



COUNTY ASSEMBLY OF KILIFI

PROPOSED BOUNDARY WALL

ON

PLOT NO. 328 CHEMBE, KIBABAMSHE, MALINDI

FOR

COUNTY ASSEMBLY OF KILIFI

TENDER NO: CAK/089/2017-2018

ARCHITECT

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CLIENT

COUNTY ASSEMBLY OF KILIFI
P.O. BOX 332-80200,
MALINDI - KENYA

To be submitted by 15th May 2018

APRIL, 2018

TENDER NO.CAK/089/2017-2018

**TENDER NAME: - PROPOSED BOUNDARY WALL ON PLOT NO. 328 MAYUNGU
MALINDI FOR COUNTY ASSEMBLY OF KILIFI**

Interested eligible candidates may obtain further information from and inspect the tender documents at Procurement office **County Assembly of Kilifi Offices** during normal working hours from 8.00 AM to 4.30 PM.

A complete set of tender documents may be downloaded free of charge from the official website www.kilifiassembly.go.ke

The completed tender document in plain sealed envelope clearly marked "PROPOSED BOUNDARY WALL ON PLOT NO. 328 MAYUNGU MALINDI FOR COUNTY ASSEMBLY OF KILIFI" and TENDER NO: CAK/089/2017-2018 should be dropped at the tender Box situated at County Assembly of Kilifi (CAK) offices so as to be received on or before **15th May, 2018 at 11.00am**. Prices quoted should be net, must be in Kenya Shillings and shall remain valid for 90 days from the closing date of the tender.

The tenders will be opened immediately thereafter in CAK Main Boardroom in presence of bidders or their representatives who may wish to attend.

INSTRUCTIONS TO BIDDERS

Note: The bidder must comply with the following conditions and instructions. Failure to do so will result in rejection of the bid.

1. GENERAL DEFINITIONS

(a). **“Bidder”** means any person or persons, partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Bidders, Conditions of Contract Parts I and II, Specifications, and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.

(b). **“An Eligible Bidder”** means the bidder who has fully fulfilled the eligibility criteria as outlined in this bid document.

(c). Any noun or adjective derived from the word **“bid”** shall be read and construed to mean the corresponding form of the noun or adjective **“tender”**. Any conjugation of the verb **“bid”** shall be read and construed to mean the corresponding form of the verb **“tender”**

(d). **“Employer”** means Coast development authority.

2. COST OF BIDDING

The bidder shall bear all costs associated with the preparation and submission of his/her bid and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

3. BID

1.1 The bid documents comprise the documents listed here below and should be read together with any Addenda issued in accordance with Clause 7 of these instructions to bidders.

- a. Form of Invitation to Bidders
- b. Form of Bid
- c. Appendix to form of Bid.
- d. Instructions to bidders.
- d. Appendix to Instructions to Bidders.
- e. General Conditions of Contract – Part I

- g. Specifications
- h. Particular preliminaries
- i. General preliminaries
- j. Bills of Quantities
- j. Confidential Business Questionnaires

The bidder is expected to examine carefully all instructions, conditions, forms, terms, specifications in the bid documents. Pursuant to clause 23 of Instructions to Bidders, bids which are not substantially responsive to the requirements of the tender documents will be rejected.

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

4. CLARIFICATION OF BID DOCUMENTS

A prospective bidder requiring any clarification of the bid documents may notify the Employer in writing at the Employer’s mailing address indicated in the Invitation to Bid. The Employer will respond in writing to any request for clarification which he receives earlier than five (5) days prior to the deadline for the submission of bids. Written copies of the Employer’s response (including the query but without identifying the source of the inquiry) will be sent to all prospective bidders who invited to bid.

5. AMENDMENT OF BID DOCUMENTS

At any time prior to the deadline for submission of tenders the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective bidder, modify the tender documents by issuing Addenda.

If during the period of bidding, any circular letters (bid notices) shall be issued to bidders by, or on behalf of, the Employer setting forth the interpretation to be placed on a part of the bid documents or to make any change in them, such circular letters will form part of the bid documents and it will be assumed that the bidder has taken account of them in preparing his bid. The bidder must promptly acknowledge (in writing or by cable to the Employer) any circular letters he may receive.

In order to allow prospective bidders reasonable time in which to take the Addendum into account in preparing their bids, the Employer may, at his discretion, extend the deadline for the submission of bids.

