600A(2Nos)	
19	DC Supply System/Common Panel	12 VDC Lithium ion batteries Be at least 250Ah/10h or based upon the calculated consumption Considering the total DC load in the power station and 24VDC Battery Charger	
20	Busbar rating	3200A	

### 13. (GTP's) - AC AIR CIRCUIT BREAKER.

II	600 V AC AIR CIRCUIT BREAKER		
ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
1	Manufacturers' name	State	
2	Type or designation number of circuit breaker offered	Indicate	
3	Name of manufacturer of vacuum interrupter	Provide	
4	Rated circuit breaker voltage	600 V	
5	1-minute power frequency withstand	2kV	
6	Impulse withstand voltage	8kV	
7	Rated short circuit current and withstand	65kA, 1 sec	
8	Auxiliary DC voltage for closing and tripping coils	24 VDC	
9	Auxiliary AC supply	240 VAC	
10	CB mechanism	Motor wound spring	
11	Visible spring charged Mechanical indication on CB as per specifications.	Provide	
12	Visible CB ON/OFF indications as per specifications	Provide	
13	Connection of CB to auxiliary panel circuits via a plug-in cable	Yes	
14	Operations counter	Provide	
15	ACB Continuous Current Rating	1600A	
16	Earth switch	Provide	

#### 14. GTP's FOR CURRENT TRANSFORMERS.

III	CURRENT TRANSFORMERS		
ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
1	Manufacturers name	Indicate	
2	Type or designation number of CT	Indicate	
3	Rated voltage of offered CT	600 V	
4	1 minute power frequency withstand voltage	2 kV	
5	Impulse voltage withstand	8 kVp	
6	Short-circuit withstand current and duration	65kA, 1 sec	
7	Feeder Panel CT Details Ratio: 1600-800/1A Core 1: clx; UK $\geq$ 250V Core 2: 15 VA, 5P10 Core 3: 15 VA cl 0.5	Indicate Indicate Indicate Indicate	
8	Generator Panel CT Details Ratio: 1600-800/1A Core 1: clx; VR $\geq$ 250V; Ie $\leq$ 0.02A Core 2: 15 VA, 5P10 Core 3: 15 VA cl 0.5	Indicate Indicate Indicate Indicate	

#### 15. PROTECTION RELAYS, AUXILIARY RELAYS AND CONTROL DEVICES GTP'S

[a]	THREE PHASE OVERCURRENT AND EARTH FAULT RELAY		
ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
I	Manufacturers	State	
Ii	Type of designation name	State	
Iii	Design	Numeric	
Iv	Flush mounting on panel	State	
V	One time delayed element and two high set elements	Provide	
Viii	MMI with keypad and screen	Provide	
Ix	Software to be provided –	Provide	
X	2 No. connection cable from relay to laptop computer to be provided	Provide	
Xi	Serial RS232 port	Provide	

<b>[b]</b>	<b>EARTH FAULT RELAY</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>REREC'S REQUIREMENT</b>	<b>BIDDERS RESPONSE</b>
I	Manufacturers name	Sate	
Ii	Type or designation name	State	
Iii	Design	Numeric	
Iv	Flush mounting on panel	State	
V	One time delayed elementand two high set elements	Provide	
Vi	Software to be provided –name	Provide	
Vii	MMI with keypad and LCDscreen	Provide	
Viii	Serial RS 232 port	Provide	

<b>[c]</b>	<b>SENSITIVE EARTH FAULT RELAY</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>REREC'S REQUIREMENT</b>	<b>BIDDERS RESPONSE</b>
I	Manufacturers name	Sate	
Ii	Type or designation name	State	
Iii	Design	Numeric	
V	Software to be provided –name	Provide	
Vi	MMI with keypad and LCDscreen	Provide	
Vii	Serial RS 232 port	Provide	

<b>[d]</b>	<b>THREE-PHASE DIRECTIONAL POWER RELAY</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>REREC'SREQUIREMENT</b>	<b>BIDDER'S RESPONSE</b>
I	Manufacturers name	Sate	
Ii	Type or designation name	State	
Iii	Design	Numeric	
Iv	Directional Power Setting Range	State	
V	Flush mounting on panel	State	
Vi	Definite time delay	Provide	
Vii	Software to be provided –name	Provide	
Viii	MMI with keypad and LCDscreen	Provide	
Ix	Serial RS 232 port	Provide PS/115	

[e]	BIASED DIFFERENTIAL RELAY FOR GENERATOR		
ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
I	Manufacturers name	State	
Ii	Type or designation name	State	
Iii	Design	Numeric	
Iv	Relay setting range	State	
V	Magnetising Inrush feature	To provide	
Vi	CT ratio Compensation settings		
Vii	Flush mounting on panel	State	
Viii	Definite time delay	Provide	
Ix	Software to be provided –name	Provide	
X	MMI with keypad and LCD screen	Provide	
Xi	Serial RS 232 port	Provide	
Iii	Design	Numeric	

[f]	ANNUNCIATOR RELAY UNIT		
ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
I	Manufacturers name	State	
Ii	Type or designation name	State	
Iii	Incorporates 16 Alarmelements	State	
Iv	Has RED LED for visualindication	Provide	
V	Has silence, accept and respush buttons	Provide	
Vi	Alarms freely assigned tourgent or non-urgent bus-wires	State	

[g]	CIRCUIT BREAKER CLOSE/OPEN SWITCH		
ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
I	Manufacturers name	State	
Ii	Type or designation name	State	
Iii	Close and open position marked on the escutcheon plate	State	



<b>[h] DIRECTLY CONNECTED INSTRUMENTS</b>			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>REREC'S REQUIREMENT</b>	<b>BIDDERS RESPONSE</b>
	<b>1 AMMETER WITH MDI- 1600A</b>		
<b>i</b>	Manufacturers name	State	
<b>ii</b>	Type or designationname	State	
<b>iii</b>	96 mm x 96 mm	State	
<b>iv</b>	Flush panel mounting	State	
	<b>2 FREQUENCY METERS</b>		
<b>i</b>	Range	45-55hz	
<b>ii</b>	Mounting	Flush in 48*96 sq.mm	
	<b>3 VOLTMETERS</b>		
<b>i</b>	Mounting	Flush	
<b>ii</b>	Size	48 *96 sqm case	
<b>iii</b>	Frequency	50Hz	
<b>iv</b>	Operating voltage	415vac	
<b>v</b>	Dielectric strength	2kv rms for 1 min	

<b>[I] MULTIFUNCTIONAL ELECTRICITY METER</b>			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>REREC'S REQUIREMENT</b>	<b>BIDDERS RESPONSE</b>
1	<b>Class of accuracy</b>	0.5	
2	CT ratio	1600A-800/1A	
3	Type or designation name	State	
4	Mounting	Flush	
5	Measuring Parameter	KWh,kVAh,kVAR Instantaneous P.F,KW,KVA, supply frequency,Phase voltage and Phase currents	
6	Display	Customized backlit liquid crystal display	

## 16. TECHNICAL PARTICULARS FOR 0.415/33kV TX

ITEM	DESCRIPTION		RREC'S REQUIREMENT	BIDDER'S RESPONSE
1	Quantity		1	
2	Transformer Rating	kVA	1000	
3	System Frequency	Hz	50	
4	Transformer external paint		Dark Admiralty Grey Colour No. 632 as per BS381C	
5	Corrosive environment		High	
6	<b>Dimensions</b>			
	overall height	mm	State	
	overall length	mm	State	
	overall width	mm	State	
	Total mass	Kg	State	
7	Tank type		Breathing	
8	Tank sealing;		Bolted	
9	Under-base;		Flat	
10	Skids and Jacking lugs for concrete plinth mounting		≥40 mm diameter axle holes	
11	Details of jacking pads		State	
12	<b>Lifting lags</b>			
	for cover		To provide	
	for tank		To provide	
	for core		To provide	
13	Terminations		Cable box	
14	Position of bushings		33kV: Top, LV: Cable Box	
15	<b>Medium-voltage bushings</b>			
	material/color		Brown Porcelain	
	creepage distance	mm	≥25 mm/kV	
	phase to earth clearance	mm	Specify	
	phase to phase clearance	mm	Specify	
	<b>Low-voltage bushings</b>			
	material/color		Brown Porcelain	
	creepage distance	mm	≥25 mm/kV	
	phase to earth clearance	mm	Specify	
	phase to phase clearance	mm	Specify	
	Terminal: stem& nuts or clamp		Specify	
16	Cooling method		ONAN	
17	Core type		Laminated stackings	
18	Core clamping		Specify	
19	HV Winding		Full coils of electrolytic copper	
20	LV Winding		Electrolytic copper coils or copper foils	
21	Primary voltage	V	415	
	Secondary voltage	V	33000	
	Number of phases;		Three phase	
22	Rating of neutral terminal		As phase terminal	
23	Tap Changer		NLTC, □2X2.5% Tapping range	
24	Vector symbol		dYN1	

ITEM	DESCRIPTION		RREC'S REQUIREMENT	BIDDER'S RESPONSE
25	<b>Losses corrected to 75°C</b>			
	no-load losses	W	Specify	
	full load cu losses	W	Specify	
	full load total losses	W	Specify	
	25% loading	W	Specify	
	50% Loading	W	Specify	
	75% Loading	W	Specify	
	125% Loading	W	Specify	
	Transformer efficiency at unity power factor, rated voltage and full load (75°C)	%	Specify	
26	<b>Impedance voltage</b>			
	maximum tap	%	Specify	
	nominal tap	%	Specify	
	minimum tap	%	Specify	
27	<b>Insulation level</b>			
	medium-voltage	KV	38/95	
	low-voltage	KV	5	
28	BIL Tests (IEC 60076)		To be done at 95kV during factory visit (clause 5.3)	
29	Temperature Rise Test (IEC 60076)		To be done during the factory visit (clause 5.3)	
30	Routine Tests (IEC 60076)		To be done during the factory visit (clause 5.3)	
31	Transformer Leakage Test		To be done during the factory visit (clause 5.3)	
32	Tank Thickness		Specify (Not less than 8.50mm)	
33	Transformer Bachholz Relay fitting		To provide	
34	Transformer pressure relief valve		To provide	
35	Cabling		Provide a detailed design and dimensions and lengths for all cables based on site visit	

## 17. Neutral Current Transformer

ITEM	DESCRIPTION	RREC'S REQUIREMENT	BIDDERS RESPONSE
1.	Type.	Outdoor, Oil-Immersed live tank effectively earthed neutral Current transformers	
2.	Manufacturer's name & address	To Specify	
3.	Warranty	3 Years	
4.	Rated Voltage/Highest Voltage.	33KV/36KV	
5.	Frequency	50HZ	
6.	Rated primary Current.	25A	
	(i) Core 1	25A	
	(ii) Core 2	25A	
7.	Secondary Core details.		
	(a) Number of Cores.	2 PS/119	
	(b) Rated secondary current.	1A	
	(i) Core 1	1A	

ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDERS RESPONSE
	(ii) Core 2	1A	
	(c ) Rated output/Burden	5VA	
	(d) Class of accuracy	0.5	
	(e ) Accuracy limit factor.	<5	
8.	Turns Ratio.	25/1A	
9.	Short time thermal current & its duration	25 KA/ 1 Sec	
10.	<b>i</b> Rated continuous thermal current.  <b>ii</b> Temperature rise over ambient.	1.2 times continuous  45 deg C, as per IS 2705	

#### 18. TECHNICAL PARTICULARS FOR LAPTOP

ITEM	DESCRIPTION	REREC'S REQUIREMENT	BIDDER'S RESPONSE
1	Name of the Manufacturer		
2	RAM	16GB	
3	Processor	Core i7	
4	Storage	SSD 1TB	
5	Processing Speed	4.6 GHz	
6	Graphic Card	8 GB	
7	Operating System	Windows 11 and Above	

## SECTION VIII: BILLS OF QUANTITIES

### 19. NOTES FOR PREPARING BILLS OF QUANTITIES

#### **Preamble to Bill of Quantities**

The Bill of Quantities shall form part of the Contract Documents. It will be read with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, and Drawings.

The brief description of the items in the Bill of Quantities is purely for identification and in no way modifies or supersedes the detailed descriptions given in the conditions of Contract and Specifications for the full direction and description of work and materials.

The Quantities outlined in the Bill of Quantities are estimated and provisional, representing substantially the work to be carried out, and are given to provide a common basis for tendering and comparing of Tenders. There is no guarantee to the Contractor that he will be required to carry out all the work quantities indicated under any particular item or group of items in the Bill of Quantities. The basis of payment shall be the Contractor's rates and the quantities of work actually done in fulfillment of his obligation under the Contract.

The prices and rates inserted in the Bills of Quantities will be used for valuing work executed, and the Engineer will measure the whole of the works executed in accordance with this Contract.

A price or rate shall be entered against every item in the Bill of Quantities with the exception of items, which already have provisional sums, affixed thereto. The Tenderers are reminded that no "nil" or "included" rates or "lump-sum" discounts will be accepted. The rates for various items should include discounts if any. Tenderers who fail to comply will be disqualified.

Provisional sums (including Day-works) in the Bill of Quantities shall be expended in whole or in part at the discretion of the Engineer in accordance with Sub-clause 52.4 and Clause 58 of part of the Conditions of Contract.

The price and rates entered in the Bill of Quantities shall, except insofar as it is otherwise provided under the Contract, include all Constructional plant to be used, labour, insurance, supervision, compliance, testing, materials, erection, maintenance or works, overheads and profits, taxes and duties together with all general risks, liabilities and obligations set out or implied in the Contract, transport, electricity and telephones, water, use and replenishment of all consumables, including those required under the Contract by the Engineer and his staff.

Errors will be corrected by the Employer for any arithmetic errors in computation or summation as follows: Where there is a discrepancy between amount in words and figures, the amount in words will govern; and

Where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit price and the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer, there is an obviously gross misplacement of the decimal point in the unit price, in which event the total amount as quoted will govern and the unit rate will be corrected.

If a Tenderer does not accept the correction of errors as outlined above, his Tender will be rejected.

The Bills of Quantities, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement (CESMM).

"Authorized" "Directed" or "Approved" shall mean the authority, direction or approval of the Engineer. Unless otherwise stated, all measurements shall be net taken on the finished work carried out in accordance with the details shown on the drawings or instructed, with no allowance for extra cuts or fills, waste or additional thickness necessary to obtain the minimum finished thickness or dimensions required in this Contract. Any work performed in excess or the requirements of the plans and specifications will not be paid for, unless ordered in writing by the Engineer.

Hard material, in this Contract, shall be defined as the material which, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for their removal, and which cannot be extracted by ripping with a dozer tractor of at least 150 brake horse power (112 kilowatt) with a single, rear-mounted, hydraulic ripper. Boulders of more than 0.2m<sup>3</sup> occurring in soft material shall be classified as hard material

Soft material shall be all material other than hard material.

#### **The objectives of the Bills of Quantities are:**

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

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

#### **The Bills of Quantities should be divided generally into the following sections: Preliminaries.**

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

any part of the Works.

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

### **Work Items**

The items in the Bills of Quantities should be grouped into sections to distinguish between those parts of the Works which by nature, location, access, timing or any other special characteristics may give rise to different methods of construction or phasing of the Works or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bills of Quantities.

The brief description of the items in the Bill of Quantities should in no way modify or supersede the detailed descriptions given in the Contract drawings, Conditions of Contract and Specifications.

Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage or waste. Quantities should be rounded up or down where appropriate.

The following units of measurement and abbreviations are recommended for use.

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

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

### **Daywork Schedule**

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

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

### **Provisional Quantities and Provisional Sums**

Provision for quantity contingencies in any particular item or class of Work with a high expectation of quantity overrun should be made by entering specific "Provisional Quantities" or "Provisional Items" in the Bills of Quantities, and not by increasing the quantities for that item or class of Work beyond those of the Work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a "Provisional Sum" in the Summary of the Bills of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a "Provisional Sum" in the Summary of the Bills of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises.

Provisional Sums to cover specialized works normally carried out by Nominated Sub Contractors should be avoided and instead Bills of Quantities of the specialized Works should be included as a section of the main Bill of Quantities to be priced by the Main Contractor. The Main Contractor should be required to indicate the name (s) of the specialized firms he proposes to engage to carry out the specialized Works as his approved domestic sub-contractors. Only Provisional Sums to cover specialized Works by statutory authorities should be included in the Bills of Quantities.

Unless otherwise provided in the Contract, the Provisional Sums included in the Bills of Quantities should always be expended in whole or in part at the discretion of the Engineer after full consultation with the Employer.

### **Summary**

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

The Tenderer shall indicate the currency of the prices.

