



TANA WATER WORKS DEVELOPMENT AGENCY

CONSTRUCTION OF MITHERU WATER PROJECTS CLUSTER

TENDER NO: TWWDA/T/049/2020-2021

TENDER DOCUMENTS

APRIL 2021

Employer

Tana Water Works Development
Agency
P. O. Box 1292 – 10100
NYERI



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ABBREVIATIONS AND ACRONYMS

CDS	Contract Data Sheet
GCC	General Conditions of Contract
IFT	Invitation for Tender
ITT	Instruction to Tenderers
PE	Procuring Entity
PM	Project Manager
PPADA 2015	Public Procurement and Asset Disposal Act, 2015
PPADR 2020	Public Procurement and Asset Disposal Regulations, 2020
PPRA	Public Procurement Regulatory Authority
STD	Standard Tender Documents
SOR	Statement of Requirements
SP	Service Provider
TDS	Tender Data Sheet
VAT	Value Added Tax

INTRODUCTION

- 1.1 Procurement for works under public-financed projects is carried out in accordance with policies and procedures laid down in The Public Procurement and Asset Disposal Act, 2015.
- 1.2 This Standard Bidding Document (SBD) for procurement of works has been prepared for use by the Procuring Entities in Kenya in the procurement of Works through National Competitive Tendering (NCB) procedures.
- 1.3 This SBD is mandatory for use in works contracts of a value not exceeding KShs.200 million, as defined in The Public Procurement and Asset Disposal Act, 2015.
- 1.4 The following guidelines should be observed when using the document:
 - (i). Specific details should be furnished in the Invitation for Tenders and in the Contract Data Sheet (where applicable). The Tender document issued to Tenderers should not have blank spaces or options;
 - (ii). The Instructions to Tenderers and the General Conditions of Contract should remain unchanged. Any necessary amendments to these parts should be made through the Tender Data Sheet and Contract Data Sheet respectively;
 - (iii). Information contained in the Invitation for Tenders shall conform to the data and information in the Tender documents to enable prospective Tenderers to decide whether or not to participate in the Tender and shall indicate any important Tender requirements;
 - (iv). The Invitation for Tenders shall be as an advertisement in accordance with the regulations or a letter of invitation addressed to Tenderers who have been prequalified following a request for prequalification.
- 1.5 The cover of the document shall be modified to include:
 - a. Tender number;
 - b. Tender name;
 - c. Name of Procuring Entity;

SECTION I: INVITATION FOR TENDERS (IFT)

1. Tana Water Works Development Agency has funds for use during the financial year(s) 2020/2021. It is intended that part of the proceeds of the fund will be used to cover eligible payments under the contract for the Construction of Mitheru Water Projects Cluster.
2. TWWDa, the Procuring Entity now invites sealed Tenders from eligible contractors registered with NCA 5 and above and Ministry of Water and Sanitation Class D for carrying out construction works of Mitheru Water Projects Cluster.
3. Tendering will be conducted through the Open tender procedures specified in the Public Procurement and Asset Disposal Act, 2015 and is open to all Tenderers as defined in the Regulations. Any prequalified firm/s in this category of works/service/s is also encouraged to tender for the works whereof their bids shall be accorded appropriate exceptions in accordance with the procurement laws.
4. Interested eligible Tenderers may obtain further information from and inspect the Tendering Documents at the offices of the Tana Water Works Development Agency, Maji House, along Baden Powell Road, P.O. Box 1292-10100, Nyeri from 8.00 a.m. to 5.00 p.m. from Mondays to Thursdays and from 8:00 am to 4:00 p.m. on Fridays except on public holidays or from the website www.tanawwda.go.ke. at their convenience.
5. A complete set of Tender Document(s) can be obtained for free on the IFMIS Tender Portal <http://supplier.treasury.go.ke> and on Tana Water Works Development Agency website www.tanawwda.go.ke. or from TWWDa's Procurement Office during normal working hours upon payment of non-refundable fee of Kshs1,000 cash or Bankers Cheque.
6. Two (2) hard copies (one original and one copy) tender documents must be submitted enclosed in plain sealed envelope marked with the tender name and tender reference number, addressed to the **Chief Executive Officer, Tana Water Works Development Agency P.O. Box 1292 – 00100 Nyeri, Maji House, Baden Powell Road** and deposited in the **tender box at Tana Water Works Development Agency** at the reception, so as to be received on or before **Wednesday, 19th May 2021 at 10.00am**.
7. Candidates who wish to attend and witness the receiving and subsequent opening of the bids (after 7 days) are hereby requested to make formal application. Only ten (10) representatives from the interested bidders shall witness the receiving and sealing of the documents.
8. The Bids upon receipt SHALL be sealed in the presence of the interested bidders, sanitized and quarantined for seven (7) days to be opened on **Thursday, 27th May 2021** in the presence of the interested bidders who witnessed the sealing.