PREPARATION OF BIDS

6. LANGUAGE OF BID

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

7. DOCUMENTS COMPRISING THE BID

The bid to be prepared by the bidder shall comprise: the Form of Bid and Appendix thereto, the Priced Bills of Quantities, Schedules, the information on eligibility and qualification, and any other materials required to be completed and submitted in accordance with the Instructions to Bidders embodied in these bid documents. The Forms, Bills of Quantities and Schedules provided in the bid documents shall be used without exception [subject to extensions of the schedules in the same format and to the provisions of clause 13.2 regarding the alternative forms of Bid Surety].

8. BID PRICES

All the insertions made by the bidder shall be made in INK. The relevant space in the Form of Bid and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the bidder in which case the erasures and interlineations shall be initialed by the person or persons signing the bid.

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

The prices and unit rates in the Bills of Quantities are to be the full [all-inclusive] value of the Work described under the items, including all costs and expenses which may be necessary and all general risks, liabilities and obligations set forth or implied in the documents on which the bid is based. All duties, taxes inclusive of input and output V.A.T. and other levies payable by the Contractor under the Contract or for any other cause as of the date 14 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the bidder.

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

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

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

The rates and prices quoted by the bidder are subject to adjustment during the performance of the Contract only in accordance with the provisions of the Conditions of Contract. The bidder shall complete the schedule of basic rates and shall submit with his tender such other supporting information as required under clause 25 of the Conditions of Contract Part II.

9. CURRENCIES OF BID AND PAYMENT

Bids shall be priced in Kenya Shillings and the bid sum shall be in Kenya

Shillings. The rate or rates of exchange used for pricing the bid shall be

selling rate or rates of the Central Bank ruling on the date thirty (30) days before the final date for the submission of bids.

Bidders must enclose with their bids, a brief justification of the foreign currency requirements stated in their bids.

10. BID VALIDITY

The bid shall remain valid and open for acceptance for a period of ninety (90) days from the specified date of bid opening or from the extended date of bid opening whichever is the later.

In exceptional circumstances prior to expiry of the original bid validity period, the Employer may request the bidder for a specified extension of the period of validity. The request and the responses thereto shall be made in writing or by cable, telex or facsimile. A bidder may refuse the request without forfeiting his Bid Surety. A bidder agreeing to the request will not be required nor permitted to modify his tender, but will be required to extend the validity of his Bid Surety correspondingly.

11. BIDSURETY

The bidder shall furnish as part of his bid, a Bid Surety in the amount stated in the Appendix to Instructions to Bidders.

The unconditional Bid Surety shall be in Kenya Shillings and be in form of a Bank Guarantee from a reputable Bank or an Bid Bond from a reputable Insurance provider approved by PPRA.

The format of the Surety shall be in accordance with the sample form of Bid Surety included in these bid documents. Other formats may be permitted Subject to the prior approval of the Employer. The Bid Surety shall be valid for twenty eight (28) days beyond the Bid validity period.

Any bid not accompanied by an acceptable Bid Surety will be rejected by the Employer as non-responsive.

The Bid Sureties of unsuccessful bidders will be returned as promptly as possible but not later than twenty eight (28) days after both parties signing the Contract Agreement and after a Performance Security has been furnished by the successful bidder. The Tender Surety of the successful bidder will be returned upon the bidder executing the Contract Agreement and furnishing the required Performance Security.

The Bid Surety may be forfeited:

(a). If a bidder withdraws his bid during the period of bid validity

OR

(b). In the case of a successful bidder, if he fails, within the specified time

- (i). to sign the Contract Agreement, **OR**
- (ii). to furnish the necessary Performance Security.

(c). If a bidder does not accept the correction of his tender price pursuant to clause

12. NO ALTERNATIVE OFFERS

The bidder shall submit an offer which complies fully with the requirements of the bid documents.

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

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

12. FORMAT FOR SIGNING OF BIDS

The bidder shall prepare his tender as outlined in clause 9 above and mark appropriately one set “**ORIGINAL**” and the other “**COPY**”.

The copy of the bid and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the bidder. Proof of authorization shall be furnished in the form of the written power of attorney which shall accompany the bid. All pages of the bid where amendments have been made shall be initialed by the person or persons signing the bid.

The complete bid shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the bid.

13. SUBMISSION OF BIDS:- SEALING AND MARKING OF BIDS

The bidder shall seal the original and copy of the bid in separate envelopes, duly marking the envelopes as “**ORIGINAL**” and “**COPY**”. The envelopes shall then be sealed in an outer separate envelope.