## 20. BILLS OF QUANTITIES

### PRICE SCHEDULE 1: GENSET AND AUXILIARIES

No	Description	Unit	Qty	Rate(Kshs)	Amount(Kshs)
1	500 kVA Enclosed Diesel Generator and Accessories inclusive of Air Circuit breaker and residential exhaust system, fuel tank, and battery charger, Exhaust system to exhaust at least 6 meters above the ground. This shall be inclusive of delivery to the Dadaab power station in Garissa County and generator shed to engineers approval. The make of generator shall be supplied with:- Operators Instruction and Maintenance Manual Service/Workshop Manual Spare Parts Catalogue	No.	1		
2	750 kVA Enclosed Diesel Generator and Accessories inclusive of Air Circuit breaker and residential exhaust system, fuel tank, and battery charger, Exhaust system to exhaust at least 6 meters above the ground. This shall be inclusive of delivery to the Dadaab power station in Garissa County and generator shed to engineers approval. The make of generator shall be supplied with: - Operators Instruction and Maintenance Manual Service/Workshop Manual Spare Parts Catalogue	No	1		
3	1 x 415V board comprising of 5 No. generator circuit breaker panels, 3200A TPN Copper Bus bar, and 2No. Feeder circuit breaker panels; these shall be supplied in a standard 40 feet steel container with a control desk. Bidders shall provide Reinforced precast concrete pier blocks (600mm *600 mm*400 mm) on which the steel container will be placed. Providing for cladding and installation of 2# air conditioners minimum 24,000BTU each	No	1		
4	1MVA, 0.415/33KV step-up transformer, fitted with Buchholz relay, and pressure relief valve (See specs) and associated civil works all-inclusive.	No	1		
5	Outdoor Neutral current transformer (NCT) complete with its mounting structure and provision for isolation.	No	1		
6	DC Battery System for Auxiliary power supply	Lot	1		
7	Allow for the Synchronization of 5 No generators, providing all necessary material for successful operation	Lot	1		
8	Allow for the Parallel Operation of the 2No. Transformers, providing for all the necessary material for successful operation	Lot	1		
9	Earthing for the New Equipment (step-up transformer, 2No diesel generators and 415V switch gear control panel)	Lot	1		
10	1350L fuel tank includes a flow meter and gate valves (see specs).	No	2		
11	Pipe work for fuel system	Lot	1		
12	Flow meter (Flow rate 20L/min- 120L/Min.)	No	2		

No	Description	Unit	Qty	Rate(Kshs)	Amount(Kshs)
13	Fuel Pump, hand-operated	No	2		
14	Power Cables for power connection from control room to step up transformers. Total lengths at Dadaab Power station (Bidder's to visit the site and quantify)	Lot	1		
15	Power Cables for power connection of 2No generators power, Total lengths at Dadaab Power station (Bidder's to visit the site and quantify)	Lot	1		
16	Cable trays, Cable Tranches and Accessories	Lot	1		
17	All Control and Communication Cables	Lot	1		
18	Laptop computer complete with installed engine software and adapter plus connection cable.(See specs)	Lot	1		
<b>SUB- TOTAL 1</b>					

#### PRICE SCHEDULE 2: SERVICES

No	Description	Unit	Qty	Rate	Amount ( )
1	Transport to all the stations, installation and commissioning of all equipment under the supervision of REREC/KPLC engineers.	lot	1		
2	Reliability runs Operation for 1 Month, including REREC/KPLC staff operator training.	lot	1		
3	12 Months maintenance plus training of Maintenance staff.	Lot	1		
4	<b>Factory acceptance test for the diesel generators and Auxiliary equipment for REREC/KPLC Engineers.</b>	Lot	1		
5	<b>Factory acceptance test for the Switchgear and Auxiliary equipment for REREC/KPLC Engineers.</b>	Lot	1		
6	<b>Factory acceptance test for the Transformer and Auxiliary equipment for REREC/KPLC Engineers.</b>	Lot	1		
<b>SUB-TOTAL 2</b>					



### PRICE SCHEDULE 3: STANDARD TOOLS

No	Description	Unit	Qty	Rate	Amount
1	<b>Mechanical Workshop 450+ Pieces (Cr-V) Drawer Tool Trolley</b> (with plastic/foam modular inlay tool control system) –robust, sturdy and lockable.	Set	1		
2	<b>Electrical Workshop 55+ Piece Inlay Tool Set</b> with case	Set	1		
3	<b>Battery Charger 12/24 Volt:</b> Heavy Duty Portable, Automatic; Input Voltage 150-300vac; Constant/Float Charging; Max Boost 40a; Float 8a;	Set	1		
4	<b>Electric Hand Drill</b> Chuck Capacity Of 1.5 – 13 Mm With Case	Pc	1		
5	<b>Electric Blower 800w</b>	Pc	1		
6	<b>Electric Heat Gun</b>	Pc	1		
7	<b>Electrical Digital Multi Meter</b>	Pc	1		
8	<b>Electrical Clamp-On Meter</b>	Pc	1		
<b>SUB-TOTAL 3</b>					

### PRICE SCHEDULE 4: MINIMUM CRITICAL SPARES

#### (A) GENERATOR CRITICAL SPARES FOR 500KVA AND 750KVA

Item	Description	Unit	Qty	Rate	Amount
1	Fan belt- Per Generator	Pc	2		
2	Water pump (complete)	Pc	2		
4	Alternator belt	Pc	2		
5	Oil pressure sensor	Pc	2		
6	Temperature sensor	PC	2		
7	Diodes set -	Pc	2		
8	AVR Set	Pc	2		
9	Genset controller (Similar to Genset) N.B- 1	Pc	2		
10	Governor Module/Fuel Control Module (Similar to Genset)	Pc	2		
	<b>SUB-TOTAL 4(a)</b>				

#### (B) MINIMUM CONSUMABLE SPARES FOR 500KVA AND 750KVA

Item	Description	Unit	Qty	Rate	Amount
1	Oil filter (Primary)	Pc	10		
2	The oil filter (Secondary) if applicable	Pc	10		
3	Fuel filter (primary)	Pc	10		
4	Fuel filter (secondary) if applicable.	Pc	10		
5	Water filter	Pc	2		
6	Engine Oil (Litres) PS/125	Pc	420		
7	Engine coolant 50/50 premix ethylene-glycol (Litres)	Pc	80		
	<b>SUB-TOTAL 4(b)</b>				

**(C): CONTROL PANEL SPARES**

Item	Description	Unit	Qty	Rate ( )	Amount ( )
3	Trip Coils	Pc	2		
4	Closing Coils	Pc	2		
5	Fuses of each type of fuse	Pc	2		
6	MCB of each type	Pc	2		
7	Bulbs of each type of bulb	Pc	5		
8	Air Circuit Breaker	Pc	1		
9	Two (2) Ammeters with MDI for Feeder,	Pc	2		
10	Generator Control Units for parallel operation and load sharing.	Pc	2		
	<b>SUB-TOTAL 4 c</b>				

**NOTE:-**

- The offered unit price **MUST** be rounded to two decimal places. Where the Tenderer fails to round the offered unit price as required, then the offered unit price shall be rounded downwards to two decimal places and used for this tender.

**21. SUMMARY OF PRICE SCHEDULE SUB-TOTALS**

No.	Description	Sub-Total	Amount Currency (KSh)
1	<b>Genset And Auxiliaries</b>	Sub-Total 1	
2	<b>Services</b>	Sub-Total 2	
3	<b>Standard Tools</b>	Sub-Total 3	
4	<b>Minimum Critical Spares &amp; Consumable Spares</b>	Sub-Total 4 (a,b,c)	
5	<b>Contingency (5%)</b>		
<b>TOTAL</b>			
<b>Add 16% VAT</b> (Clearly indicate any component that is not subject to VAT, if any)			
<b>GRAND TOTAL</b>			

## 22. APPENDIX

### Existing Installed Transformer Particulars

Description	Unit	Value
Transformer TO		IEC 60076-2011
kVA Rating		1000
No-Load Volts (at Normal Tapping)	LV (V)	415
	HV (V)	33000
Amperes (at Normal Tapping)	LV (A)	1391.21
	HV (A)	17.50
Ambient Temp	(°C)	40
Temp. Rise [Lqd./Wdg.]	(°C)	55/60
Type of Cooling		ONAN
Winding Materials		Copper
Insulation Class		A
Insulation Levels	HV= (LI/AC)	170/70
	LV = (LI/AC)	-/5
Winding Connection	LV	Delta
	HV	Star
No. of Phases		3
Frequency	Hz	50
Cooling Liquid	ltr.	1050
	kg	910
Core & Winding	kg	1850
Total Mass	kg	3780
Impedance (Normal)	%	5.13
NO LOAD LOSS	W	1568
LOAD LOSS at MAX. TAP	W	11132
LOAD LOSS at NOR. TAP	W	11231
LOAD LOSS at MIN. TAP	W	11433
Vector Group		dYN-1

HIGH VOLTAGE CONNECTION				LOW VOLTAGE CONNECTION	
HIGH VOLTAGE	TAP POSITION	SW. TAPS JOINED	USE TERMINALS	LV VOLTAGE	USE TERMINALS
+5.0%	1	5-4	A8-B8-C8	NORMAL	A2-b2-c2
+2.5%	2	4-6			
NORMAL	3	6-3			
-2.5%	4	3-7			
-5.0%	5	7-2			

### Notes

To ensure successful parallel operation of Transformers, the following conditions not limited to, must be met for both to operate in parallel:

- i **Voltage Rating (Primary and secondary):** the primary and secondary voltage ratings of both transformers must be identical.
- ii **Impedance (Z):** The percentage Impedance of the transformers should be closely matched.
- iii **Phase Angle:** The Phase displacement of the transformers must be the same.
- iv **Polarity:** Both Transformers should have the same polarity.

## FORMS AND PROCEDURES

### Form of Completion Certificate

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

ITT No: \_\_\_\_\_

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

Dear Ladies and/or Gentlemen,

Pursuant to GCC Clause 24 (Completion of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Procuring Entity dated \_\_\_\_\_, relating to the \_\_\_\_\_, we hereby notify you that the following part (s) of the Facilities was (were) complete on the date specified below, and that, in accordance with the terms of the Contract, the Procuring Entity hereby takes over the said part (s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the Facilities or part there of: \_\_\_\_\_
2. Date of Completion: \_\_\_\_\_

However, you are required to complete the outstanding items listed in the attachment hereto as soon as practicable.

This Form does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

Title (Project Manager)

## FORM OF OPERATIONAL ACCEPTANCE CERTIFICATE

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

ITT No: \_\_\_\_\_

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

Dear Ladies and/or Gentlemen,

Pursuant to GCC Sub-Clause 25.3 (Operational Acceptance) of the General Conditions of the Contract entered into between yourselves and the Procuring Entity dated \_\_\_\_\_, relating to the \_\_\_\_\_, we hereby notify you that the Functional Guarantees of the following part (s) of the Facilities were satisfactorily attained on the date specified below.

1. Description of the Facilities or part there of: \_\_\_\_\_
2. Date of Operational Acceptance: \_\_\_\_\_

This Form does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

Title (Project Manager)

# CHANGE ORDER PROCEDURE AND FORMS

Date: .....

ITT No:

.....

## CONTENTS

1. General
2. Change Order Log
3. References for Changes

## ANNEXES

Annex 1: Request for Change Proposal

Annex 2: Estimate for Change Proposal

Annex 3: Acceptance of Estimate

Annex 4: Change Proposal

Annex 5: Change Order

Annex 6: Pending Agreement Change Order

Annex 7: Application for Change Proposal

## Change Order Procedure

### 1. General

This section provides samples of procedures and forms for implementing changes in the Facilities during the performance of the Contract in accordance with GCC Clause 39 (Change in the Facilities) of the General Conditions.

### 2. Change Order Log

The Contractor shall keep an up-to-date Change Order Log to show the current status of Requests for Change and Changes authorized or pending, as Annex 8. Entries of the Changes in the Change Order Log shall be made to ensure that the log is up-to-date. The Contractor shall attach a copy of the current Change Order Log in the monthly progress report to be submitted to the Procuring Entity.

### 3. References for Changes

- 1) Request for Change as referred to in GCC Clause 39 shall be serially numbered CR-X-nnn.
- 2) Estimate for Change Proposal as referred to in GCC Clause 39 shall be serially numbered CN-X-nnn.
- 3) Acceptance of Estimate as referred to in GCC Clause 39 shall be serially numbered CA-X-nnn.
- 4) Change Proposal as referred to in GCC Clause 39 shall be serially numbered CP-X-nnn.
- 5) Change Order as referred to in GCC Clause 39 shall be serially numbered CO-X-nnn.

#### Note:

- a) Requests for Change issued from the Procuring Entity's Home Office and the Site representatives of the Procuring Entity shall have the following respective references:

Home Office	CR-H-nnn
Site	CR-S-nnn
- b) The above number “nnn” is the same for Request for Change, Estimate for Change Proposal, Acceptance of Estimate, Change Proposal and Change Order.

## ANNEX 1. REQUEST FOR CHANGE PROPOSAL

*(Procuring Entity's Form head)*

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

With reference to the captioned Contract, you are requested to prepare and submit a Change Proposal for the Change noted below in accordance with the following instructions within \_\_\_\_\_ days of the date of this Form \_\_\_\_\_.

1. Title of Change: \_\_\_\_\_
2. Change Request No. \_\_\_\_\_
3. Originator of Change: \_\_\_\_\_
4. Procuring Entity: \_\_\_\_\_
5. Contractor (by Application for Change Proposal No. \_\_\_\_\_):
6. Brief Description of Change: \_\_\_\_\_
7. Facilities and/or Item No. of equipment related to the requested Change:
8. Reference drawings and/ or technical documents for the request of  
Change: Drawing No./ Document No.      Description
9. Detailed conditions or special requirements on the requested Change: \_\_\_\_\_
10. General Terms and Conditions:
  - a) Please submit your estimate to us showing what effect the requested Change will have on the Contract Price.
  - b) Your estimate shall include your claim for the additional time, if any, for completion of the requested Change.
  - c) If you have any opinion negative to the adoption of the requested Change in connection with the conformability to the other provisions of the Contractor the safety of the Plant or Facilities, please inform us of your opinion in your proposal of revised provisions.
  - d) Any increase or decrease in the work of the Contractor relating to the services of its personnel shall be calculated.
  - e) You shall not proceed with the execution of the work for the requested Change until we have accepted and confirmed the amount and nature in writing.

(Procuring Entity's Name) .....

(Signature).....

(Name of signatory) .....

(Title of signatory) .....

## ANNEX 2. ESTIMATE FOR CHANGE PROPOSAL

*(Contractor's Form head)*

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

With reference to your Request for Change Proposal, we are pleased to notify you of the approximate cost of preparing the below-referenced Change Proposal in accordance with GCC Sub-Clause 39.2.1 of the General Conditions. We acknowledge that your agreement to the cost of preparing the Change Proposal, in accordance with GCC Sub-Clause 39.2.2, is required before estimating the cost for change work.

1. Title of Change: \_\_\_\_\_

2. Change Request No./Rev.: \_\_\_\_\_

3. Brief Description of Change: \_\_\_\_\_

4. Scheduled Impact of Change: \_\_\_\_\_

5. Cost for Preparation of Change Proposal: \_\_\_\_\_<sup>9</sup>

a) Engineering (Amount)

i) Engineer \_\_\_\_\_ hrsx \_\_\_\_\_ rate/hr=

ii) Draftsperson \_\_\_\_\_ hrsx \_\_\_\_\_ rate/hr= Sub-total \_\_\_\_\_ hrs

iii) Total Engineering Cost \_\_\_\_\_

b) Other Cost

Total Cost (a) + (b)

*(Contractor's Name)* \_\_\_\_\_

*(Signature)* \_\_\_\_\_

*(Name of signatory)* \_\_\_\_\_

\_\_\_\_\_  
*(Title of signatory)* \_\_\_\_\_

<sup>9</sup>Costs shall be in the currencies of the Contract.



### ANNEX 3. ACCEPTANCE OF ESTIMATE

*(Procuring Entity's Form head)*

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

We hereby accept your Estimate for Change Proposal and agree that you should proceed with the preparation of the Change Proposal.

1. Title of Change: \_\_\_\_\_
2. Change Request No./ Rev.: \_\_\_\_\_
3. Estimate for Change Proposal No./ Rev.: \_\_\_\_\_
4. Acceptance of Estimate No./ Rev.: \_\_\_\_\_
5. Brief Description of Change: \_\_\_\_\_
6. Other Terms and Conditions: In the event that we decide not to order the Change accepted, you shall be entitled to compensation for the cost of preparation of Change Proposal described in your Estimate for Change Proposal mentioned in para. 3 above in accordance with GCC Clause 39 of the General Conditions.

*(Procuring Entity's Name)* \_\_\_\_\_

*(Signature)* \_\_\_\_\_

*(Name and Title of signatory)* \_\_\_\_\_

## ANNEX 4. CHANGE PROPOSAL

(Contractor's Form head)

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

In response to your Request for Change Proposal No. \_\_\_\_\_, we hereby submit our proposal as follows:

1. Title of Change: \_\_\_\_\_
2. Change Proposal No./Rev.: \_\_\_\_\_
3. Originator of Change:  
Procuring Entity: \_\_\_\_\_  
Contractor: \_\_\_\_\_
4. Brief Description of Change: \_\_\_\_\_
5. Reasons for Change: \_\_\_\_\_
6. Facilities and/or Item No. of Equipment related to the requested Change: \_\_\_\_\_
7. Reference drawings and/ or technical documents for the requested Change: Drawing/ Document No. Description
8. Estimate of increase/ decrease to the Contract Price resulting from Change Proposal: (Amount)
  - a) Direct material
  - b) Major construction equipment
  - c) Direct field labor (Total      hrs)
  - d) Subcontracts
  - e) Indirect material and labor
  - f) Site supervision
  - g) Head office technical staff salaries  
Process engineer \_\_\_\_\_ hrs @ \_\_\_\_\_ rate/hr  
Project engineer \_\_\_\_\_ hrs @ \_\_\_\_\_ rate/hr  
Equipment engineer \_\_\_\_\_ hrs @ \_\_\_\_\_ rate/hr  
Procurement \_\_\_\_\_ hrs @ \_\_\_\_\_ rate/hr  
Drafts person \_\_\_\_\_ hrs @ \_\_\_\_\_ rate/hr  
Total \_\_\_\_\_ hrs
  - h) Extraordinary costs (computer, travel, etc.)
  - i) Fee for general administration, \_\_\_\_\_ % of Items
  - j) Taxes and customs dutiesTotal lump sum cost of Change Proposal

(Sum of items (a) to (j))

Cost to prepare Estimate for Change

Proposal (Amount payable if Change is not  
accepted)

9. Additional time for Completion required due to Change Proposal
10. Effect on the Functional Guarantees
11. Effect on the other terms and conditions of the Contract
12. Validity of this Proposal: within [Number] days after receipt of this Proposal by the Procuring Entity
13. Other terms and conditions of this Change Proposal:
  - a) You are requested to notify us of your acceptance, comments or rejection of this detailed Change Proposal within \_\_\_\_\_ days from your receipt of this Proposal.
  - b) The amount of any increase and/or decrease shall be taken into account in the adjustment of the Contract Price.
  - c) Contractor's cost for preparation of this Change Proposal:<sup>2</sup>

(Contractor's Name) \_\_\_\_\_

(Signature) \_\_\_\_\_

(Name of signatory)

\_\_\_\_\_ (

Title of signatory) \_\_\_\_\_

\_\_\_\_\_

## ANNEX 5. CHANGE ORDER

*(Procuring Entity's Form head)*

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

We approve the Change Order for the work specified in the Change Proposal (No. \_\_\_\_\_), and agree to adjust the Contract Price, Time for Completion and/or other conditions of the Contract in accordance with GCC Clause 39 of the General Conditions.

1. Title of Change: \_\_\_\_\_
2. Change Request No./Rev.: \_\_\_\_\_
3. Change Order No./ Rev.: \_\_\_\_\_
4. Originator of Change: \_\_\_\_\_ Procuring Entity: \_\_\_\_\_  
Contractor: \_\_\_\_\_
5. Authorized Price: \_\_\_\_\_  
Ref. No.: \_\_\_\_\_ Date: \_\_\_\_\_  
Foreign currency portion \_\_\_\_\_ plus Local currency portion \_\_\_\_\_
6. Adjustment of Time for Completion  
None Increase \_\_\_\_\_ Days Decrease \_\_\_\_\_ days
7. Other effects, if any

Authorized by: \_\_\_\_\_ Date: \_\_\_\_\_

*(Procuring Entity)*

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_

*(Contractor)*

## ANNEX 6. PENDING AGREEMENT CHANGE ORDER

*(Procuring Entity's Form head)*

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

We instruct you to carry out the work in the Change Order detailed below in accordance with GCC Clause 39 of the General Conditions.