9. NB: Any bidder/s who may be interested in viewing the events as they happen during the opening of the bids can do so by visiting our website at www.tanawwda.go.ke where a live recording of the tenders opening event will be posted.
10. For further clarification, kindly use the email address indicated:
tanawaterboard@yahoo.com or info@tanawwda.go.ke
11. Late or incomplete Tenders shall not be accepted.

SECTION II: INSTRUCTIONS TO TENDERERS (ITT)

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A. Introduction

1. Scope of Tender

- 1.1 The Procuring Entity indicated in the **Tender Data Sheet** (TDS) invites Tenders for the construction of works as specified in the **Tender Data Sheet** and VOL. II (Technical Specifications) and VOL. IV (Drawings).
- 1.2 The successful Tenderer will be expected to complete the works by the required completion date specified in the **Tender Data Sheet**.
- 1.3 The objectives of the works are listed in the **Tender Data Sheet**. These are mandatory requirements. Any subsequent detail is offered to support these objectives and must not be used to dilute their importance.

2. Source of Funds

- 2.1 The Government of Kenya has set aside funds for the use of the Procuring Entity named in the **Tender Data Sheet** during the Financial Year indicated in the **Tender Data Sheet**. It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the works as described in the **Tender Data Sheet**.
- 2.2 Payments will be made directly by the Procuring Entity (or by financing institution specified in the **Tender Data Sheet** upon request of the Procuring Entity to so pay) and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring Entity.

3. Eligible Tenderers

- 3.1 A Tenderer may be a natural person, private or public company, government-owned institution, subject to sub-Clause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the **Tender Data Sheet**, all parties shall be jointly and severally liable.
- 3.2 The Invitation for Tenders is open to all suppliers as defined in the Public Procurement and Asset Disposal Act, 2015 and The Public Procurement and Asset Disposal Regulations, 2020 except as provided hereinafter.
- 3.3 National Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry of Public Works or the Energy Regulatory Commission.

3.4 A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:

- a) Are associated or have been associated in the past directly or indirectly with employees or agents of the Procuring Entity or a member of a board or committee of the Procuring Entity;
- b) Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the works under this Invitation for Tenders;
- c) Have controlling shareholders in common; or
- d) Receive or have received any direct or indirect subsidy from any of them; or
- e) Have the same legal representative for purposes of this Tender; or
- f) Have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
- g) Submit more than one Tender in this Tendering process, however, this does not limit the participation of subcontractors in more than one Tender, or as Tenderer and subcontractor simultaneously.

3.5 A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the project and related services that are the subject of the Tender.

3.6 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya in accordance with GCC sub-Clause 3.2.

3.7 Government owned enterprises in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.

3.7 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

4. One Tender per Tenderer

4.1 A firm shall submit only one Tender, in the same Tendering process, either individually as a Tenderer or as a partner in a joint venture pursuant to ITT Clause 5.

4.2 No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same Tendering process.

4.3 A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity.

4.4 A Tenderer who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the Tenders in which the Tenderer has participated to be disqualified.

5. Alternative Tenders by Tenderers

5.1 Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderer's technical design as indicated in the Specifications and Drawings and Bill of Quantities. Alternatives will not be considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, sub-Clause 5.2 and 5.3 shall govern.

5.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** as will the method of evaluating different times for completion.

5.3 If so allowed in the **Tender Data Sheet**, Tenderers wishing to offer technical alternatives to the requirements of the Tendering documents must also submit a Tender that complies with the requirements of the Tendering documents, including the basic technical design as Indicated in the specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including technical specifications,

breakdown of prices, and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Procuring Entity.

6. Cost of Tendering

- 6.1** The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

7. Site Visit and Pre-Tender Meeting

- 7.1** The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
- 7.2** The Procuring Entity may conduct a site visit and a pre-Tender meeting. The purpose of the pre-Tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.3** The Tenderer's designated representative is invited to attend a site visit and pre-tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.
- 7.4** The Tenderer is requested as far as possible, to submit any questions in writing or by electronic means to reach the procuring Entity before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions, but questions and responses will be transmitted in accordance with sub-Clause 7.5.
- 7.5** Minutes of the pre-tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within the time stated in the **Tender Data Sheet** to all purchasers of the Tendering documents. Any modification of the Tendering documents listed in sub-Clause 8.1 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 ITT sub Clause 10.2 and not through the minutes of the pre-Tender meeting.
- 7.6** Non-attendance during the site visit or pre-Tender meeting will not be a cause for disqualification of a Tenderer unless specified to the contrary in the **Tender Data Sheet**.