The inner and outer envelopes shall be addressed to the Employer at the address stated in the Appendix to Instructions to Bidders and bear the name and identification of the Contract stated in the said Appendix with a warning not to open before the date and time for opening of bids stated in the said Appendix.

The inner envelopes shall each be indicated the name and address of the bidder to enable the bid to be returned unopened in case it is declared "late", while the outer envelope shall bear no mark indicating the identity of the bidder.

If the outer envelope is not sealed and marked as instructed above, the Employer will assume no responsibility for the misplacement or premature opening of the bid. A bid opened prematurely for this cause will be rejected by the Employer and returned to the bidder.

14. DEADLINE FOR SUBMISSION OF BIDS

Bids must be received by the Employer at the address specified on the date and time specified in the Letter of Invitation,

Bids delivered by hand must be placed in the "Tender box", as stated in the "Form of Invitation to Bid" provided in the office of the Employer.

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

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

Any bid received by the Employer after the prescribed deadline for submission of bid will be returned unopened to the bidder.

15. MODIFICATION AND WITHDRAWAL OF BIDS

The bidder may modify or withdraw his bid after bid submission, provided that written notice of the modification or withdrawal is received by the Employer prior to prescribe deadline for submission of bids.

The bidder's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions for the submission of bids, with the inner and outer envelopes additionally marked "**MODIFICATION**" or "**WITHDRAWAL**" as appropriate.

No bid may be modified subsequent to the deadline for submission of bids.

No bid may be withdrawn in the interval between the dead line for submission of

bids and the period of bid validity specified on the bid form. Withdrawal of a bid during this interval will result in the forfeiture of the Bid Surety.

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

BID OPENING AND EVALUATION

16. BIDOPENING

The Employer will open the bids in the presence of the bidders' representatives who choose to attend at the time and location indicated in the Letter of Invitation to Bidders. The bidders' representatives who are present shall sign a register evidencing their attendance.

Bids for which an acceptable notice of withdrawal has been submitted pursuant to clause 19 will not be opened. The Employer will examine the bids to determine whether they are complete, whether the requisite Bid Sureties have been furnished, whether the documents have been properly signed and whether the bids are generally in order.

At the bid opening, the Employer will announce the bidder's names, total bid price, bid price modifications and bid withdrawals, if any, the presence of the requisite Bid Surety and such other details as the Employer, at his discretion, may consider appropriate. No bid shall be rejected at the bid opening except for late bids.

The Employer shall prepare minutes of the bid opening including the information disclosed to those present.

Bids not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances.

17. PROCESSTOBECONFIDENTIAL

After the public opening of bids, information relating to the examination, clarification, evaluation and comparisons of bids and recommendations concerning the award of Contract shall not be disclosed to bidders or other persons not officially concerned with such process until the award of Contract is announced.

Any effort by a bidder to influence the Employer in the process of examination, evaluation and comparison of bids and decisions concerning award of Contract may result in the rejection of the bidder's bid.

18. CLARIFICATION OF BIDS

To assist in the examination, evaluation and comparison of bids, the Employer may ask bidders individually for clarification of their bids, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, but no change in the price or substance of the bid shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered by the employer during the evaluation of the bids

No bidder shall contact the Employer on any matter relating to his bid from the time of the bid opening to the time the Contract is awarded. If the bidder wishes to bring additional information to the notice of the Employer, he shall do so in writing.

19. DETERMINATION OF RESPONSIVENESS

Prior to the detailed evaluation of bids the Employer will determine whether each bid is substantially responsive to the requirements of the bid documents.

For the purpose of this clause, a substantially responsive bid is one which conforms to all the terms, conditions and specifications of the bid documents without material deviation or reservation and has a valid Bid Surety Bank Guarantee. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the bidder under the Contract, or which limits in any substantial way, inconsistent with the bid documents, the Employer's rights or the bidder's obligations under the Contract and the rectification of which would affect unfairly the competitive position of other bidders who have presented substantially responsive bids.

Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like. Should a bid be seriously unbalanced in relation to the Employer's estimate of the works to be performed under any item or groups of items, the bid shall be deemed not responsive.

A bid determined to be not substantially responsive will be rejected by the Employer and may not subsequently be made responsive by the bidder by correction of the non-conforming deviation or reservation.

20. CORRECTION OF ERRORS

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

(a). Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will govern.

(b). Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case adjustment will be made to the entry containing that error.

(c). In the event of a discrepancy between the bid amount as stated in the Form of Bid and the corrected bid figure in the main summary of the Bills of Quantities, the amount as stated in the Form of Bid shall prevail.