1. Title of Change: \_\_\_\_\_
2. Procuring Entity's Request for Change Proposal No./Rev.: \_\_\_\_\_ dated: \_\_\_\_\_
3. Contractor's Change Proposal No./Rev.: \_\_\_\_\_ dated: \_\_\_\_\_
4. Brief Description of Change: \_\_\_\_\_
5. Facilities and/or Item No. of equipment related to the requested Change: \_\_\_\_\_
6. Reference Drawings and/or technical documents for the requested Change:  
Drawing/Document No. Description
7. Adjustment of Time for Completion:
8. Other change in the Contract terms:
9. Other terms and conditions:

*(Procuring Entity's Name)* \_\_\_\_\_

*(Signature)* \_\_\_\_\_

*(Name of signatory)*

\_\_\_\_\_  
*(Title of signatory)* \_\_\_\_\_

## ANNEX 7. APPLICATION FOR CHANGE PROPOSAL

*(Contractor's Form head)*

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

Attention: \_\_\_\_\_

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

Contract Number: \_\_\_\_\_

Dear Ladies and/or Gentlemen:

We hereby propose that the below-mentioned work be treated as a Change in the Facilities.

1. Title of Change: \_\_\_\_\_
2. Application for Change Proposal No./Rev.: \_\_\_\_\_ dated: \_\_\_\_\_
3. Brief Description of Change: \_\_\_\_\_
4. Reasons for Change:
5. Order of Magnitude Estimation (in the currencies of the Contract):
6. Scheduled Impact of Change:
7. Effect on Functional Guarantees, if any:
8. Appendix:

*(Contractor's Name)* \_\_\_\_\_

*(Signature)* \_\_\_\_\_

*(Name of signatory)* \_\_\_\_\_

*(Title of signatory)* \_\_\_\_\_

## DRAWINGS

## **SUPPLEMENTARY INFORMATION**



## **PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

## **GENERAL CONDITIONS OF CONTRACT**

### **A. Contract and Interpretation**

#### **1. Definitions**

1.1 The following words and expressions shall have the meanings here by assigned to them:

“Contract” means the Contract Agreement entered into between the Procuring Entity and the Contractor, together with the Contract Documents referred to there in; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.

“Contract Documents” means the documents listed in Article 1.1 (Contract Documents) of the Contract Agreement (including any amendments thereto).

“GCC” means the General Conditions of Contract hereof. “SCC” means the Special Conditions of Contract.

“day” means calendar day. “year” means 365 days. “month” means calendar month.

“Party” means the Procuring Entity or the Contractor, as the context requires, and “Parties” means both of them.

“Procuring Entity” means the public entity named as such in the SCC and includes the legal successors or permitted assigns of the Procuring Entity.

“Project Manager” means the person appointed by the Procuring Entity in the manner provided in GCC Sub-Clause 17.1 (Project Manager) hereof and named as such in the SCC to perform the duties delegated by the Procuring Entity.

“Contractor” means the person(s) whose Tender to perform the Contract has been accepted by the Procuring Entity and is named as Contractor in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor.

“Contractor's Representative” means any person nominated by the Contractor and approved by the Procuring Entity in the manner provided in GCC Sub-Clause 17.2 (Contractor's Representative and Construction Manager) here of to perform the duties delegated by the Contractor.

“Construction Manager” means the person appointed by the Contractor's Representative in the manner provided in GCC Sub-Clause 17.2.4.

“Subcontractor,” including manufacturers, means any person to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant, is sub-contracted directly or indirectly by the Contractor, and includes its legal successors or permitted assigns.

“Dispute Board” (DB) means the person or persons named as such in the SCC appointed by agreement between the Procuring Entity and the Contractor to make a decision with respect to any dispute or difference between the Procuring Entity and the Contractor referred to him or her by the Parties pursuant to GCC Sub-Clause 46.1 (Dispute Board) hereof.

“Contract Price” means the sum specified in Article 2.1 (Contract Price) of the Contract Agreement, subject to such additions and adjustments there to or deductions there from, as may be made pursuant to the Contract.

“Facilities” means the Plant to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.

“Plant” means permanent plant, equipment, machinery, apparatus, materials, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor under GCC Sub-Clause 7.3 here of), but does not include Contractor's Equipment.

“Installation Services” means all those services ancillary to the supply of the Plant for the Facilities, to be provided by the Contractor under the Contract, such as transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor's Equipment and the supply of all construction materials required), installation, testing, pre- commissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc...as the case may require.

“Contractor's Equipment” means all facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Plant, or other things intended to form or forming part of the Facilities.

“Country of Origin” means the countries and territories eligible as elaborated in the SCC.

“Site” means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.

“Effective Date” means the date of fulfillment of all conditions stated in Article 3 (Effective Date) of the Contract Agreement, from which the Time for Completion shall be counted.

“Time for Completion” means the time within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained, as referred to in GCC Clause 8 and in accordance with the relevant provisions of the Contract.

“Completion” means that the Facilities (or a specific part thereof where specific parts are specified in the Contract) have been completed operationally and structurally and put in a tight and clean condition, that all work in respect of Pre-commissioning of the Facilities or such specific part thereof has been completed, and that the Facilities or specific part thereof are ready for Commissioning as provided in GCC Clause 24 (Completion) hereof.

“Pre-commissioning” means the testing, checking and other requirements specified in the Procuring Entity's Requirements that are to be carried out by the Contractor in preparation for Commissioning as provided in GCC Clause 24 (Completion) hereof.

“Commissioning” means operation of the Facilities or any part thereof by the Contractor following Completion, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 25.1 (Commissioning) hereof, for the purpose of carrying out Guarantee Test(s).

“Guarantee Test(s)” means the test(s) specified in the Procuring Entity's Requirements to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Appendix to the Contract Agreement titled Functional Guarantees, in accordance with the provisions of GCC Sub-Clause 25.2 (Guarantee Test) hereof.

“Operational Acceptance” means the acceptance by the Procuring Entity of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor's fulfillment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 28 (Functional Guarantees) hereof and shall include deemed acceptance in accordance with GCC Clause 25 (Commissioning and Operational Acceptance) hereof.

“Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 27 (Defect Liability) hereof.

“Notice of Dissatisfaction” means the notice given by either Party to the other under Sub-Clause 46.4 indicating its dissatisfaction and intention to commence arbitration.

## **2. Contract Documents**

- 2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.

### **3. Interpretation**

#### **3.1 In the Contract, except where the context requires otherwise:**

- a) Words indicating one gender include all genders;
- b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- c) provisions including the word “agree,” “agreed,” or “agreement” require the agreement to be recorded in writing;
- d) the word “tender” is synonymous with “Tender,” “tenderer,” with “Tenderer,” and “tender documents” with “Tendering Document,” and
- e) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

The marginal words and other headings shall not be taken in to consideration in the interpretation of these Conditions.

#### **3.2 Incoterms**

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of Parties thereunder shall be as prescribed by Incoterms.

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1<sup>er</sup>, 75008 Paris, France.

#### **3.3 Entire Agreement**

##### **3.3.1 Subject to GCC Sub-Clause 16.4 hereof, the Contract constitutes the entire agreement between the Procuring Entity and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of Parties with respect there to made prior to the date of Contract.**

#### **3.4 Amendment**

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each Party hereto.

#### **3.5 Independent Contractor**

The Contractor shall be an independent contract or performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the Parties hereto. Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Procuring Entity, and nothing contained in the Contractor in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Procuring Entity.

#### **3.6 Non-Waiver**

##### **3.6.1 Subject to GCC Sub-Clause 3.6.2 below, no relaxation, forbearance, delay or indulgence by either Party in enforcing any of the terms and conditions of the Contract or the granting of time by either Party to the other shall prejudice, affect or restrict the rights of that Party under the Contract, nor shall any waiver by either Party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.**

##### **3.6.2 Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived.**

#### **3.7 Severability**

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, in validity or unenforced ability shall not affect the validity or enforce ability of any other provisions and conditions of the Contract.

### 3.8 Country of Origin

“Origin” means the place where the plant and component parts thereof are mined, grown, produced or manufactured, and from which the services are provided. Plant components are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that is substantially in its basic characteristics or in purpose or utility from its components.

## 4 Communications

4.3 Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

- a In writing and delivered against receipt; and
- b delivered, sent or transmitted to the address for the recipient's communications as stated in the Contract Agreement.

When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Project Manager, a copy shall be sent to the Project Manager or the other Party, as the case may be.

## 5 Law and Language

5.3 The Contract shall be governed by in accordance with laws of Kenya

5.4 The ruling language of the Contract shall be English Language.

5.5 The language for communications shall be the English language.

## 6 Fraud and Corruption

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

6.2 Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the PPRA to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the PPRA.

## B. Subject Matter of Contract

### 7 Scope of Facilities

7.1 Unless otherwise expressly limited in the Procuring Entity's Requirements, the Contractor's obligations cover the provision of all Plant and the performance of all Installation Services required for the design, and the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Pre-commissioning and delivery) of the Plant, and the installation, completion and commissioning of the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Section, Procuring Entity's Requirements. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labor, materials, equipment, spare parts (as specified in GCC Sub-Clause 7.3 below) and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the Procuring Entity, asset for thin the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity.

7.2 The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.

- 7.3 In addition to the supply of Mandatory Spare Parts included in the Contract, the Contractor agrees to supply spare parts required for the operation and maintenance of the Facilities for the period specified in the SCC and the provisions, if any, specified in the SCC. However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply there of are to be agreed between the Procuring Entity and the Contractor, and the price of such spare parts shall be that given in Price Schedule No.6, which shall be added to the Contract Price. The price of such spare parts shall include the purchase price there for and other costs and expenses (including the Contractor's fees) relating to the supply of spare parts.

## **8 Time for Commencement and Completion**

- 8.1 The Contractor shall commence work on the Facilities within the period specified in the SCC and without prejudice to GCC Sub-Clause 26.2 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in the Appendix to the Contract Agreement titled Time Schedule.
- 8.2 The Contractor shall attain Completion of the Facilities or of a part where a separate time for Completion of such part is specified in the Contract, within the time stated in the SCC or within such extended time to which the Contractor shall be entitled under GCC Clause 40 hereof.

## **9 Contractor's Responsibilities**

- 9.1 The Contractor shall design, manufacture including associated purchases and/or subcontracting, install and complete the Facilities in accordance with the Contract. When completed, the Facilities should be fit for the purposes for which they are intended as defined in the Contract.
- 9.2 The Contractor confirms that it has entered in to this Contract on the basis of a proper examination of the data relating to the Facilities including any data as to boring tests provided by the Procuring Entity, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site if access there to was available and of other data readily available to it relating to the Facilities as of the date twenty- eight (28) days prior to Tender submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.
- 9.3 The Contractor shall acquire and pay for all permits, approvals and /or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Contractor to obtain in its name and which are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Procuring Entity under GCC Sub-Clause 10.3 hereof and that are necessary for the performance of the Contract.
- 9.4 The Contractor shall comply with all laws in force in the country where the Facilities are to be implemented. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Procuring Entity from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 10.1 hereof.
- 9.5 Any Plant and Installation Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Clause 1 (Country of Origin). Any subcontractors retained by the Contractor shall be from a country as specified in GCC Clause 1 Country of Origin).
- 9.6 If the Contractor is a joint venture, or association (JV) of two or more persons, all such persons shall be jointly and severally bound to the Procuring Entity for the fulfillment of the provisions of the Contract, and shall designate one of such persons to act as a leader with authority to bind the JV. The composition or the constitution of the JV shall not be altered without the prior consent of the Procuring Entity.
- 9.7 Pursuant to paragraph 2.2 e. of Appendix B to the General Conditions the Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, PPRA and/or persons appointed by PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by PPRA. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 6.1 which provides, inter alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination.



- 9.8 The Contractor shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC.

## **10 Procuring Entity's Responsibilities**

- 10.1 All information and/or data to be supplied by the Procuring Entity as described in the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity, shall be deemed to be accurate, except when the Procuring Entity expressly states otherwise.
- 10.2 The Procuring Entity shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity. The Procuring Entity shall give full possession of an accord all rights of access there to on or before the date (s) specified in that Appendix.
- 10.3 The Procuring Entity shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service under takings in the country where the Site is located which such authorities or under takings require the Procuring Entity to obtain in the Procuring Entity's name, (b) are necessary for the execution of the Contract, including those required for the performance by both the Contractor and the Procuring Entity of their respective obligations under the Contract, and (c) are specified in the Appendix (Scope of Works and Supply by the Procuring Entity).
- 10.4 If requested by the Contractor, the Procuring Entity shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service under takings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.
- 10.5 Unless otherwise specified in the Contract or agreed upon by the Procuring Entity and the Contractor, the Procuring Entity shall provide sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, utilities, lubricants, chemicals, catalysts, other materials and facilities; and shall perform all work and services of whatsoever nature, including those required by the Contractor to properly carry out Pre-commissioning, Commissioning and Guarantee Tests, all in accordance with the provisions of the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity, at or before the time specified in the program furnished by the Contractor under GCC Sub- Clause 18.2 hereof and in the manner thereupon specified or as otherwise agreed upon by the Procuring Entity and the Contractor.
- 10.6 The Procuring Entity shall be responsible for the continued operation of the Facilities after Completion, in accordance with GCC Sub-Clause 24.8, and shall be responsible for facilitating the Guarantee Test (s) for the Facilities, in accordance with GCC Sub-Clause 25.2.
- 10.7 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Procuring Entity, save those to be incurred by the Contractor with respect to the performance of Guarantee Tests, in accordance with GCC Sub-Clause 25.2.
- 10.8 In the event that the Procuring Entity shall be in breach of any of his obligations under this Clause, the additional cost incurred by the Contractor in consequence thereof shall be determined by the Project Manager and added to the Contract Price.

## **C. Payment**

### **11 Contract Price**

- 11.1 Contract as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.
- 11.2 Unless an adjustment clause is provided for in the SCC, the Contract Price shall be a firm lump sum not subject to any alteration, except in the event of a Change in the Facilities or as otherwise provided in the Contract.
- 11.3 Subject to GCC Sub-Clauses 9.2, 10.1 and 35 hereof, the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

### **12 Terms of Payment**

- 12.1 The Contract Price shall be paid as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement and in the Appendix to the Contract Agreement titled Terms and Procedures of Payment, which also outlines the procedures to be followed in making application for and processing

payments.

- 12.2 No payment made by the Procuring Entity herein shall be deemed to constitute acceptance by the Procuring Entity of the Facilities or any part (s) thereof.
- 12.3 In the event that the Procuring Entity fails to make any payment by its respective due date or within the period set for thin the Contract, the Procuring Entity shall pay to the Contractor interest on the amount of such delayed payment at the rate(s) shown in the Appendix to the Contract Agreement titled Terms and Procedures of Payment, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.
- 12.4 The currency or currencies in which payments are made to the Contractor under this Contract shall be specified in the Appendix to the Contract Agreement titled Terms and Procedures of Payment, subject to the general principle that payments will be made in the currency or currencies in which the Contract Price has been stated in the Contractor's Tender.

### **13 Securities**

#### **13.1 Issuance of Securities**

The Contractor shall provide the securities specified below in favor of the Procuring Entity at the times, and in the amount, manner and form specified below.

#### **13.2 Advance Payment Security**

- 13.2.1 The Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a security in an amount equal to the advance payment calculated in accordance with the Appendix to the Contract Agreement titled Terms and Procedures of Payment, and in the same currency or currencies.
- 13.2.2 The security shall be in the form provided in the Tendering documents or in another form acceptable to the Procuring Entity. The amount of the security shall be reduced in proportion to the value of the Facilities executed by and paid to the Contractor from time to time, and shall automatically become null and void when the full amount of the advance payment has been recovered by the Procuring Entity. The security shall be returned to the Contractor immediately after its expiration.

#### **13.3 Performance Security**

- 13.3.1 The Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a security for the due performance of the Contract in the amount specified in the **SCC**.
- 13.3.2 The Performance Security shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the Procuring Entity, and shall be in the form provided in Section X, Contract Forms, corresponding to the type of bank guarantee stipulated by the Procuring Entity in the **SCC**, or in another form acceptable to the Procuring Entity.
- 13.3.3 Unless otherwise specified in the **SCC**, the security shall be reduced by half on the date of the Operational Acceptance. The Security shall become null and void, or shall be reduced prorata to the Contract Price of a part of the Facilities for which a separate Time for Completion is provided, five hundred and forty (540) days after Completion of the Facilities or three hundred and sixty five (365) days after Operational Acceptance of the Facilities, whichever occurs first; provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Sub-Clause 27.8 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to GCC Sub-Clause 27.10, is liable for an extended defect liability obligation, the Performance Security shall be extended for the period specified in the **SCC** pursuant to GCC Sub-Clause 27.10 and up to the amount specified in the **SCC**.
- 13.3.4 The Procuring Entity shall not make a claim under the Performance Security, except for amounts to which the Procuring Entity is entitled under the Contract. The Procuring Entity shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Procuring Entity was not entitled to make the claim.

### **14 Taxes and Duties**

- 14.1 Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Subcontractors or their employees by all municipal,



state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.

- 14.2 If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in Kenya, the Procuring Entity shall use its best endeavors to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.
- 14.3 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date twenty-eight (28) days prior to the date of Tender submission in Kenya (hereinafter called "Tax" in this GCC Sub-Clause 14.4). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor, Subcontractors or their employees in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take in to account any such change by addition to the Contract Price or deduction therefrom, as the case may be, in accordance with GCC Clause 36 hereof.

## **A. Intellectual Property**

### **15 License/Use of Technical Information**

- 15.1 For the operation and maintenance of the Plant, the Contractor hereby grants a non-exclusive and non-transferable license (without the right to sub-license) to the Procuring Entity under the patents, utility models or other industrial property rights owned by the Contractor or by a third Party from whom the Contractor has received the right to grant licenses there under, and shall also grant to the Procuring Entity a non-exclusive and non-transferable right (without the right to sub-license) to use the know-how and other technical information disclosed to the Procuring Entity under the Contract. Nothing contained herein shall be construed as transferring ownership of any patent, utility model, trademark, design, copyright, know-how or other intellectual property right from the Contractor or any third Party to the Procuring Entity.
- 15.2 The copy right in all drawings, documents and other materials containing data and information furnished to the Procuring Entity by the Contractor here in shall remain vested in the Contractor or, if they are furnished to the Procuring Entity directly or through the Contractor by any third Party, including suppliers of materials, the copy right in such materials shall remain vested in such third Party.

### **16 Confidential Information**

- 16.1 The Procuring Entity and the Contractor shall keep confidential and shall not, without the written consent of the other Party hereto, divulge to any third Party any documents, data or other information furnished directly or indirectly by the other Party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor (s) such documents, data and other information it receives from the Procuring Entity to the extent required for the Subcontractor (s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor (s) an under taking of confidentiality similar to that imposed on the Contractor under this GCC Clause 16.
- 16.2 The Procuring Entity shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Procuring Entity for any purpose other than the design, procurement of Plant, construction or such other work and services as are required for the performance of the Contract.
- 16.3 The obligation of a Party under GCC Sub-Clauses 16.1 and 16.2 above, however, shall not apply to that information which
- a Now or here after enters the public domain through no fault of that Party
  - b can be proven to have been possessed by that Party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other Party hereto
  - c otherwise lawfully becomes available to that Party from a third Party that has no obligation of confidentiality.
- 16.4 The above provisions of this GCC Clause 16 shall not in any way modify any undertaking of confidentiality given by either of the Parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 16.5 The provisions of this GCC Clause 16 shall survive termination, for whatever reason, of the Contract.

## **B. Execution of the Facilities**

### **17 Representatives**

#### **17.1 Project Manager**

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Procuring Entity shall appoint and notify the Contractor in writing of the name of the Project Manager. The Procuring Entity may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the Facilities. Such appointment shall only take effect upon receipt of such notice by the Contractor. The Project Manager shall represent and act for the Procuring Entity at all times during the performance of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as here in otherwise provided.

All notices, instructions, information and other communications given by the Contractor to the Procuring Entity under the Contract shall be given to the Project Manager, except as herein otherwise provided.

#### **17.2 Contractor's Representative & Construction Manager**

17.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Procuring Entity in writing to approve the person so appointed. If the Procuring Entity makes no objection to the appointment within fourteen (14) days, the Contractor's Representative shall be deemed to have been approved. If the Procuring Entity objects to the appointment within fourteen (14) days giving the reason therefor, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 17.2.1 shall apply thereto.

17.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the performance of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract.

17.2.3 All notices, instructions, information and all other communications given by the Procuring Entity or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

17.2.4 The Contractor shall not revoke the appointment of the Contractor's Representative without the Procuring Entity's prior written consent, which shall not be unreasonably withheld. If the Procuring Entity consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 17.2.1.

17.2.5 The Contractor's Representative may, subject to the approval of the Procuring Entity which shall not be unreasonably withheld, at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities there by delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Procuring Entity and the Project Manager.

17.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 17.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.

17.2.7 From the commencement of installation of the Facilities at the Site until Completion, the Contractor's Representative shall appoint a suitable person as the Construction Manager. The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as the Construction Manager's deputy.

17.2.8 The Procuring Entity may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Procuring Entity, may be inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 22.4. The Procuring Entity shall provide evidence of the same, where upon the Contractor shall remove such person from the Facilities.

17.2.9 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 17.2.5, the Contractor shall, where required, promptly appoint a replacement.

## **18 Work Program**

### **18.1 Contractor's Organization**

The Contractor shall supply to the Procuring Entity and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities within twenty-one (21) days of the Effective Date. The chart shall include the identities of the key personnel and the curricula vitae of such key personnel to be employed shall be supplied together with the chart. The Contractor shall promptly inform the Procuring Entity and the Project Manager in writing of any revision or alteration of such an organization chart.

### **18.2 Program of Performance**

Within twenty-eight (28) days after the Effective Date, the Contractor shall submit to the Project Manager a detailed program of performance of the Contract, made in a form acceptable to the Project Manager and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities, as well as the date by which the Contractor reasonably requires that the Procuring Entity shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule included in the Appendix to the Contract Agreement titled Time Schedule, and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion specified in the SCC pursuant to Sub-Clause 8.2 and any extension granted in accordance with GCC Clause 40, and shall submit all such revisions to the Project Manager.

### **18.3 Progress Report**

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 18.2 above, and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.

### **18.4 Progress of Performance**

If at any time the Contractor's actual progress falls behind the program referred to in GCC Sub-Clause 18.2, or it becomes apparent that it wills of all behind, the Contractor shall, at the request of the Procuring Entity or the project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 8.2, any extension thereof entitled under GCC Sub-Clause 40.1, or any extended period as may otherwise be agreed upon between the Procuring Entity and the Contractor.

### **18.5 Procedures**

The Contract shall be executed in accordance with the Contract Documents including the procedures given in the Forms and Procedures of the Procuring Entity's Requirements.

The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with the provisions contained in the Contract.

## **19 Subcontracting**

19.1 The Appendix to the Contract Agreement titled List of Major Items of Plant and Installation Services and List of Approved Subcontractors, specifies major items of supply or services and a list of approved Subcontractors against each item, including manufacturers. In so far as no Subcontractors are listed against any such item, the Contractor shall prepare a list of Subcontractors for such item for inclusion in such list. The Contractor may from time to time propose any addition to or deletion from any such list. The Contractor shall submit any such list or any modification thereto to the Procuring Entity for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the Procuring Entity for any of the Subcontractors shall not relieve the Contractor from any of its obligations, duties or

responsibilities under the Contract.

- 19.2 The Contractor shall select and employ its Subcontractors for such major items from those listed in the lists referred to in GCC Sub-Clause 19.1.
- 19.3 For items or parts of the Facilities not specified in the Appendix to the Contract Agreement titled List of Major Items of Plant and Installation Services and List of Approved Subcontractors, the Contractor may employ such Subcontractors as it may select, at its discretion.
- 19.4 Each sub-contract shall include provisions which would entitle the Procuring Entity to require the sub-contract to be assigned to the Procuring Entity under GCC 19.5 (if and when applicable), or in event of termination by the Procuring Entity under GCC 42.2.
- 19.5 If a subcontractor's obligations extend beyond the expiry date of the relevant Defects Liability Period and the Project Manager, prior to that date, instructs the Contractor to assign the benefits of such obligations to the Procuring Entity, then the Contractor shall do so.

## **20` Design and Engineering**

### **20.1 Specifications and Drawings**

- 20.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.
- 20.1.2 The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Procuring Entity.
- 20.1.2 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Project Manager.

### **20.2 Codes and Standards**

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of Tender submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied subject to approval by the Procuring Entity and shall be treated in accordance with GCC Clause 39.

### **20.3 Approval/ Review of Technical Documents by Project Manager.**

- 20.3.1 The Contractor shall prepare or cause its Subcontractors to prepare, and furnish to the Project Manager the documents listed in the Appendix to the Contract Agreement titled List of Documents for Approval or Review, for its approval or review as specified and in accordance with the requirements of GCC Sub-Clause 18.2 (Program of Performance).
- 20.3.2 Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.  
  
GCC Sub-Clauses 20.3.2 through 20.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.
- 20.2.3 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Sub-Clause 20.3.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed there on or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the said fourteen (14) days, then the said document shall be deemed to have been approved by the Project Manager.

- 20.3.4 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with the Contractor that it is contrary to good engineering practice.
- 20.3.5 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Sub-Clause 20.3.2. If the Project Manager



approves the document subject to modification(s), the Contractor shall make the required modification (s), where upon the document shall be deemed to have been approved.

20.3.6 If any dispute or difference occurs between the Procuring Entity and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification (s) there to that cannot be settled between the Parties within a reasonable period, then such dispute or difference may be referred to a Dispute Board for determination in accordance with GCC Sub-Clause 46.1 hereof. If such dispute or difference is referred to a Dispute Board, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Dispute Board upholds the Contractor's view on the dispute and if the Procuring Entity has not given notice under GCC Sub-Clause 46.3 hereof, then the Contractor shall be reimbursed by the Procuring Entity for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Dispute Board shall decide, and the Time for Completion shall be extended accordingly.

20.3.7 The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

20.3.8 The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this GCC Sub-Clause 20.3.

If the Project Manager requests any change in any already approved document and/or in any document based there on, the provisions of GCC Clause 39 shall apply to such request.

## **21 Procurement**

### **21.1 Plant**

Subject to GCC Sub-Clause 14.2, the Contractor shall procure and transport all Plant in an expeditious and orderly manner to the Site.

### **21.2 Procuring Entity-Supplied Plant**

If the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity, provides that the Procuring Entity shall furnish any specific items to the Contractor, the following provisions shall apply:

21.2.1 The Procuring Entity shall, at its own risk and expense, transport each item to the place on or near the Site as agreed upon by the Parties and make such item available to the Contractor at the time specified in the program furnished by the Contractor, pursuant to GCC Sub-Clause 18.2, unless otherwise mutually agreed.

21.2.2 Upon receipt of such item, the Contractor shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. The Procuring Entity shall immediately remedy any shortage, defect or default, or the Contractor shall, if practicable and possible, at the request of the Procuring Entity, remedy such shortage, defect or default at the Procuring Entity's cost and expense. After inspection, such item shall fall under the care, custody and control of the Contractor. The provision of this GCC Sub-Clause 21.2.2 shall apply to any item supplied to remedy any such shortage or default or to substitute for any defective item, or shall apply to defective items that have been repaired.

21.2.3 The foregoing responsibilities of the Contractor and its obligations of care, custody and control shall not relieve the Procuring Entity of liability for any undetected shortage, defect or default, nor place the Contractor under any liability for any such shortage, defect or default whether under GCC Clause 27 or under any other provision of Contract.

### **21.3 Transportation**

21.3.1 The Contractor shall at its own risk and expense transport all the materials and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

21.3.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the materials and the Contractor's Equipment.

21.3.3 Upon dispatch of each shipment of materials and the Contractor's Equipment, the Contractor shall notify the Procuring Entity by telex, cable, facsimile or electronic means, of the description of the materials and of the Contractor's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the Kenya, if applicable, and at the Site. The Contractor shall furnish the Procuring Entity with relevant shipping documents to be agreed upon between the Parties.

21.3.4 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the materials and the Contractor's Equipment to the Site. The Procuring Entity shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Procuring Entity from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the materials and the Contractor's Equipment to the Site.

## 21.4 Customs Clearance

21.4.1 The Contractor shall, at its own expense, handle all imported materials and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance, subject to the Procuring Entity's obligations under GCC Sub-Clause 14.2, provided that if applicable laws or regulations require any application or act to be made by or in the name of the Procuring Entity, the Procuring Entity shall take all necessary steps to comply with such laws or regulations. In the event of delays in customs clearance that are not the fault of the Contractor, the Contractor shall be entitled to an extension in the Time for Completion, pursuant to GCC Clause 40.

## 22 Installation

### 22.1 Setting Out/ Supervision

22.1.1 Bench Mark: The Contractor shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by or on behalf of the Procuring Entity.

If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forth with notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the Procuring Entity, the expense of rectifying the same shall be borne by the Procuring Entity.

22.1.2 Contractor's Supervision: The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time super intendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

### 22.2 Labor:

#### 22.2.1 Engagement of Staff and Labor

Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labor, local or otherwise, and for their payment, housing, feeding and transport.

The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labor that has the necessary skills.

The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labor and personnel to be employed on the Site into Kenya. The Procuring Entity will, if requested by the Contractor, use his best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national or government permission required for bringing in the Contractor's personnel.

The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor's personnel employed on the Contract at the Site to the place where they were recruited or to their domicile. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor

defaults in providing such means of transportation and temporary maintenance, the Procuring Entity may provide the same to such personnel and recover the cost of doing so from the Contractor.

#### 22.2.2 Persons in the Service of Procuring Entity

The Contractor shall not recruit, or attempt to recruit, staff and labor from amongst the Procuring Entity's Personnel.

#### 22.2.3 Labor Laws

The Contractor shall comply with all the relevant labor Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Subcontractors.

The Contractor shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

#### 22.2.4 Rates of Wages and Conditions of Labor

The Contractor shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Procuring Entities whose trade or industry is similar to that of the Contractor.

The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages and allowances as are chargeable under the Laws for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

#### 22.2.5 Working Hours

No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the **SCC**, unless:

- a Otherwise stated in the Contract,
- b The Project Manager gives consent, or
- c The work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Project Manager.

If and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Project Manager's consent thereto, the Project Manager shall not unreasonably withhold such consent.

This Sub-Clause shall not apply to any work which is customarily carried out by rotary or double-shifts.

#### 22.2.6 Facilities for Staff and Labor

Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Procuring Entity's Personnel as stated in the Specification.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

#### 22.2.7 Health and Safety

The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the performance of the Contract, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send to the Project Manager, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Project Manager may reasonably require.

The Contractor shall throughout the contract (including the Defects Notification Period): (i) conduct Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labor (including all the Contractor's employees, all Subcontractors and Procuring Entity's and Project Manager's' employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to of Sexually Transmitted Diseases (STD) - or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labor as appropriate; and (iii) provide for STI and HIV/AIDS screening, diagnosis, counseling and referral to a dedicated national STI and HIV/AIDS program,(unless otherwise agreed) of all Site staff and labor.

The Contractor shall include in the program to be submitted for the execution of the Facilities under Sub-Clause 18.2 an alleviation program for Site staff and labor and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this program shall not exceed the Provisional Sum dedicated for this purpose.

#### 22.2.8 Funeral Arrangements

In the event of the death of any of the Contractor's personnel or accompanying members of their families, the Contractor shall be responsible for making the appropriate arrangements for their return or burial, unless otherwise specified in the SCC.

#### 22.2.9 Records of Contractor's Personnel

The Contractor shall keep accurate records of the Contractor's personnel, including the number of each class of Contractor's Personnel on the Site and the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis in a form approved by the Project Manager and shall be available for inspection by the Project Manager until the Contractor has completed all work.

#### 22.2.10 Supply of Food stuffs

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

#### 22.2.11 Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

#### 22.2.12 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

#### 22.2.13 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of Kenya, import, sell, give barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift barter or disposal by Contractor's Personnel.



#### 22.2.14 Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

#### 22.2.15 Prohibition of All Forms of Forced or Compulsory Labor

The contractor shall not employ "forced or compulsory labor" in any form. "Forced or compulsory labor" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

#### 22.2.16 Prohibition of Harmful Child Labor

The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

#### 22.3 Contractor's Equipment

22.3.1 All Contractor's Equipment brought by the Contractor on to the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.

22.3.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor on to the Site and any surplus materials remaining there on.

22.3.3 The Procuring Entity will, if requested, use its best endeavors to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor's Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.

#### 22.4 Site Regulations and Safety

The Procuring Entity and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply there with. The Contractor shall prepare and submit to the Procuring Entity, with a copy to the Project Manager, proposed Site regulations for the Procuring Entity's approval, which approval shall not be unreasonably withheld.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

#### 22.5 Opportunities for Other Contractors

22.5.1 The Contractor shall, upon written request from the Procuring Entity or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Procuring Entity on or near the Site.

22.5.2 If the Contractor, upon written request from the Procuring Entity or the Project Manager, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor's Equipment, or provides any other service of whatsoever nature for such other contractors, the Procuring Entity shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.

22.5.3 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Procuring Entity in regard to their work.

22.5.4 The Contractor shall notify the Project Manager promptly of any defects in the other contractors' work that come to its notice, and that could affect the Contractor's work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Contractor.

#### 22.6 Emergency Work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, the Procuring Entity may cause such work to be done as the Procuring Entity may determine is necessary in order to prevent damage to the Facilities. In such event the Procuring Entity shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons there for. If the work done or caused to be done by the Procuring Entity is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Procuring Entity in connection therewith shall be paid by the Contractor to the Procuring Entity. Otherwise, the cost of such remedial work shall be borne by the Procuring Entity.

## **22.7 Site Clearance**

**22.7.1 Site Clearance in Course of Performance:** In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

**22.7.2 Clearance of Site after Completion:** After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities in a clean and safe condition.

## **22.8 Watching and Lighting**

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and Where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

## **23 Test and Inspection**

**23.1** The Contractor shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and any part of the Facilities as are specified in the Contract.

**23.2** The Procuring Entity and the Project Manager or their designated representatives shall be entitled to attend the afore said test and/or inspection, provided that the Procuring Entity shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

**23.3** Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity and the Project Manager or their designated representatives to attend the test and/or inspection.

**23.4** The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection. If the Procuring Entity or Project Manager or their designated representatives fails to attend the test and/or inspection, or if it is agreed between the Parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.

**23.5** The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impede the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.

**23.6** If any Plant or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Plant or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under GCC Sub-Clause 23.3.

**23.7** If any dispute or difference of opinion shall arise between the Parties in connection with or arising out of the test and/or inspection of the Plant or part of the Facilities that cannot be settled between the Parties

within a reasonable period of time, it may be referred to a Dispute Board for determination in accordance with GCC Sub-Clause 46.3.

- 23.8 The Contractor shall afford the Procuring Entity and the Project Manager, at the Procuring Entity's expense, access at any reasonable time to any place where the Plant are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
- 23.9 The Contractor agrees that neither the execution of a test and/ or inspection of Plant or any part of the Facilities, nor the attendance by the Procuring Entity or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 23.4, shall release the Contractor from any other responsibilities under the Contract.
- 23.10 No part of the Facilities or foundations shall be covered upon the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such parts of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice there of shall be subject to the requirements of the Contract.
- 23.11 The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

If any parts of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 23.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Procuring Entity, and the Time for Completion shall be reasonably adjusted to the extent that the contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

## **24 Completion of the Facilities**

- 24.1 As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally and structurally and put in a tight and clean condition as specified in the Procuring Entity's Requirements, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Procuring Entity in writing.
- 24.2 Within seven (7) days after receipt of the notice from the Contractor under GCC Sub-Clause 24.1, the Procuring Entity shall supply the operating and maintenance personnel specified in the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity for Pre-commissioning of the Facilities or any part thereof.
- 24.3 Pursuant to the Appendix to the Contract Agreement titled Scope of Works and Supply by the Procuring Entity, the Procuring Entity shall also provide, within the said seven (7) day period, the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Pre- commissioning of the Facilities or any part thereof.
- 24.4 As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the Procuring Entity and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters have been provided by the Procuring Entity in accordance with GCC Sub-Clause 24.2, the Contractor shall commence Pre-commissioning of the Facilities or the relevant part thereof in preparation for Commissioning, subject to GCC Sub-Clause 25.5.
- 24.5 As soon as all works in respect of Pre-commissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall so notify the Project Manager in writing.
- 24.6 The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 24.4, either issue a Completion Certificate in the form specified in the Procuring Entity's Requirements (Forms and Procedures), stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's notice under GCC Sub-Clause 24.4, or notify the Contractor in writing of any defects and/or deficiencies.