(d). The Error Correction Factor shall be computed by expressing the difference between the bid amount and the corrected bid sum as a percentage of the corrected contracts works (i.e. corrected bid sum less P.C. and Provisional Sums).

(e). The Error Correction Factor shall be applied to all contract works (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuations of variations.

(f). The amount stated in the bid will be adjusted in accordance with the above procedure for the correction of errors and, with concurrence of the bidder, shall be considered as binding upon the bidder. If the bidder does not accept the corrected amount, the bid may be rejected and the Bid Security may be forfeited in accordance with clause 13.

21. EVALUATION AND COMPARISON OF BIDS

The Employer will evaluate only bids determined to be substantially responsive to the requirements of the bid documents in accordance with clause 23.

In evaluating bids, the Employer will determine for each bid the evaluated bid price by adjusting the bid price as follows;

(a). Making any correction for errors pursuant to clause 24.

(b). Excluding Provisional Sums and provision, if any, for Contingencies in the Bills of Quantities, but including Day works where priced competitively.

The Employer reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the bid documents or otherwise result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in bid evaluation.

Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in bid

evaluation.

If the lowest evaluated bid is seriously unbalanced or front loaded in relation to the Employer's estimate of the items of work to be performed under the contract, the Employer may require the bidder to produce detailed price analyses for any or all items of the Bills of Quantities, to demonstrate the relationship between those prices, proposed construction methods and schedules. After evaluation of the price analyses, the Employer may require that the amount of the Performance Security set forth in clause 29 be increased at the expense of the successful bidder to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful bidder under the Contract.

Evaluation Criteria

Mandatory Requirements

The bidder must attach the following.

- a) A certificate of incorporation for a registered limited company or a business name
- b) Valid single business permit
- c) Valid tax compliance certificate
- d) KRA pin
- e) Registration with National Construction Authority category 3 (buildings) or above
- f) Bid bond of a minimum value of 1% of the tender sum
- g) Duly filled form of tender
- h) Duly filled confidential business questionnaire

1.0 General – 11Marks

a) Location of office – 5marks

- Location of Head office or branch office within the County Government of Kilifi boundaries – **5marks**
- Within the coastal region – **4marks**
- All other areas within the country- **3marks**

b) Number of years of existence of contractor – 6marks

- Over 10 years of existence – **6marks**
- Between 5 – 10 years – **4marks**
- Below five years – **2mark**

2.0 Technical Consideration – 25 marks

Technical capacity.

This should be in the relevant field such as Building and Civil Engineering, Architecture, Quantity Surveying or any other related field

Site Engineer - 12marks

- Degree holder with minimum of five years' experience - 10marks
- Diploma holder - 6marks
- Any other lower qualification - 2marks

Site Foreman – 8marks

- Degree holder with minimum three years experience – 8marks
- Diploma holder – 6marks

- Any other lower qualification – 4marks

Other support staff – 5 marks

- Any other support staff necessary for the execution of the project
Four number staffs listed with their CVs work experience and area of specialization

3.0 Tools and Equipments – 25marks

The contractor must have a list of equipments in his possession necessary to carry out the works to completion

Proof of log books for all motor vehicles owned and receipts for all tools owned. Motor vehicles ready for hire, there should be proof of availability of the vehicles including firms where the same shall be hired from.

- At least 1 number trucks or tipper 12 tonnes and above – **6marks**
- A minimum of 1 number canters pick up – **5marks**
- A minimum of 1 number concrete mixer of any output- **5marks**
- An existing carpentry /welding workshop - **4marks**
- Other tools - **4marks**
 - Poker vibrators,
 - Scaffolding equipment's
 - Ladders
 - Saloon car

4.0 Previous Works done – 30marks

General – 15marks

Please give a list of at least 3 projects of a value of 30million and above done or completed within the last five years either completed or ongoing with the following information

- List of the projects **3marks**
- Value of the projects **3marks**
- Status of the projects **3marks**
- Contact of at least one person from the client side who can be contacted. The county assembly of Kilifi will where necessary confirm from the contact person the information as provided by the bidder. The assembly is at liberty to visit the site of the proposed works as listed. **3marks**
- Completion certificates or interim certificates or contract agreements of the projects as listed above. **3marks**

Completed projects - 15marks

- At least 3 building projects done in the last 10 years of a value of 30million and above for each project – **15marks**
- At least 3 building projects completed in the last 10 years of a value of between 30million and 15million – **12marks**
- At least 3 building projects completed in the last 10 years of a value below 15million– **9marks**