If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies, and shall repeat the procedure described in GCC Sub-Clause 24.4.

If the Project Manager is satisfied that the Facilities or that part thereof have reached Completion, the Project Manager shall, within seven (7) days after receipt of the Contractor's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's repeated notice.

If the Project Manager is not so satisfied, then it shall notify the Contractor in writing of any defects and/or deficiencies within seven (7) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

24.7 If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 24.4 or within seven (7) days after receipt of the Contractor's repeated notice under GCC Sub-Clause 24.5, or if the Procuring Entity makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Procuring Entity's use of the Facilities, as the case may be.

24.8 As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Procuring Entity will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.

24.9 Upon Completion, the Procuring Entity shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

## **25 Commissioning and Operational Acceptance**

### **25.1 Commissioning**

25.1.1 Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after issue of the Completion Certificate by the Project Manager, pursuant to GCC Sub-Clause 24.5, or immediately after the date of the deemed Completion, under GCC Sub-Clause 24.6.

25.1.2 The Procuring Entity shall supply the operating and maintenance personnel and all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Commissioning.

25.1.3 In accordance with the requirements of the Contract, the Contractor's and Project Manager's advisory personnel shall attend the Commissioning, including the Guarantee Test, and shall advise and assist the Procuring Entity.

### **25.2 Guarantee Test**

25.2 Subject to GCC Sub-Clause 25.5, the Guarantee Test and repeats thereof shall be conducted by the Contractor during Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Appendix to the Contract Agreement titled Functional Guarantees. The Procuring Entity shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Guarantee Test and any repeats thereof.

25.1.1 If for reasons not attributable to the Contractor, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period from the date of Completion specified in the SCC or any other period agreed upon by the Procuring Entity and the Contractor, the Contractor shall be deemed to have fulfilled its obligations with respect to the Functional Guarantees, and GCC Sub-Clauses 28.2 and 28.3 shall not apply.

### **25.3 Operational Acceptance**

25.3.1 Subject to GCC Sub-Clause 25.4 below, Operational Acceptance shall occur in respect of the Facilities or any part thereof when

- a The Guarantee Test has been successfully completed and the Functional Guarantees are met; or
- b the Guarantee Test has not been successfully completed or has not been carried out for reasons not attributable to the Contractor within the period from the date of Completion specified in the SCC pursuant to GCC Sub-Clause 25.2.2 above or any other period agreed upon by the Procuring Entity and the Contractor; or
- c the Contractor has paid the liquidated damages specified in GCC Sub-Clause 28.3 hereof; and
- d any minor items mentioned in GCC Sub-Clause 24.7 hereof relevant to the Facilities or that part thereof have been completed.

25.3.2 At any time after any of the events set out in GCC Sub-Clause 25.3.1 have occurred, the Contractor may



give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Procuring Entity's Requirements (Forms and Procedures) in respect of the Facilities or the part there of specified in such notice as of the date of such notice.

25.3.3 The Project Manager shall, after consultation with the Procuring Entity, and within seven (7) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

25.3.4 If within seven (7) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part there of shall be deemed to have been accepted as of the date of the Contractor's said notice.

#### 25.4 Partial Acceptance

25.4.1 If the Contract specifies that Completion and Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Completion and Commissioning including the Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.

25.4.2 If a part of the Facilities comprises facilities such as buildings, for which no Commissioning or Guarantee Test is required, then the Project Manager shall issue the Operational Acceptance Certificate for such facility when it attains Completion, provided that the Contractor shall there after complete any outstanding minor items that are listed in the Operational Acceptance Certificate.

#### 25.5 Delayed Pre-commissioning and/or Guarantee Test

25.5.1 In the event that the Contractor is unable to proceed with the Pre-commissioning of the Facilities pursuant to Sub-Clause 24.3, or with the Guarantee Test pursuant to Sub-Clause 25.2, for reasons attributable to the Procuring Entity either on account of non-availability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Contractor's control, the provisions leading to "deemed" completion of activities such as Completion, pursuant to GCC Sub-Clause 24.6, and Operational Acceptance, pursuant to GCC Sub-Clause 25.3.4, and Contractor's obligations regarding Defect Liability Period, pursuant to GCC Sub-Clause 27.2, Functional Guarantee, pursuant to GCC Clause 28, and Care of Facilities, pursuant to GCC Clause 32, and GCC Clause 41.1, Suspension, shall not apply. In this case, the following provisions shall apply.

25.5.2 When the Contractor is notified by the Project Manager that he will be unable to proceed with the activities and obligations pursuant to above Sub-Clause 25.5.1, the Contractor shall be entitled to the following:

- a The Time of Completion shall be extended for the period of suspension without imposition of liquidated damages pursuant to GCC Sub-Clause 26.2;
- b payments due to the Contractor in accordance with the provision specified in the Appendix to the Contract Agreement titled Terms and Procedures of Payment, which would not have been payable in normal circumstances due to non-completion of the subject activities, shall be released to the Contractor against submission of a security in the form of a bank guarantee of equivalent amount acceptable to the Procuring Entity, and which shall become null and void when the Contractor will have complied with its obligations regarding those payments, subject to the provision of Sub-Clause 25.5.3 below;
- c the expenses towards the above security and extension of other securities under the contract, of which validity needs to be extended, shall be reimbursed to the Contractor by the Procuring Entity;
- d the additional charges towards the care of the Facilities pursuant to GCC Sub-Clause 32.1 shall be reimbursed to the Contractor by the Procuring Entity for the period between the notification mentioned above and the notification mentioned in Sub-Clause 25.5.4 below. The provision of GCC Sub-Clause 33.2 shall apply to the Facilities during the same period.
- e Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (which would be the tender price), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows:  $(\text{corrected tender price} - \text{tender price}) / \text{tender price} \times 100$ .

25.5.3 In the event that the period of suspension under above Sub-Clause 25.5.1 actually exceeds one hundred eighty

(180) days, the Procuring Entity and Contractor shall mutually agree to any additional compensation payable to the Contractor.

- 25.5.4 When the Contractor is notified by the Project Manager that the plant is ready for Pre-commissioning, the Contractor shall proceed without delay in performing Pre-commissioning in accordance with Clause 24.

**A. Guarantees and Liabilities**

**26 Completion Time Guarantee**

- 26.1 The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified) within the Time for Completion specified in the **SCC** pursuant to GCC Sub-Clause 8.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 40 hereof.
- 26.2 If the Contractor fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under GCC Clause 40, the Contractor shall pay to the Procuring Entity liquidated damages in the amount specified in the **SCC** as a percentage rate of the Contract Price or the relevant part thereof. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the **SCC** as a percentage rate of the Contract Price. Once the "Maximum" is reached, the Procuring Entity may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.
- 26.3 Such payment shall completely satisfy the Contractor's obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under GCC Clause 40. The Contractor shall have no further liability whatsoever to the Procuring Entity in respect thereof.
- 26.4 However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.
- 26.5 Save for liquidated damages payable under this GCC Sub-Clause 26.2, the failure by the Contractor to attain any milestone or other act, matter or thing by any date specified in the Appendix to the Contract Agreement titled Time Schedule, and/or other program of work prepared pursuant to GCC Sub-Clause 18.2 shall not render the Contractor liable for any loss or damage there by suffered by the Procuring Entity.
- 26.6 If the Contractor attains Completion of the Facilities or any part thereof before the Time for Completion or any extension thereof under GCC Clause 40, the Procuring Entity shall pay to the Contractor a bonus in the amount specified in the **SCC**. The aggregate amount of such bonus shall in no event exceed the amount specified as "Maximum" in the **SCC**.

**27 Defect Liability**

- 27.1 The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant supplied and of the work executed.
- 27.2 The Defect Liability Period shall be five hundred and forty (540) days from the date of Completion of the Facilities (or any part thereof) or one year from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs, unless specified otherwise in the **SCC** pursuant to GCC Sub-Clause 27.10.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Procuring Entity regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good as the Contractor shall determine at its discretion, such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- a Improper operation or maintenance of the Facilities by the Procuring Entity;
- b Operation of the Facilities outside specifications provided in the Contract; or
- c Normal wear and tear.

- 27.3 The Contractor's obligations under this GCC Clause 27 shall not apply to:

- a any materials that are supplied by the Procuring Entity under GCC Sub-Clause 21.2, are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein;
- b any designs, specifications or other data designed, supplied or specified by or on behalf of the Procuring Entity or any matters for which the Contractor has disclaimed responsibility herein; or
- c any other materials supplied or any other work executed by or on behalf of the Procuring Entity, except for the work executed by the Procuring Entity under GCC Sub-Clause 27.7.

- 27.4 The Procuring Entity shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Procuring Entity shall afford all reasonable opportunity for the Contractor to inspect any such defect.
- 27.5 The Procuring Entity shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this GCC Clause 27.

The Contractor may, with the consent of the Procuring Entity, remove from the Site any Plant or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

- 27.6 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Procuring Entity may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, where upon the Contractor shall carryout such tests.
- 27.7 If such part fails the tests, the Contractor shall carryout further repair, replacement or making good, as the case may be, until that part of the Facilities passes such tests. The tests shall be agreed upon by the Procuring Entity and the Contractor.
- 27.8 If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Procuring Entity may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Procuring Entity in connection therewith shall be paid to the Procuring Entity by the Contractor or may be deducted by the Procuring Entity from any monies due the Contractor or claimed under the Performance Security.
- 27.9 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Procuring Entity because of any of the aforesaid reasons.
- 27.10 Except as provided in GCC Clauses 27 and 33, the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contractor at law, in respect of defects in the Facilities or any part thereof, the Plant, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, or criminal or willful action of the Contractor.
- 27.11 In addition, any such component of the Facilities, and during the period of time as may be specified in the SCC, shall be subject to an extended defect liability period. Such obligation of the Contractor shall be in addition to the defect liability period specified under GCC Sub-Clause 27.2.

## **28 Functional Guarantees**

- 28.1 The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified in the Appendix to the Contract Agreement titled Functional Guarantees, subject to and upon the conditions therein specified.
- 28.2 If, for reasons attributable to the Contractor, the minimum level of the Functional Guarantees specified in the Appendix to the Contract Agreement titled Functional Guarantees, are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/ or additions to the Plant or any part thereof as may be necessary to meet at least the minimum level of such Guarantees. The Contractor shall notify the Procuring Entity upon completion of the necessary changes, modifications and/or additions, and shall request the Procuring Entity to repeat the Guarantee Test until the minimum level of the Guarantees has been met. If the Contractor eventually fails to meet the minimum level of Functional Guarantees, the Procuring Entity may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.
- 28.3 If, for reasons attributable to the Contractor, the Functional Guarantees specified in the Appendix to the

Contract Agreement titled Functional Guarantees, are not attained either in whole or in part, but the minimum level of the Functional Guarantees specified in the said Appendix to the Contract Agreement is met, the Contractor shall, at the Contractor's option, either

- a Make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the Functional Guarantees at its cost and expense, and shall request the Procuring Entity to repeat the Guarantee Test or
- b Pay liquidated damages to the Procuring Entity in respect of the failure to meet the Functional Guarantees in accordance with the provisions in the Appendix to the Contract Agreement titled Functional Guarantees.
- c The payment of liquidated damages under GCC Sub-Clause 28.3, up to the limitation of liability specified in the Appendix to the Contract Agreement titled Functional Guarantees, shall completely satisfy the Contractor's guarantees under GCC Sub-Clause 28.3, and the Contractor shall have no further liability whatsoever to the Procuring Entity in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

## **29 Patent Indemnity**

- 29.1 The Contractor shall, subject to the Procuring Entity's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Procuring Entity may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copy right or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in Kenya; and (b) the sale of the products produced by the Facilities in any country.
- 29.2 Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.
- 29.3 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause 29.1, the Procuring Entity shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.4 If the Contractor fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Procuring Entity within the twenty- eight (28) day period, the Procuring Entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim.
- 29.5 The Procuring Entity shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.
- 29.6 The Procuring Entity shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring Entity.

## **30 Limitation of Liability**

- 30.1 Except in cases of criminal negligence or willful misconduct,
  - a) Neither Party shall be liable to the other Party, whether in contract, tort, or otherwise, for any in director consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, which may be suffered by the other Party in connection with the Contract, other than



specifically provided as any obligation of the Party in the Contract, and

- b) the aggregate liability of the Contractor to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the amount resulting from the application of the multiplier specified in the SCC, to the Contract Price or, if a multiplier is not so specified, the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Procuring Entity with respect to patent infringement.

## **B. Risk Distribution**

### **31 Transfer of Ownership**

- 31.1 Ownership of the Plant (including spare parts) to be imported in to Kenya shall be transferred to the Procuring Entity upon loading on to the mode of transport to be used to convey the Plant from the country of origin to that country.
- 31.2 Ownership of the Plant (including spare parts) procured in Kenya shall be transferred to the Procuring Entity when the Plant are brought on to the Site.
- 31.3 Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.
- 31.4 Ownership of any Plant in excess of the requirements for the Facilities shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Procuring Entity and the Contractor agree that the Plant in question are no longer required for the Facilities.
- 31.5 Notwithstanding the transfer of ownership of the Plant, the responsibility for care and custody thereof together with the risk of loss or damage there to shall remain with the Contractor pursuant to GCC Clause 32 (Care of Facilities) hereof until Completion of the Facilities or the part thereof in which such Plant are incorporated.

### **32 Care of Facilities**

- 32.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC Clause 24 or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 27. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clauses 32.2 and 38.1.
- 32.2 If any loss or damage occurs to the Facilities or any part, thereof or to the Contractor's temporary facilities by reason of
  - a insofar as they relate to Kenya, nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contract or could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, in so far as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under GCC Clause 34 hereof; or
  - b any use or occupation by the Procuring Entity or any third Party other than a Subcontractor, authorized by the Procuring Entity of any part of the Facilities; or
  - c any use of or reliance upon any design, data or specification provided or designated by or on behalf of the Procuring Entity, or any such matter for which the Contractor has disclaimed responsibility herein, the Procuring Entity shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged, and will pay to the Contractor the replacement value of all temporary facilities and all parts thereof lost, destroyed or damaged. If the Procuring Entity requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Procuring Entity in accordance with GCC Clause 39. If the Procuring Entity does not request the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Procuring Entity shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the Facilities there by lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Procuring Entity shall terminate the Contract pursuant to GCC Sub-Clause 42.1 hereof.

- 32.3 The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except (i) as mentioned in GCC Sub-Clause 32.2 with respect to the Contractor's temporary facilities, and (ii) where such loss or damage arises by reason of any of the matters specified in GCC Sub-Clauses 32.2 (b) and (c) and 38.1.
- 32.4 With respect to any loss or damage caused to the Facilities or any part thereof or to the Contractor's Equipment by reason of any of the matters specified in GCC Sub-Clause 38.1, the provisions of GCC Sub-Clause 38.3 shall apply.

### **33 Loss of or Damage to Property; Accident or Injury to Workers; Indemnification**

- 33.1 Subject to GCC Sub-Clause 33.3, the Contractor shall indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property other than the Facilities whether accepted or not, arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Procuring Entity, its contractors, employees, officers or agents.
- 33.2 If any proceedings are brought or any claim is made against the Procuring Entity that might subject the Contractor to liability under GCC Sub-Clause 33.1, the Procuring Entity shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 33.8 If the Contractor fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Procuring Entity within the twenty-eight (28) day period, the Procuring Entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim.
- 33.9 The Procuring Entity shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.
- 33.10 The Procuring Entity shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Procuring Entity, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 34, provided that such fire, explosion or other perils were not caused by any actor failure of the Contractor.
- 33.11 The Party entitled to the benefit of an indemnity under this GCC Clause 33 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the Party fails to take such measures, the other Party's liabilities shall be correspondingly reduced.

### **34 Insurance**

- 34.1 To the extent specified in the Appendix to the Contract Agreement titled Insurance Requirements, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of the Procuring Entity, who should not unreasonably withhold such approval.
- a. **Cargo Insurance During Transport**
- Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant (including spare parts therefor) and to the Contractor's Equipment.
- b. **Installation All Risks Insurance**
- Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period.

c. Third Party Liability Insurance

Covering bodily injury or death suffered by third Parties including the Procuring Entity's personnel, and loss of or damage to property occurring in connection with the supply and installation of the Facilities.

d. Automobile Liability Insurance

Covering use of all vehicles used by the Contractor or its Subcontractors, whether or not owned by them, in connection with the execution of the Contract.

c. Workers' Compensation

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

d. Procuring Entity's Liability

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

e. Other Insurances

Such other insurances as may be specifically agreed upon by the Parties here to as listed in the Appendix to the Contract Agreement titled Insurance Requirements.

34.2 The Procuring Entity shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Third Party Liability, Workers' Compensation and Procuring Entity's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1 except for the Cargo Insurance During Transport, Workers' Compensation and Procuring Entity's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.

34.3 The Contractor shall, in accordance with the provisions of the Appendix to the Contract Agreement titled Insurance Requirements, deliver to the Procuring Entity certificates of insurance or copies of the insurance policies as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to the Procuring Entity by insurers prior to cancellation or material modification of a policy.

34.4 The Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.

34.5 The Procuring Entity shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in the Appendix to the Contract Agreement titled Insurance Requirements, in the sums and with the deductibles and other conditions specified in the said Appendix. The Contractor and the Contractor's Subcontractors shall be named as co-insureds under all such policies. All insurers' rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies. The Procuring Entity shall deliver to the Contractor satisfactory evidence that the required insurances are in full force and effect. The policies shall provide that not less than twenty-one (21) days' notice shall be given to the Contractor by all insurers prior to any cancellation or material modification of the policies. If so requested by the Contractor, the Procuring Entity shall provide copies of the policies taken out by the Procuring Entity under this GCC Sub-Clause 34.5.

34.6 If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 34.1, the Procuring Entity may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Procuring Entity shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor. If the Procuring Entity fails to take out and/or maintain in effect the insurances referred to in GCC 34.5, the Contractor may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Procuring Entity under the Contract any premium that the Contractor shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Procuring Entity. If the Contractor fails to or is unable to take out and maintain in effect any such insurances, the Contractor shall nevertheless have no liability or responsibility towards the Procuring Entity, and the Contractor shall have full recourse against the Procuring Entity for any and all liabilities of the Procuring Entity herein.

- 34.7 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 34, and all monies payable by any insurers shall be paid to the Contractor. The Procuring Entity shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Procuring Entity's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Procuring Entity. With respect to insurance claims in which the Contractor's interest is involved, the Procuring Entity shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.

### **35. Unforeseen Conditions**

- 35.1 If, during the execution of the Contract, the Contractor shall encounter on the Site any physical conditions other than climatic conditions, or artificial obstructions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced contractor on the basis of reasonable examination of the data relating to the Facilities including any data as to boring tests, provided by the Procuring Entity, and on the basis of information that it could have obtained from a visual inspection of the Site if access thereto was available, or other data readily available to it relating to the Facilities, and if the Contractor determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Contractor shall promptly, and before performing additional work or using additional Plant or Contractor's Equipment, notify the Project Manager in writing of
- a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen;
  - c) the additional work and/or Plant and/or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions;
  - d) the extent of the anticipated delay; and
  - d) the additional cost and expense that the Contractor is likely to incur.

On receiving any notice from the Contractor under this GCC Sub-Clause 35.1, the Project Manager shall promptly consult with the Procuring Entity and Contractor and decide upon the actions to be taken to overcome the physical

- 35.2 If the Contractor is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1, the Time for Completion shall be extended in accordance with GCC Clause 40.

### **36. Change in Laws and Regulations**

- 36.1 If, after the date twenty-eight (28) days prior to the date of Tender submission, in Kenya, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed which shall be deemed to include any change in interpretation or application by the competent authorities, that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the SCC pursuant to GCC Sub-Clause 11.2.

### **37. Force Majeure**

- 37.1 "Force Majeure" shall mean any event beyond the reasonable control of the Procuring Entity or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the Party affected, and shall include, without limitation, the following:
- a) war, hostilities or warlike operations whether a state of war be declared or not, invasion, act of foreign enemy and civil war
  - b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts

- c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler or any other act or failure to act of any local state or national government authority
- d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine and plague
- e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster
- f) shortage of labor, materials or utilities where caused by circumstances that are themselves Force Majeure.

37.2 If either Party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.

37.3 The Party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 40.

37.4 The Party or Parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either Party's right to terminate the Contract under GCC Sub-Clauses 37.6 and 38.5.

37.5 No delay or nonperformance by either Party hereto caused by the occurrence of any event of Force Majeure shall

- a) constitute a default or breach of the Contract, or
- b) give rise to any claim for damages or additional cost or expense occasioned thereby, subject to GCC Sub-Clauses 32.2, 38.3 and 38.4

if and to the extent that such delay or nonperformance is caused by the occurrence of an event of Force Majeure.

37.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other, but without prejudice to either Party's right to terminate the Contract under GCC Sub-Clause 38.5.

37.7 In the event of termination pursuant to GCC Sub-Clause 37.6, the rights and obligations of the Procuring Entity and the Contractor shall be as specified in GCC Sub-Clauses 42.1.2 and 42.1.3.

37.8 Notwithstanding GCC Sub-Clause 37.5, Force Majeure shall not apply to any obligation of the Procuring Entity to make payments to the Contractor herein.

### **38. War Risks**

38.1 "War Risks" shall mean any event specified in paragraphs (a) and (b) of GCC Sub-Clause 37.1 and any explosion or impact of any mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war, occurring or existing in or near the country (or countries) where the Site is located.

38.2 Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to

- a) destruction of or damage to Facilities, Plant, or any part thereof;
- b) destruction of or damage to property of the Procuring Entity or any third Party; or
- c) injury or loss of life



if such destruction, damage, injury or loss of life is caused by any War Risks, and the Procuring Entity shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence of or in connection with the same.

- 38.3 If the Facilities or any Plant or Contractor's Equipment or any other property of the Contractor used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, the Procuring Entity shall pay the Contractor for
- a) any part of the Facilities or the Plant so destroyed or damaged to the extent not already paid for by the Procuring Entity and so far as may be required by the Procuring Entity, and as may be necessary for completion of the Facilities
  - b) replacing or making good any Contractor's Equipment or other property of the Contractor so destroyed or damaged
  - c) replacing or making good any such destruction or damage to the Facilities or the Plant or any part thereof.

If the Procuring Entity does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Procuring Entity shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to GCC Sub-Clause 42.1.

If the Procuring Entity requires the Contractor to replace or make good on any such destruction or damage to the Facilities, the Time for Completion shall be extended in accordance with GCC 40.

- 38.4 Notwithstanding anything contained in the Contract, the Procuring Entity shall pay the Contractor for any increased costs or incidentals to the execution of the Contract that are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Contractor shall as soon as practicable notify the Procuring Entity in writing of any such increased cost.
- 38.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work on the Facilities, provided, however, that if the execution of the work on the Facilities becomes impossible or is substantially prevented for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of any War Risks, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other.
- 38.6 In the event of termination pursuant to GCC Sub-Clauses 38.3 or 38.5, the rights and obligations of the Procuring Entity and the Contractor shall be specified in GCC Sub-Clauses 42.1.2 and 42.1.3. A. Change in Contract Elements.

#### **A. Change in Contract Elements**

#### **39. Change in the Facilities**

##### **39.1 Introducing a Change**

- 39.1.1 Subject to GCC Sub-Clauses 39.2.5 and 39.2.7, the Procuring Entity shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities here in after called "Change", provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.
- 39.1.2 Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;
- a) The proposed change (s), and a description of the difference to the existing contract requirements;
  - b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and

- c) a description of any effect (s) of the change on performance/ functionality.

The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

- a) accelerates the delivery period; or
- b) reduces the Contract Price or the life cycle costs to the Procuring Entity; or
- c) improves the quality, efficiency, safety or sustain ability of the Facilities; or
- d) yields any other benefits to the Procuring Entity, without compromising the necessary functions of the Facilities.

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

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

39.1.3 Notwithstanding GCC Sub-Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

39.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 39.2 and 39.3, and further details and forms are provided in the Procuring Entity's Requirements (Forms and Procedures).

## 39.2 Changes Originating from Procuring Entity

39.2.1 If the Procuring Entity proposes a Change pursuant to GCC Sub-Clause 39.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

- a) Brief description of the Change
- b) Effect on the Time for Completion
- c) Estimated cost of the Change
- d) Effect on Functional Guarantees (if any)
- e) Effect on the Facilities
- f) Effect on any other provisions of the Contract.

39.2.2 Prior to preparing and submitting the "Change Proposal," the Contractor shall submit to the Project Manager an "Estimate for Change Proposal," which shall be an estimate of the cost of preparing and submitting the Change Proposal.

Upon receipt of the Contractor's Estimate for Change Proposal, the Procuring Entity shall do one of the following:

- Accept the Contractor's estimate with instructions to the Contractor to proceed with the preparation of the Change Proposal
- Advise the Contractor of any part of its Estimate for Change Proposal that is unacceptable and request the Contractor to review its estimate
- Advise the Contractor that the Procuring Entity does not intend to proceed with the Change.

39.2.3 Upon receipt of the Procuring Entity's instruction to proceed under GCC Sub-Clause 39.2.2 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Sub-Clause 39.2.1.

39.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the Parties there to shall agree on specific rates for the valuation of the Change.

39.1.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance there with and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set for thin Article 2 (Contract Price) of the Contract Agreement by more than fifteen percent (15%), the Contractor may give a written notice of objection there to prior to furnishing the Change Proposal as aforesaid. If the Procuring Entity accepts the Contractor's objection, the Procuring Entity shall withdraw the proposed Change and shall notify the Contractor in writing thereof.

The Contractor's failure to so object shall neither affect its right to object to any subsequent requested Changes or Change Orders here in, nor affect its right to take in to account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Contractor represents.

- 39.1.6 Upon receipt of the Change Proposal, the Procuring Entity and the Contractor shall mutually agree upon all matters therein contained. Within fourteen (14) days after such agreement, the Procuring Entity shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

If the Procuring Entity is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision.

If the Procuring Entity decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly. Under such circumstances, the Contractor shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Contractor in its Estimate for Change Proposal submitted in accordance with GCC Sub-Clause 39.2.2.

- 39.1.7 If the Procuring Entity and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Procuring Entity may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The Parties shall there after attempt to reach agreement on the outstanding issues under the Change Proposal.

If the Parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Dispute Board in accordance with the provisions of GCC Sub-Clause 46.1.

- 39.1.8 Changes Originating from Contractor

- 39.1.9 If the Contractor proposes a Change pursuant to GCC Sub-Clause 39.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 39.1.2.

- 39.1.10 Upon receipt of the Application for Change Proposal, the Parties shall follow the procedures outlined in GCC Sub-Clauses 39.2.6 and 39.2.7. However, the Contractor shall not be entitled to recover the costs of preparing the Application for Change Proposal.

#### **40. Extension of Time for Completion**

- 40.1 The Time(s) for Completion specified in the SCC pursuant to GCC Sub-Clause 8.2 shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- a) any Change in the Facilities as provided in GCC Clause 39
- b) any occurrence of Force Majeure as provided in GCC Clause 37, unforeseen conditions as provided in GCC Clause 35, or other occurrence of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clause 32.2
- c) Any suspension order given by the Procuring Entity under GCC Clause 41 here of or reduction in the rate of progress pursuant to GCC Sub-Clause 41.2 or
  - Any changes in laws and regulations as provided in GCC Clause 36 or
  - Any default or breach of the Contract by the Procuring Entity, Appendix to the Contract Agreement titled, or any activity, actor omission of the Procuring Entity, or the Project Manager, or any other contractors employed by the Procuring Entity, or
  - Any delay on the part of a Subcontractor, provided such delay is due to a cause for which the Contractor himself would have been entitled to an extension of time under this sub-clause, or
  - Delays attributable to the Procuring Entity or caused by customs, or
- h) any other matter specifically mentioned in the Contract by such period as shall be fair and reasonable



in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

40.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Procuring Entity and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Procuring Entity's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to a Dispute Board, pursuant to GCC Sub-Clause 46.1.

40.3 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

40.4 In all cases where the Contractor has given a notice of a claim for an extension of time under GCC 40.2, the Contractor shall consult with the Project Manager in order to determine the steps (if any) which can be taken to overcome or minimize the actual or anticipated delay. The Contractor shall there after comply with all reasonable instructions which the Project Manager shall give in order to minimize such delay. If compliance with such instructions shall cause the Contractor to incur extra costs and the Contractor is entitled to an extension of time under GCC 40.1, the amount of such extra costs shall be added to the Contract Price.

## **41 Suspension**

41.1 Procuring Entity may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons therefor. The Contractor shall thereupon suspend performance of such obligation, except those obligations necessary for the care or preservation of the Facilities, until ordered in writing to resume such performance by the Project Manager.

If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time there after and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Procuring Entity shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 39, excluding the performance of the suspended obligations from the Contract.

41.2 If the Procuring Entity fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects apart only of the Facilities, as a deletion of such part in accordance with GCC Clause 39 or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause.

41.3 If

- a. Procuring Entity has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the Appendix to the Contract Agreement titled Terms and Procedures of Payment, or commits a substantial breach of the Contract, the Contractor may give a notice to the Procuring Entity that requires payment of such sum, with interest there on as stipulated in GCC Sub-Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Procuring Entity to remedy the same, as the case may be. If the Procuring Entity fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, or fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice or
- b. The Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity, including but not limited to the Procuring Entity's failure to provide possession of or access to the Site or other areas in accordance with GCC Sub-Clause 10.2, or failure to obtain any governmental permit necessary for the execution and/or completion of the

Facilities, then the Contractor may by fourteen (14) days' notice to the Procuring Entity suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.

41.3 If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 41, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 40.1, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Procuring Entity to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.

41.4 During the period of suspension, the Contractor shall not remove from the Site any Plant, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Procuring Entity.

## **42 Termination**

### **42.1 Termination for Procuring Entity's Convenience**

42.1.1 The Procuring Entity may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 42.1.

42.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 42.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination

- a) cease all further work, except for such work as the Procuring Entity may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition,
- b) terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to paragraph (d) (ii) below,
- c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition, and
- d) subject to the payment specified in GCC Sub-Clause 42.1.3,
  - i. deliver to the Procuring Entity the parts of the Facilities executed by the Contractor up to the date of termination
  - ii. to the extent legally possible, assign to the Procuring Entity all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Contractor and its Subcontractors; and
  - iii. deliver to the Procuring Entity all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

42.1.3 In the event of termination of the Contract under GCC Sub-Clause 42.1.1, the Procuring Entity shall pay to the Contractor the following amounts:

- a The Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination,
- b the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel,
- c any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges,
- d costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.1.2
- e the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have under taken with third Parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

### **42.2 Termination by the Contractor**

42.2.1 The Procuring Entity, without prejudice to any other rights or remedies it may possess, may terminate the Contract forth within the following circumstances by giving a notice of termination and its reasons there for to the Contractor, referring to this GCC Sub-Clause 42.2:

- a If the Contractor becomes bankrupt or in solvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up, other than a voluntary liquidation for the purposes of amalgamation or reconstruction, a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt
- b if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 43.
- c If the Contractor, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2a. of Appendix B to the GCC, in competing for or in executing the Contract.

#### 42.2.2 If the Contractor

- a Has abandoned or repudiated the Contract
- b Has without valid reason failed to commence work on the Facilities promptly or has suspended, other than pursuant to GCC Sub-Clause 41.2, the progress of Contract performance for more than twenty- eight (28) days after receiving a written instruction from the Procuring Entity to proceed
- c Persistently fails to execute the Contract in accordance with the Contractor persistently neglects to carry out its obligations under the Contract without just cause
- d Refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Sub-Clause 18.2 at rates of progress that give reasonable assurance to the Procuring Entity that the Contractor can attain Completion of the Facilities by the Time for Completion as extended, then the Procuring Entity may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Procuring Entity may terminate the Contract forth with by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 42.2.

#### 42.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 42.2.1 or 42.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

- a cease all further work, except for such work as the Procuring Entity may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition.
- b Terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to paragraph (d) below,
- c deliver to the Procuring Entity the parts of the Facilities executed by the Contractor up to the date of termination,
- d to the extent legally possible, assign to the Procuring Entity all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Contractor and its Subcontractors,
- e deliver to the Procuring Entity all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

#### 42.2.4 The Procuring Entity may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third Party. The Procuring Entity may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Procuring Entity and with an indemnification by the Procuring Entity for all liability including damage or injury to persons arising out of the Procuring Entity's use of such equipment, any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Procuring Entity considers expedient for the supply and installation of the Facilities.

#### 42.2.5 Upon completion of the Facilities or at such earlier date as the Procuring Entity thinks appropriate, the Procuring Entity shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

- 42.2.6 Subject to GCC Sub-Clause 42.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as of the date of termination, the value of any unused or partially used Plant on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.2.3. Any sums due the Procuring Entity from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.
- 42.2.7 If the Procuring Entity completes the Facilities, the cost of completing the Facilities by the Procuring Entity shall be determined.
- 42.2.8 If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 42.2.5, plus the reasonable costs incurred by the Procuring Entity in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.
- 42.2.9 If such excess is greater than the sums due the Contractor under GCC Sub-Clause 42.2.5, the Contractor shall pay the balance to the Procuring Entity, and if such excess is less than the sums due the Contractor under GCC Sub-Clause 42.2.5, the Procuring Entity shall pay the balance to the Contractor. The Procuring Entity and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.
- 42.3 Termination by the Contractor
- 42.3.1 If
- a The Procuring Entity has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the Appendix to the Contract Agreement titled Terms and Procedures of Payment, or commits a substantial breach of the Contract, the Contractor may give a notice to the Procuring Entity that requires payment of such sum, with interest there on as stipulated in GCC Sub-Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Procuring Entity to remedy the same, as the case may be. If the Procuring Entity fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice, or
  - b The Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity, including but not limited to the Procuring Entity's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities, then the Contractor may give a notice to the Procuring Entity thereof, and if the Procuring Entity has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity within twenty-eight (28) days of the said notice, the Contractor may by a further notice to the Procuring Entity referring to this GCC Sub-Clause 42.3.1, forth with terminate the Contract.
- 42.3.2 The Contractor may terminate the Contract forth with by giving a notice to the Procuring Entity to that effect, referring to this GCC Sub-Clause 42.3.2, if the Procuring Entity becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Procuring Entity takes or suffers any other analogous action in consequence of debt.
- 42.3.3 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, then the Contractor shall immediately
- a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
  - b) terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to paragraph (d) (ii)
  - c) remove all Contractor's Equipment from the Site and repatriate the Contractor's and its Subcontractors' personnel from the Site, and

- d) subject to the payment specified in GCC Sub-Clause 42.3.4,
  - i) deliver to the Procuring Entity the parts of the Facilities executed by the Contractor up to the date of termination
  - ii) to the extent legally possible, assign to the Procuring Entity all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Contractor and its Subcontractors, and
  - iii) deliver to the Procuring Entity all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

42.3.4 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, the Procuring Entity shall pay to the Contractor all payments specified in GCC Sub-Clause 42.1.3, and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.

42.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 42.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 42.3.

42.4 In this GCC Clause 42, the expression “Facilities executed” shall include all work executed, Installation Services provided, and all Plant acquired, or subject to a legally binding obligation to purchase, by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

42.5 In this GCC Clause 42, in calculating any monies due from the Procuring Entity to the Contractor, account shall be taken of any sum previously paid by the Procuring Entity to the Contractor under the Contract, including any advance payment paid pursuant to the Appendix to the Contract Agreement titled Terms and Procedures of Payment.

#### **43. Assignment**

43.1 Neither the Procuring Entity nor the Contractor shall, without the express prior written consent of the other Party, which consent shall not be unreasonably withheld, assign to any third Party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

#### **44. Export Restrictions**

44.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Procuring Entity, to Kenya or to the use of the Plant and Installation Services to be supplied which arise from trade regulations from a country supplying those Plant and Installation Services, and which substantially impede the Contractor from meeting its obligations under the Contract, shall release the Contractor from the obligation to provide deliveries or services, always provided, however, that the Contractor can demonstrate to the satisfaction of the Procuring Entity and of the Bank that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the Plant and Installation Services under the terms of the Contract. Termination of the Contract on this basis shall be for the Procuring Entity's convenience pursuant to Sub- Clause 42.1.