Note

- Bidders must attach completion certificates for projects completed

- For ongoing projects please attach either at least one interim certificate of payment or contract agreement for each ongoing project

5.0 Audited Accounts – 9marks

Attach the following

- a) Audited accounts for the last one year preferably 2016 or 2015 - **9marks**
- b) Bank accounts for at least the last one year 2017 – **6 marks**

To qualify for financial evaluation, a bidder must get 70 marks and above

AWARD OF CONTRACT

23. AWARD

The Employer will award the Contract to the bidder whose bid is determined to be substantially responsive to the bid documents and who has offered the lowest evaluated bid price subject to possessing the capability and resources to effectively carry out the Contract Works as required in Sub-clause 2.1 and 2.2 here above.

The Employer reserves the right to accept or reject any bid, annul the bidding process and reject all bids, at any time prior to award of Contract, without thereby incurring any liability to the affected bidders or any obligation to inform the affected bidders of the grounds for the Employer's action.

24. NOTIFICATION OF AWARD

Prior to the expiration of the period of bid validity prescribed by the Employer, the Employer will notify the successful bidder by way of a hard copy or via a mail and confirmed in writing by registered letter that his bid has been accepted or hand delivered registered on a delivery note. This letter (hereinafter and in all Contract documents called "Letter of Acceptance") shall name the Sum (hereinafter and in all Contract documents called "the Contract Price") which the Employer will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.

Notification of award will constitute the formation of the Contract.

Upon the furnishing of a Performance Security by the successful bidder, the unsuccessful bidders will promptly be notified by the Employer in writing or by cable that their bids have been unsuccessful.

Within Fourteen [14] days of receipt of the Form of Contract Agreement from the Employer, the successful bidder shall sign the Form of Contract Agreement and return it to the Employer together with the required Performance Security.

25. BID SURETY

Add to the Clause 13.1 "**Amount of Bid Surety shall be 2% of the Bid price in the form of Bank Guarantee or Insurance Bond to County Assembly of Kilifi.**

Performance Bond will be 10% of the contract sum in form of a Bank Guarantee

The name and address of the Employer for the purposes of submission of tenders is: COUNTY ASSEMBLY OF KILIFI (CAK), P.O. BOX 332-80200, Malindi. The Bids shall be deposited in the box marked "Tender Box" situated at the County Assembly of Kilifi offices in Malindi.

26. GENERAL

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

27. Project Teams Duties and Authority

The Project Manager shall obtain specific approval of the Employer before taking any of the following actions specified in Part I:

- (i). Consenting to the sub-letting of any part of the Works under Clause 4.
- (ii). Certifying additional cost determined
- (iii). Determining an extension of time.
- (iv). Issuing a variation except in an emergency situation as reasonably determined by the Project Manager.
- (v). Fixing rates or prices

28. CONTRACT DOCUMENTS

The language governing this Contract shall be English. Communication between the Contractor and Project Manager or Project Manager's Representative shall be in English.

The Contract shall in all respects be construed in accordance with and subject to the Laws of Kenya.

GENERAL OBLIGATIONS

29. CONTRACTOR'S GENERAL RESPONSIBILITIES

Substitute the first sentence of the sub-clause with the following: "The Contractor shall with due care and diligence execute and complete the Works and remedy any defects therein in accordance with the provisions of the contract".

30. PROGRAMME TO BE SUBMITTED

The Contractor shall submit to the Project Manager for approval within Seven (7) days after receiving the Project Manager's Letter to Commence Work, **2 copies** of a detailed Works Programme. The work programme shall be arranged in the form of a Time-Bar chart OR schedule.

31 TAKEOVER OF THE WORKS

The contract work shall be considered satisfactorily complete and ready for handing over to the Employer only when the contract work and supporting services have been tested and operational to the satisfaction of the Project

Manager

32 DEFECTSLIABILITY PERIOD

Delete the sub-clause and replace with the following

words; The Defects Liability Period shall be Six (6)months.

The Defects Liability Period shall start after issuance of Substantial Completion or Take-Over Certificate. During this period, the contractor shall make good all the defects communicated to him/her in writing by the Project Manager within Thirty (30) days after the system hand over, and thereof during this period.

FORMOFTENDER

Date _____
Tender No. _____

To: _____

[name and address of procuring entity]

Gentlemen and/or
Ladies:

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

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

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

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

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

Contract by the parties.