## **B. Claims, Disputes and Arbitration**

### **45. Contractor's Claims**

- 45.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall submit a notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.
- 45.2 If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.
- (a) The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
  - (b) The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.
- 45.3 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:
- a) this fully detailed claim shall be considered as interim;
  - b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
  - c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.
- 45.4 Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.
- 45.5 Each Payment Certificate shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 45.6 The Project Manager shall agree with the Contractor or estimate: (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with GCC Clause 40, and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
- 45.7 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.
- 45.8 In the event that the Contractor and the Procuring Entity cannot agree on any matter relating to a claim, either Party may refer the matter to the Dispute Board pursuant to GCC 46 hereof.



## **46. Claims, Disputes and Arbitration**

### **46.1 Contractor's Claims**

- 46.1.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.
- 46.1.2 If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply. The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
- 46.1.3 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.
- 46.1.4 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:
- a) this fully detailed claim shall be considered as interim;
  - b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
  - c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.
- 46.1.5 Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.
- 46.1.6 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
- 46.1.7 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 46.1.8 If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer the matter to Arbitration in accordance with Sub-Clause 46.4.
- 46.1.9 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

#### 46.2 Issuing a Notice of Dissatisfaction

If a dispute (of any kind whatsoever) arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Project Manager, either Party may refer the dispute in writing to the Project Manager by issuing a Notice of Dissatisfaction and requesting the matter be referred to Arbitration.

#### 46.3 Amicable Settlement

Where a Notice of Dissatisfaction has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction should move to commence arbitration after the fifty-sixth day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

#### 46.4 Arbitration

46.4.1 Any dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 46.3 above shall be finally settled by arbitration. Arbitration shall be conducted as follows:

- a) if the contract is with foreign contractors, the dispute shall be referred to international arbitration either:
  - i) with proceedings administered by the arbitration institution designated in the Special Conditions of Contract, and conducted under the rules of arbitration of such institution; or, if so specified in the Special Conditions of Contract, or
  - ii) international arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL), unless specified otherwise in the **SCC**;
- b) if the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the Arbitration Laws of Kenya.

46.4.2 The place of arbitration shall be the neutral location specified in the Special Conditions of Contract; and the arbitration shall be conducted in the English Language for all communications.

46.4.3 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

46.4.4 Neither Party shall be limited in the proceedings before the arbitrators to the evidence to obtain its decision, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

46.4.5 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the Works.

46.4.6 The Decision of the Arbitration proceedings will be final and binding on both parties.



## SECTION IX - SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract shall supplement the General Conditions of Contract in Section VIII. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions.

### Special Conditions of Contract (SCC)

The following Special Conditions (SCC) shall supplement the General Conditions (GCC). Whenever there is a conflict, the provisions here in shall prevail over those in the GCC. The clause number of the SCC is the corresponding clause number of the GCC.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>SCC 1. Definitions</b>	<p>The Procuring Entity is: <b>Rural Electrification and Renewable Energy Corporation</b>  <b>P.O Box 34585-00100 Nairobi</b></p> <p>The Project Manager is: <b>Manager, Alternative Energy</b>  <b>Rural Electrification and Renewable Energy Corporation</b>  <b>P.O Box 34585-00100 Nairobi</b></p> <p>Country of Origin: <b>Kenya</b></p>
<b>SCC 5. Law and Language</b>	<p>SCC 5.1 The Contract shall be interpreted in accordance with the laws of: <b>Kenya</b></p> <p>SCC 5.2 The ruling language is: <b>English</b></p> <p>SCC 5.3 The language for communications is: <b>English</b></p>
<b>SCC 7. Scope of Facilities [Spare Parts] (GCC Clause 7)</b>	<p>SCC 7.3 The Contractor agrees to supply spare parts for a period of years:  <u>N/A</u></p> <p><b>Sample Addition to SCC 7.3</b></p> <p>The Contractor shall carry sufficient inventories to ensure an ex-stock supply of consumable spares for the Plant. Other spare parts and components shall be supplied as promptly as possible, but at the most within six (6) months of placing the order and opening the Form of credit. In addition, in the event of termination of the production of spare parts, advance notification will be made to the Procuring Entity of the pending termination, with sufficient time to permit the Procuring Entity to procure the needed requirement. Following such termination, the Contractor will furnish to the extent possible and at no cost to the Procuring Entity the blueprints, drawings and specifications of the spare parts, if requested. <b>N/A</b></p>
<b>SCC 8. Time for Commencement and Completion</b>	<p>SCC 8.1 The Contractor shall commence work on the Facilities within <b>14 days</b> after signing the contract from the Effective Date for determining Time for Completion as specified in the Contract Agreement.</p> <p>SCC 8.2 The Time for Completion of the whole of the Facilities shall be <b>Thirty Six (36) weeks</b> from the Effective Date as described in the Contract Agreement.</p>
<b>SCC 9. Contractor's Responsibilities</b>	<p>The following sustainable procurement contractual provisions apply:</p> <p>The contractor shall not interfere with plantations at the site. If the contractor will be forced to cut trees to implement the contract they must plant replacement within the area.</p> <p>The contractor shall take due care not to pollute the environment in the course of their working.</p>
<b>SCC 11. Contract Price</b>	<p>SCC 11.2 The Contract Price shall be adjusted in accordance with the provisions of the Appendix to the Contract Agreement Titled Adjustment Clause.</p>
<b>SCC 13. Securities</b>	<p>SCC 13.3.1 The amount of Performance Security, as a percentage of the Contract Price for the Facility or for the part of the Facility for which a separate Time for Completion is provided, shall be: <b>10% of the contract amount</b></p> <p>SCC 13.3.2 The Performance Security shall be in the form of the <b>Bank guarantee</b> attached hereto in Section X, Contract Forms.</p> <p>SCC 13.3.3 The Performance Security shall not be reduced on the date of the Operational Acceptance.</p> <p>SCC 13.3.3 The Performance Security shall be reduced to ten percent (10%) of the value of</p>

<b>Number of GC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
	the component covered by the extended defect liability to cover the Contractor's extended defect liability in accordance with the provision in the SCC, pursuant to GCC Sub-Clause 27.10.
<b>SCC 22 Installation</b>	<p>SCC22.2.5 Working Hours</p> <p>Normal working hours are: <b>Mon to Fri as from 8.00am to 5.00pm</b></p> <p>SCC 22.2.8 Funeral Arrangements: Contractor shall be responsible for making the appropriate arrangements for their return or burial</p>
<b>SCC 25. Commissioning and Operational Acceptance</b>	SCC 25.2.2 The Guarantee Test of the Facilities shall be successfully completed within 14 days from the date of Completion.
<b>SCC 26. Completion Time Guarantee</b>	<p>Applicable rate for liquidated damages: <b>The liquidated damages for the whole of the Works are 0.05 % per day. The maximum amount of liquidated damages for the whole of the Works is 10 Percent of the final Contract Price.</b></p> <p>The above rate applies to the price of the part of the Facilities, as quoted in the Price Schedule, for that part for which the Contractor fails to achieve Completion within the particular Time for Completion.</p> <p>Maximum deduction for liquidated damages: <b>5% of contract price</b></p> <p>SCC 26.3 No bonus will be given for earlier Completion of the Facilities or part thereof.</p>
<b>SCC 27. Defect Liability</b>	SCC 27.10 The critical components covered under the extended defect liability are: Plant
<b>SCC 30. Limitation of Liability</b>	<p><b>Sample Clause</b></p> <p>SCC 30.1 (b) The multiplier of the Contract Price is: <i>N/A</i></p>
<b>SCC 39. Value Engineering</b>	SCC 39.1.2 If the value engineering proposal is approved by the Procuring Entity the amount to be paid to the Contractor shall be ____% (insert appropriate percentage. The percentage is normally up to 50%) of the reduction in the Contract Price <i>N/A</i>
<b>SCC 46.4(a)(ii) Arbitration</b>	<i>International Chamber of Commerce</i>

## **SECTION VIII - CONTRACT FORMS**

Notification of Award - Form of Acceptance

### **Contract Agreement**

Appendix 1. Terms and Procedures of Payment

Appendix 2. Price Adjustment

Appendix 3. Insurance Requirements

Appendix 4. Time Schedule

Appendix 5. List of Major Items of Plant and Installation Services and List of Approved Subcontractors

Appendix 6. Scope of Works and Supply by the Procuring Entity

Appendix 7. List of Documents for Approval or Review

Appendix 8. Functional Guarantees

Performance Security Form OPTION 1 – Demand Bank Guarantee

Performance Security Form OPTION 2 – Performance Bond

Advance Payment Security- Demand Bank Guarantee

Beneficial Ownership Disclosure

## 1. NOTIFICATION OF INTENTION TO AWARD

*[This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender.] [Send this Notification to the Tenderer's Authorized Representative named in the Tenderer Information Form]*

1) For the attention of Tenderer's Authorized Representative Name: .....*[insert Authorized Representative's name]*

Address: .....*[insert Authorized Representative's Address]*

Telephone/Fax numbers:.....*[insert Authorized Representative's telephone /fax numbers]*

Email Address:..... *[insert Authorized Representative's email address]*

*[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]*

DATE OF TRANSMISSION: This Notification is sent by: *[email/fax]* on *[date]* (local time)

### Notification of Intention to Award

Procuring Entity ..... *[insert the name of the Procuring Entity]*

Project ..... *[insert name of project]*

Contract title: .....*[insert the name of the contract]*

ITT No: .....*[insert ITT reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period, you may:

- a) Request a debriefing in relation to the evaluation of your Tender, and/or
- b) Submit a Procurement-related Complaint in relation to the decision to award the contract.

## 2) The successful Tenderer

<b>Name:</b>	<i>[insert name of successful Tenderer]</i>
<b>Address:</b>	<i>[insert address of the successful Tenderer]</i>
<b>Contract price:</b>	<i>[insert contract price of the successful Tender]</i>

3) **Other Tenderers** *[INSTRUCTIONS: insert names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out.]*

<b>Name of Tenderer</b>	<b>Tender price</b>	<b>Evaluated Tender Cost</b>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated cost]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated cost]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated cost]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated cost]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated cost]</i>

#### 4) Reason/s why your Tender was unsuccessful

**[INSTRUCTIONS:** State the reasons/why this Tenderer's Tender was unsuccessful. Do NOT include: (a) appoint by point comparison with another Tenderer's Tender, or (b) information that is marked "Confidential" by the Tenderer in its Tender.]

#### 5) How to request a debriefing?

**DEADLINE:** The deadline to request a debriefing expires at midnight on [insert date] (local time). You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing, your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award. Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

Attention: ..... [insert full name of person, if applicable]  
Title/position: ..... [insert title/position]  
Agency.....[insert name of Procuring Entity] Email address..... [insert email address]  
Fax number ..... [insert fax number] delete if not used

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

#### 6) How to make a complaint

**Period:** Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [insert date] (local time). Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement- related Complaint as follows:

Attention: ..... [insert full name of person, if applicable]  
Title/position: ..... [insert title/position]  
Agency.....[insert name of Procuring Entity]  
Email address..... [insert email address]  
Fax number ..... [insert fax number] delete if not used

At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

**Further information:**

Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website: [info@ppra.go.ke](mailto:info@ppra.go.ke) or [complaints@ppra.go.ke](mailto:complaints@ppra.go.ke).

In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this Tendering process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the period stated above.
4. You must include, in your complaint, all of the information required by the Procurement Regulations (as described in Annex III).

## 7) Standstill Period

**DEADLINE:** *The Standstill Period is due to end at midnight on [insert date] (local time).  
The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.  
The Standstill Period may be extended as stated in Section 4 above.*

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

On behalf of the Procuring Entity:

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

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

Title/position: \_\_\_\_\_

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

Email: \_\_\_\_\_

## 2 REQUEST FOR REVIEW

### FORM FOR REVIEW(r.203(1))

#### 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..... for.....(Tender description).

#### REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical address.....P. O. Box 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.

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

- 1.
- 2.

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**

### 3 LETTER OF AWARD

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

This is to notify you that your Tender dated \_\_\_\_\_ for execution of the \_\_\_\_\_ for the Contract Price in the aggregate of \_\_\_\_\_, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms included in Section X, - Contract Forms, of the Tendering document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Agency: .....

Attachment: Contract Agreement: .....



## 4 CONTRACT AGREEMENT

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_, BETWEEN

1).....a corporation incorporated under the laws of \_\_\_\_\_ and having its principal place of business at.....(hereinafter called “the Procuring Entity”), and (2) \_\_\_\_\_, a corporation incorporated under the laws of \_\_\_\_\_ and having its principal place of business at \_\_\_\_\_(herein after called “the Contractor”).

WHEREAS the Procuring Entity desires to engage the Contractor to design, manufacture, test, deliver, install, complete and commission certain Facilities, viz. \_\_\_\_\_ (“the Facilities”), and the Contractor has agreed to such engagement upon and subject to the terms and conditions herein after appearing.

NOW IT IS HEREBY AGREED as follows:

### Article 1. Contract Documents

#### 1.1 Contract Documents (Reference GCC Clause2)

The following documents shall constitute the Contract between the Procuring Entity and the Contractor, and each shall be read and construed as an integral part of the Contract:

- a) This Contract Agreement and the Appendices hereto
- b) Form of Tender and Price Schedules submitted by the Contractor
- c) Special Conditions of Contract
- d) General Conditions of Contract
- e) Specification
- f) Drawings
- g) Other completed Tendering forms submitted with the Tender
- h) Any other documents forming part of the Procuring Entity's Requirements
- i) Any other documents shall be added here

#### 1.2 Order of Precedence (Reference GCC Clause2)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.

#### 1.3 Definitions (Reference GCC Clause1)

Capitalized words and phrases used here in shall have the same meanings as ascribed to them in the General Conditions.

### Article 2. Contract Price and Terms of Payment

#### 2.1 Contract Price (Reference GCC Clause 11)

The Procuring Entity hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of: .....as specified in Price Schedule No 5 (Grand Summary), and \_\_\_\_\_, or such other sums as may be determined in accordance with the terms and conditions of the Contract.

#### 2.2 Terms of Payment (Reference GCC Clause 12)

The terms and procedures of payment according to which the Procuring Entity will reimburse the Contractor are given in the Appendix (Terms and Procedures of Payment) hereto.

The Procuring Entity may instruct its bank to issue an irrevocable confirmed documentary credit made available to the Contractor in a bank in the country of the Contractor. The credit shall be for an amount of

\_\_\_\_\_ ; and shall be subject to the Uniform Customs and Practice for Documentary Credits 2007 Revision, ICC Publication No.600.

In the event that the amount payable under Schedule No.1 is adjusted in accordance with GCC 11.2 or with any of the other terms of the Contract, the Procuring Entity shall arrange for the documentary credit to be amended accordingly.

### **Article 3. Effective Date**

#### **3.1 Effective Date (Reference GCC Clause1)**

The Effective Date from which the Time for Completion of the Facilities shall be counted is the date when all of the following conditions have been fulfilled:

- a) This Contract Agreement has been duly executed for and on behalf of the Procuring Entity and the Contractor;
- b) The Contractor has submitted to the Procuring Entity the Performance Security and the advance payment guarantee;
- c) The Procuring Entity has paid the Contractor the advance payment
- d) The Contractor has been advised that the documentary credit referred to in Article 2.2 above has been issued in its favor.

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

- 3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract notification because of reasons not attributable to the Contractor, the Parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Completion and/or other relevant conditions of the Contract.

### **Article 4. Communications**

4.1 The address of the Procuring Entity for notice purposes, pursuant to GCC 4.1is:\_\_\_\_\_.

4.2 The address of the Contractor for notice purposes, pursuant to GCC 4.1is:\_\_\_\_\_.

### **Article 5. Appendices**

- 5.1 The Appendices listed in the attached List of Appendices shall be deemed to form an integral part of this Contract Agreement.
- 5.2 Reference in the Contract to any Appendix shall mean the Appendices attached here to, and the Contract shall be read and construed accordingly.

IN WITNESS WHEREOF the Procuring Entity and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

Signed by, for and on behalf of the Procuring Entity

.....[Signature]

.....[Title]

in the presence of

Signed by, for and on behalf of the Contractor

.....[Signature]

.....[Title]

in the presence of

# APPENDICES

## **APPENDIX 1: TERMS AND PROCEDURES OF PAYMENT**

In accordance with the provisions of GCC Clause12 (Terms of Payment), the Procuring Entity shall pay the Contractor in the following manner and at the following times, on the basis of the Price Break down given in the section on Price Schedules. Payments will be made in the currencies quoted by the Tenderer unless otherwise agreed between the Parties. Applications for payment in respect of part deliveries may be made by the Contractor as work proceeds.

### **TERMS OF PAYMENT**

#### **Schedule No. 1. Plant and Equipment Supplied from Abroad**

In respect of plant and equipment supplied from abroad, the following payments shall be made:

Ten percent (10%) of the total CIP amount as an advance payment against receipt of invoice and an irrevocable advance payment security for the equivalent amount made out in favor of the Procuring Entity. The advance payment security may be reduced in proportion to the value of the plant and equipment delivered to the site, as evidenced by shipping and delivery documents.

Eighty percent (80%) of the total or pro rata CIP amount upon Incoterm “CIP”, upon delivery to the carrier within forty- five (45) days after receipt of documents.

Five percent (5%) of the total or pro rata CIP amount upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata CIP amount upon issue of the Operational Acceptance Certificate, within forty- five (45) days after receipt of invoice.

#### **Schedule No. 2. Plant and Equipment Supplied from within Kenya**

In respect of plant and equipment supplied from Kenya, the following payments shall be made:

Ten percent (10%) of the total EXW amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Procuring Entity. The advance payment security may be reduced in proportion to the value of the plant and equipment delivered to the site, as evidenced by shipping and delivery documents.

Eighty percent (80%) of the total or pro rata EXW amount upon Incoterm “Ex-Works,” upon delivery to the carrier within forty-five (45) days after receipt of invoice and documents.

Five percent (5%) of the total or pro rata EXW amount upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata EXW amount upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

#### **Schedule No. 3. Design Services**

In respect of design services for both the foreign currency and the local currency portions, the following payments shall be made:

Ten percent (10%) of the total design services amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Procuring Entity.

Ninety percent (90%) of the total or pro rata design services amount upon acceptance of design in accordance with GCC Clause 20 by the Project Manager within forty-five (45) days after receipt of invoice.

#### **Schedule No. 4. Installation Services**

In respect of installation services for both the foreign and local currency portions, the following payments shall be made:

Ten percent (10%) of the total installation services amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Procuring Entity. The advance payment security may be reduced in proportion to the value of work performed by the Contractor as evidenced by the invoices for installation services.

Eighty percent (80%) of the measured value of work performed by the Contractor, as identified in the said Program of Performance, during the preceding month, as evidenced by the Procuring Entity's authorization of the Contractor's application, will be made monthly within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata value of installation services performed by the Contractor as evidenced by the Procuring Entity's authorization of the Contractor's monthly applications, upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata value of installation services performed by the Contractor as evidenced by the Procuring Entity's authorization of the Contractor's monthly applications, upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

In the event that the Procuring Entity fails to make any payment on its respective due date, the Procuring Entity shall pay to the Contractor interest on the amount of such delayed payment at the rate of \_\_\_\_\_  
0 \_\_\_\_\_] percent (%) per month for period of delay until payment has been made in full.

## **PAYMENT PROCEDURES**

The procedures to be followed in applying for certification and making payments shall be as follows: \_\_\_\_\_

## APPENDIX 2. PRICE ADJUSTMENT

Where the Contract Period (excluding the Defects Liability Period) exceeds eighteen (18) months, it is normal procedure that prices payable to the Contractor shall be subject to adjustment during the performance of the Contract to reflect changes occurring in the cost of labor and material components. In such cases the Tendering document shall include in this Appendix 2 a formula of the following general type, pursuant to GCC Sub-Clause 11.2.

Where Contracts are of a shorter duration than eighteen (18) months or in cases where there is to be no Price Adjustment, the following provision shall not be included. Instead, it shall be indicated under this Appendix 2 that the prices are to remain firm and fixed for the duration of the Contract.

### Sample Price Adjustment Formula

If in accordance with GCC 11.2, prices shall be adjustable, the following method shall be used to calculate the price adjustment:

Prices payable to the Contractor, in accordance with the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components, in accordance with the following formula:

$$P_1 = P_0 \times \left( a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

in which:

$P_1$  = adjustment amount payable to the Contractor

$P_0$  = Contract price (base price)

$a$  = percentage of fixed element in Contract price ( $a$  = %)

$b$  = percentage of labor component in Contract price ( $b$  = %)

$c$  = percentage of material and equipment component in Contract price ( $c$  = %)

$L_0, L_1$  = labor indices applicable to the appropriate industry in the country of origin on the base date and the date for adjustment, respectively

$M_0, M_1$  = material and equipment indices in the country of origin on the base date and the date for adjustment, respectively

N.B.  $a+b+c=100\%$ .

### Conditions Applicable to Price Adjustment

The Tenderer shall indicate the source of labor and materials indices, source of exchange rates and the base date indices in its Tender.

#### Item   Source of Indices Used   Base Date Indices

The base date shall be the date twenty-eight (28) days prior to the Tender closing date.

The date of adjustment shall be the mid-point of the period of manufacture or installation of component or Plant.

The following conditions shall apply:

(a) No price increase will be allowed beyond the original delivery date unless covered by an extension of time awarded by the Procuring Entity under the terms of the Contract. No price increase will be allowed for periods of delay

for which the Contractor is responsible. The Procuring Entity will, however, be entitled to any price decrease occurring during such periods of delay.

(b) If the currency in which the Contract price,  $P_0$ , is expressed is different from the currency of the country of origin of the labor and/or materials indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be:  $Z_0 / Z_1$ , where,

$Z_0$  = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price  $P_0$  on the Base date, and

$Z_1$  = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price  $P_0$  on the Date of Adjustment.

(c) No price adjustment shall be payable on the portion of the Contract price paid to the Contractor as an advance payment.

## APPENDIX 3. INSURANCE REQUIREMENTS

### Insurances to be Taken Out by the Contractor

In accordance with the provisions of GCC Clause 34, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified. The identity of the insurers and the form of the policies shall be subject to the approval of the Procuring Entity, such approval not to be unreasonably withheld.

#### a) Cargo Insurance

Covering loss or damage occurring, while in transit from the supplier's or manufacturer's works or stores until arrival at the Site, to the Facilities (including spare parts therefor) and to the construction equipment to be provided by the Contractor or its Subcontractors.

Amount Deductible Limits Parties insured from To

#### b) Installation All Risks Insurance

Covering physical loss or damage to the Facilities at the Site, occurring prior to completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the defect liability period while the Contractor is on the Site for the purpose of performing its obligations during the defect liability period.

Amount Deductible Limits Parties insured from To

#### c) Third Party Liability Insurance

Covering bodily injury or death suffered by third parties (including the Procuring Entity's personnel) and loss of or damage to property (including the Procuring Entity's property and any parts of the Facilities that have been accepted by the Procuring Entity) occurring in connection with the supply and installation of the Facilities.

Amount	Deductible Limits	Parties insured	from	To
--------	-------------------	-----------------	------	----

#### d) Automobile Liability Insurance

Covering use of all vehicles used by the Contractor or its Subcontractors (whether or not owned by them) in connection with the supply and installation of the Facilities. Comprehensive insurance in accordance with statutory requirements.

#### e) Workers' Compensation

In accordance with the statutory requirements applicable in any country where the Facilities or any part thereof is executed.

#### f) Procuring Entity's Liability

In accordance with the statutory requirements applicable in any country where the Facilities or any part thereof is executed.

#### g) Other Insurances

The Contractor is also required to take out and maintain at its own cost the following insurances:

#### Details:

Amount Deductible Limits Parties insured from To The Procuring Entity shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Third-Party Liability, Workers' Compensation and Procuring Entity's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Cargo, Workers' Compensation and Procuring Entity's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.



**Insurances to Be Taken Out by The Procuring Entity**

The Procuring Entity shall at its expense take out and maintain in effect during the performance of the Contract the following insurances.

**Details:**

Amount Deductible Limits Parties insured from\_\_\_\_\_To\_\_\_\_\_

## **APPENDIX 4. TIME SCHEDULE**

## **APPENDIX 5. LIST OF MAJOR ITEMS OF PLANT AND INSTALLATION SERVICES AND LIST OF APPROVED SUBCONTRACTORS**

A list of major items of Plant and Installation Services is provided below.

The following Subcontractors and/or manufacturers are approved for carrying out the items of the Facilities indicated below. Where more than one Subcontractor is listed, the Contractor is free to choose between them, but it must notify the Procuring Entity of its choice in good time prior to appointing any selected Subcontractor. In accordance with GCC Sub-Clause 19.1, the Contractor is free to submit proposals for Subcontractors for additional items from time to time. No Subcontracts shall be placed with any such Subcontractors for additional items until the Subcontractors have been approved in writing by the Procuring Entity and their names have been added to this list of Approved Subcontractors.

<b>Major Items of Plant and Installation Services</b>	<b>Approved Subcontractors/Manufacturers</b>	<b>Nationality</b>

## **APPENDIX 6. SCOPE OF WORKS AND SUPPLY BY THE PROCURING ENTITY**

The following personnel, facilities, works and supplies will be provided/supplied by the Procuring Entity, and the provisions of GCC Clauses 10, 21 and 24 shall apply as appropriate.

All personnel, facilities, works and supplies will be provided by the Procuring Entity in good time so as not to delay the performance of the Contractor, in accordance with the approved Time Schedule and Program of Performance pursuant to GCC Sub-Clause 18.2.

Unless otherwise indicated, all personnel, facilities, works and supplies will be provided free of charge to the Contractor.

Personnel	Charge to Contractor (if any)
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Facilities	Charge to Contractor (if any)
------------	-------------------------------

Works	Charge to Contractor (if any)
-------	-------------------------------

Supplies	Charge to Contractor (if any)
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## **APPENDIX 7. LIST OF DOCUMENTS FOR APPROVAL OR REVIEW**

Pursuant to GCC Sub-Clause 20.3.1, the Contractor shall prepare, or cause its Subcontractor to prepare, and present to the Project Manager in accordance with the requirements of GCC Sub-Clause 18.2 (Program of Performance), the following documents for

### **A. Approval**

- 1.
- 2.
- 3.

### **B. Review**

- 1.
- 2.
- 3.

## APPENDIX 8. FUNCTIONAL GUARANTEES

### 1. General

This Appendix sets out

- a) The functional guarantees referred to in GCC Clause 28 (Functional Guarantees)
- b) The pre-conditions to the validity of the functional guarantees, either in production and/or consumption, set forth below
- c) The minimum level of the functional guarantees
- d) The formula for calculation of liquidated damages for failure to attain the functional guarantees.

### 2. Preconditions

The Contractor gives the functional guarantees (specified herein) for the facilities, subject to the following preconditions being fully satisfied:

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### 3. Functional Guarantees

Subject to compliance with the foregoing preconditions, the Contractor guarantees as follows:

#### 3.1 Production Capacity

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and/or

#### 3.2 Raw Materials and Utilities Consumption

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### 4. Failure in Guarantees and Liquidated Damages

#### 4.1 Failure to Attain Guaranteed Production Capacity

If the production capacity of the facilities attained in the guarantee test, pursuant to GCC Sub-Clause 25.2, is less than the guaranteed figure specified in para. 3.1 above, but the actual production capacity attained in the guarantee test is not less than the minimum level specified in para. 4.3 below, and the Contractor elects to pay liquidated damages to the Procuring Entity in lieu of making changes, modifications and/or additions to the Facilities, pursuant to GCC Sub-Clause 28.3, then the Contractor shall pay liquidated damages at the rate of ..... for every complete one percent (1%) of the deficiency in the production capacity of the Facilities, or at a proportionately reduced rate for any deficiency, or part thereof, of less than a complete one percent (1%).

#### 4.2 Raw Materials and Utilities Consumption in Excess of Guaranteed Level

If the actual measured figure of specified raw materials and utilities consumed per unit (or their average total cost of consumption) exceeds the guaranteed figure specified in para.3.2 above (or their specified average total cost of consumption), but the actual consumption attained in the guarantee test, pursuant to GCC Sub-Clause 25.2, is not more than the maximum level specified in para. 4.3 below, and the Contractor elects to pay liquidated damages to the Procuring Entity in lieu of making changes, modifications and/or additions to the Facilities pursuant to GCC Sub-Clause 28.3, then the Contractor shall pay liquidated damages at the rate of [ amount in the contract currency] for every complete one percent (1%) of the excess consumption of the Facilities, or part thereof, of less than a complete one percent (1%).

#### 4.3 Minimum Levels

Notwithstanding the provisions of this paragraph, if as a result of the guarantee test(s), the following minimum levels of performance guarantees (and consumption guarantees) are not attained by the Contractor, the Contractor shall at its own cost make good any deficiencies until the Facilities reach any of such minimum performance levels, pursuant to GCC Sub-Clause 28.2:

- a) production capacity of the Facilities attained in the guarantee test: ninety-five percent (95%) of the

guaranteed production capacity (the values offered by the Contractor in its Tender for functional guarantees represents 100%).

and/or

- b) average total cost of consumption of all the raw materials and utilities of the Facilities: one hundred and five percent (105%) of the guaranteed figures (the figures offered by the Contractor in its Tender for functional guarantees represents 100%).

#### 4.4 Limitation of Liability

Subject to para.4.3 above, the Contractor's aggregate liability to pay liquidated damages for failure to attain the functional guarantees shall not exceed \_\_\_\_\_percent (\_\_\_\_\_% ) of the Contract price.

# PERFORMANCE SECURITY FORM

## OPTION 1 – Demand Bank Guarantee

*[Guarantor Form head or SWIFT identifier code]*

Beneficiary: \_\_\_\_\_ *[insert name and Address of Procuring Entity]*

Date: \_\_\_\_\_ *[Insert date of issue]*

PERFORMANCE GUARANTEE No.: \_\_\_\_\_ *[Insert guarantee reference number]*

Guarantor: \_\_\_\_\_ *[Insert name and address of place of issue, unless indicated in the Form head]*

We have been informed that \_\_\_\_\_ (herein after called “the Applicant”) has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ (herein after called “the Contract”).

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (<sup>1</sup>), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation (s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified there in.

This guarantee shall be reduced by half upon our receipt of:

- a) A copy of the Operational Acceptance Certificate; or
- b) a registered Form from the Applicant (i) attaching a copy of its notice requesting issuance of the Operational Acceptance Certificate and (ii) stating that the Project Manager has failed to issue such Certificate within the time required or provide in writing justifiable reasons why such Certificate has not been issued, so that Operational Acceptance is deemed to have occurred.

This guarantee shall expire no later than the earlier of:<sup>2</sup>

- a) twelve months after our receipt of either (a) or (b) above; or
- b) eighteen months after our receipt of:
  - i) a copy of the Completion Certificate; or
  - ii) a registered Form from the Applicant, attaching a copy of the notice to the Project Manager that the Facilities are ready for commissioning, and stating that fourteen days have elapsed from receipt of such notice (or seven days have elapsed if the notice was a repeated notice) and the Project Manager has failed to issue a Completion Certificate or in form the Applicant in writing of any defects or deficiencies; or
  - iii) a registered Form from the Applicant stating that no Completion Certificate has been issued but the Procuring Entity is making use of the Facilities; or
- c) the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.<sup>3</sup>

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

<sup>1</sup>The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Procuring Entity.

<sup>2</sup>This text shall be revised as and where necessary to take into account (i) partial acceptance of the Facilities in accordance with Sub-Clause 25.4 of the GCC; and (ii) extension of the Performance Security when the Contractor is liable for an extended warranty obligation pursuant to Sub-Clause 27.10 of the GCC (although in this latter case the Procuring Entity might want to consider an extended warranty security in lieu of the extension of the Performance Security).



This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article15 (a) is hereby excluded.

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*[signature(s)]*

**Note:** *All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

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<sup>3</sup>*Insert the date twenty-eight days after the expected expiration date of the Defect Liability Period. The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the end of the pen ultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Procuring Entity's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

## PERFORMANCE SECURITY OPTION 2 – (Performance Bond)

*[Note: Procuring Entities are advised to use Performance Security–Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]*

*[Guarantor Form head or SWIFT identifier code]*

Beneficiary: \_\_\_\_\_ *[insert name and Address of Procuring Entity]*

Date: \_\_\_\_\_ *[Insert date of issue]*

PERFORMANCE BOND No.: \_\_\_\_\_

Guarantor: \_\_\_\_\_ *[Insert name and address of place of issue, unless indicated in the Form head]*

1. By this Bond \_\_\_\_\_ as Principal (herein after called “the Contractor”) and \_\_\_\_\_ as Surety (herein after called “the Surety”), are held and firmly bound unto \_\_\_\_\_ as Obligated (herein after called “the Procuring Entity”) in the amount of \_\_\_\_\_ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered in to a written Agreement with the Procuring Entity dated the day of, 20, for \_\_\_\_\_ in accordance with the documents, plans, specifications, and amendments there to, which to the extent herein provided for, are by reference in a part here of and are herein after referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments there to), 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 Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity's obligations there under, 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 Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Procuring Entity 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 here under, 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 Procuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
  - 3) Pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named here in or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.
6. 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\_\_\_\_\_on behalf of

By\_\_\_\_\_in the capacity

of in the presence of

SIGNED ON\_\_\_\_\_on behalf of

By\_\_\_\_\_in the capacity

of in the presence of

## ADVANCE PAYMENT SECURITY - Demand Bank Guarantee

*[Guarantor Form head or SWIFT identifier code]*

Beneficiary: \_\_\_\_\_ *[Name and Address of Procuring Entity]*

Date: \_\_\_\_\_ *[Insert date of issue]*

Advance Payment Guarantee No.: \_\_\_\_\_ *[Insert guarantee reference number]*

Guarantor: \_\_\_\_\_ *[Insert name and address of place of issue, unless indicated in the Form head]*

We have been informed that \_\_\_\_\_ (herein after called “the Applicant”) has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with the Beneficiary, for the execution of, \_\_\_\_\_ (herein after called “the Contract”).

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum \_\_\_\_ ( \_\_\_\_\_ ) is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of ( \_\_\_\_\_ )<sup>4</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the applicant:

- a) Has used the advance payment for purposes other than the costs of mobilization in respect of the Facilities; or
- b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number \_\_\_\_ at \_\_\_\_\_.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of documentation indicating full repayment by the Applicant of the amount of the advance payment, or on the \_\_\_\_ day of \_\_, \_\_<sup>5</sup>, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15 (a) is hereby excluded.

\_\_\_\_\_  
*[signature(s)]*

**Note:** All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

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<sup>4</sup>The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

<sup>5</sup>Insert the expected expiration date of the Time for Completion. The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”

## BENEFICIAL OWNERSHIP DISCLOSURE FORM

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

### **INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM**

*This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.*

Tender Reference No.: \_\_\_\_\_ [insert identification no]

Name of the Tender Title/Description: \_\_\_\_\_ [insert name of the assignment] to: \_\_\_\_\_ [insert complete name of Procuring Entity]

In response to the requirement in your notification of award dated \_\_\_\_\_ [insert date of notification of award] to furnish additional information on beneficial ownership: [select one option as applicable and delete the options that are not applicable]

I) We here by provide the following beneficial ownership information.

#### *Details of beneficial ownership*

Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
1.	Full Name	Directly----- ----- % of shares	Directly..... .....% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No----- 2. Is this right held directly or indirectly?:  Direct..... .....  Indirect..... .....	Exercises significant influence or control over the Company body of the Company (tenderer)  Yes -----No-- --  Is this influence or control exercised directly or indirectly?
	National identity card number or Passport number				
	Personal Identification Number (where applicable)	Indirectly----- ----- % of shares	Indirectly----- ----- % of voting rights		
	Nationality				
	Date of birth [dd/mm/yyyy]				
	Postal address				
	Residential address				
	Telephone number				
	Email address				

Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
Occupation or profession					Direct..... .....  Indirect..... ...
2.	Full Name		Directly----- ----- % of shares	Directly..... .....% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No-----
	National identity card number or Passport number				2. Is this right held directly or indirectly?:
	Personal Identification Number (where applicable)		Indirectly----- ----- % of shares	Indirectly----- % of voting rights	Direct..... .....
	Nationality(ies)				Indirect..... .....
	Date of birth [dd/mm/yyyy]				1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes -----No-- --
	Postal address				2. Is this influence or control exercised directly or indirectly?
	Residential address				Direct..... .....
	Telephone number				Indirect..... .....
	Email address				Indirect..... .....
	Occupation or profession				Indirect..... .....
3.					
e.t					
.c					

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
- (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) Exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

*Name of the Tenderer: .....\*[insert complete name of the Tenderer]\_\_\_\_\_*

*Name of the person duly authorized to sign the Tender on behalf of the Tenderer: \*\* [insert complete name of person duly authorized to sign the Tender]*

*Designation of the person signing the Tender: ..... [insert complete title of the person signing the Tender]*

*Signature of the person named above: ..... [insert signature of person whose name and capacity are shown above]*

*Date this ..... [insert date of signing] day of..... [Insert month], [insert year]*

Bidder Official Stamp