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

Dated this _____ day of _____ 20 _____

[Signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of _____

CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

Part 1 – General:

Business Name

Location of business premises.

Plot No..... Street/Road

Postal Address Tel No. Fax E mail

Nature of Business ,

Registration Certificate No.

Maximum value of business which you can handle at any one time – Kshs.

Name of your bankers Branch

	Part 2 (a) – Sole Proprietor			
	Your name in full	Age		
	Nationality	Country of origin		
	<input type="checkbox"/>	Citizenship details		
	<input type="checkbox"/>			
	Part 2 (b) Partnership			
	Given details of partners as follows:			
	Name	Nationality	Citizenship Details	Shares
	1. ....	.....	.....	.....
	2. ....	.....	.....	.....
	3. ....	.....	.....	.....
	4. ....	.....	.....	.....
	Part 2 (c) – Registered Company			
	Private or Public			
	State the nominal and issued capital of company-			
	Nominal Kshs.			
	Issued Kshs.			
	Given details of all directors as follows			
	Name	Nationality	Citizenship Details	Shares
	1. ....	.....	.....	.....
	2. ....	.....	.....	.....
	3. ....	.....	.....	.....
	4. ....	.....	.....	.....
	5. ....	.....	.....	.....
	Date	Seal/Signature of Candidate		

TENDER SECURITY FORM

Whereas [Name of the tenderer] (Hereinafter called “the tenderer”) has submitted its tender dated [Date of submission of tender] for the supply, installation and commissioning of[name and/or description of the equipment] (Hereinafter called “the Tender”) KNOW ALL PEOPLE by these presents that WE of having our registered office at (Hereinafter called “the Bank”), are bound unto [Name of procuring entity] (Hereinafter called “the Procuring entity”) in the sum of for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this _____ day of _____ 20_____

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or

2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
 - (a) fails or refuses to execute the Contract Form, if required; or
 - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions. This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

[Signature of the bank]

(Amend accordingly if provided by Insurance Company)

CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20 _____ between [*name of Procurement entity*] of [*Country of Procurement entity*] (Hereinafter called “the Procuring entity) of the one part and [*Name of tenderer*] of [*city and country of tenderer*] (Hereinafter called “the tenderer”) of the other part;

WHEREAS the Procuring entity invited tenders for [certain goods] and has accepted a tender by the tenderer for the supply of those goods in the sum of [*Contract price in words and figures*] (Hereinafter called “the Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to:
2. The following documents shall be deemed to form and be read and construed as part of this Agreement viz:
 - (a) the Tender Form and the Price Schedule submitted by the tenderer
 - (b) the Schedule of Requirements
 - (c) the Technical Specifications
 - (d) the General Conditions of Contract
 - (e) the Special Conditions of contract; and
 - (f) the Procuring entity’s Notification of Award
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Procuring entity to provide the goods and to remedy the defects therein in conformity in all respects with the provisions of this Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provisions of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by _____ the _____ (for the Procuring entity)

Signed, sealed, delivered by _____ the _____ (for the tenderer in the presence of _____)

PERFORMANCE SECURITY FORM

To [*Name of procuring entity*]

WHEREAS [*Name of tenderer*] (hereinafter called “the tenderer”) has undertaken, in pursuance of Contract No. [*Reference number of the contract*] dated _____ 20 _____ to supply [*Description of goods*] (Hereinafter called “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the tenderer a guarantee: THEREFORE WE

hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of [*amount of the guarantee in words and figure*] and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of [*Amount of guarantee*] as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of _____ 20 _____

Signed and seal of the Guarantors

[*name of bank or financial institution*]

[*address*]

[*date*]

(Amend accordingly if provided by Insurance Company)

BANK GUARANTEE FOR ADVANCE PAYMENT

To
[name of Procuring entity]

[name of tender]

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, [name and address of tenderer](hereinafter called“the tenderer”) shall deposit with the Procuring entity a bankguarantee to guarantee its proper and faithful performance under the said Clause of the Contract an amount of [amount of guarantee in figures and words].

We, the [bank or financial institutions], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding [Amount of guarantee in figures and words]

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

This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until [Date].

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

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

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

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT AND

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

Request for review of the decision of the..... (*Name of the Procuring Entity*) of
.....dated the...day of20.....in the matter of Tender No.....of
.....20...

REQUEST FOR REVIEW

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

- 1.
- 2.

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

- 1.
etc

SIGNED (Applicant)

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

FOR OFFICIAL USE ONLY

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

SIGNED
Board
Secretary