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B. Tendering Documents

8. Content of Tendering Documents

8.1 The works required, Tendering procedures, and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders, Tendering documents which should be read in conjunction with any addenda issued in accordance with ITT sub Clause 10.2 include:

Section I	Invitation for Tenders (IFT)
Section II	Instructions to Tenderers (ITT)
Section III	Tender Data Sheet Contract
Section IV	Data Sheet (CDS) Tender
Section V	Forms
	<ul style="list-style-type: none">• Form of Tender• Appendix to Tender• Tender Securing Declaration• Confidential Business Questionnaire• Integrity Declaration• Anti-corruption Declaration commitment/Pledge• Tender Security (Bank Guarantee)
Section VI	Evaluation Criteria
Section VIII	Bill of Quantities
Volume I	General Conditions
Volume II	Technical Specification
	Board
Volume IV	Drawings
Volume V	Letter of Acceptance
Volume VI	Form of Agreement
Volume VII	Performance Bank or Insurance Guarantee
Volume VIII	Advance Payment Guarantee

8.2 The number of copies to be completed and returned with the Tender is specified in the **Tender Data Sheet**.

8.3 The Invitation for Tenders (Section I) issued by the Procuring Entity is not part of the Tendering Documents and is included for reference purposes only. In case of discrepancies between the Invitation for Tenders and the Tendering Documents listed in sub-Clause 8.1 above, the said Tendering Documents will take precedence.

8.4 The Procuring Entity is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the authorized staff of the Procuring Entity.

- 8.5 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tendering documents. Failure to furnish all information required by the Tendering Documents or to submit a Tender substantially responsive to the Tendering documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.
- 9. Clarification of Tendering Documents**
- 9.1 A prospective Tenderer requiring any clarification of the Tendering documents may notify the Procuring Entity in writing, e-mail or facsimile at the Procuring Entity's address indicated in the **Tender Data Sheet**.
- 9.2 The Procuring Entity will within the period stated in the **Tender Data Sheet** respond in writing to any request for clarification provided that such request is received not later than the period indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in sub-Clause 22.1.
- 9.3 Copies of the procuring entity's response will be forwarded to all Purchasers of the Tendering documents, including a description of the inquiry, but without identifying its source.
- 9.4 Should the Procuring Entity deem it necessary to amend the Tendering documents as a result of a clarification, it shall do so following the procedure under ITT Clause 10.
- 10. Amendments of the Tendering Documents**
- 10.1 Before the deadline for submission of Tenders, the Procuring Entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, modify the Tendering documents by issuing addenda.
- 10.2 Any addendum issued shall be part of the Tender documents pursuant to sub-Clause 8.1 and shall be communicated in writing, by e-mail or facsimile to all who have obtained the Tendering documents directly from the Procuring Entity.
- 10.3 In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity at its discretion shall extend, as necessary, the deadline for submission of Tenders, in accordance with sub-Clause 22.2

C. Preparation of Tenders

- 11. Language of Tender**
- 11.1 The Tender, and all correspondence and documents related to the Tender exchanged by the Tenderer and



the Procuring Entity shall be written in the Tender language stipulated in the **Tender Data Sheet**. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages in the above stated language, in which case, for purposes of interpretation of the Tender, the translation shall prevail.

12. Documents Constituting the Tender

12.1 The Tender submitted by the Tenderer shall consist of the following components:

- a) The Form of Tender (in the format indicated in Section IX) completed in accordance with ITT Clause 15, 16 and 17;
- b) Information requested by Instructions to Tenderers ITT sub-Clause 13.2; 13.3 and 13.4;
- c) Tender Security or Tender Securing Declaration in accordance with Instructions to Tenderers ITT Clause 19;
- d) Priced Bill of Quantities;
- e) Qualification Information Form and Documents;
- f) Alternative offers where invited in accordance with Instructions to Tenderers ITT Clause 5;
- g) Written confirmation authorizing the signatory of the Tender to commit the Tenderer in accordance with Instructions to Tenderers ITT sub Clause 19.2; and
- h) And any information or other materials required for completing and submitting by Tenderers, as specified in the **Tender Data Sheet**.

13. Documents Establishing Eligibility and Qualifications of the Tenderer

13.1 Pursuant to ITT Clause 13, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.

13.2 In the event that pre-qualification of potential Tenderers has been undertaken, only Tenders from pre-qualified Tenderers will be considered for award of contract. These qualified Tenderers should submit



their Tenders with any information updating the original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission. The update or confirmation should be provided in Section IX.

13.3 If the Procuring Entity has not undertaken pre-qualification of potential Tenderers, to qualify for award of the contract, Tenderers shall meet the minimum qualifying criteria specified in the **Tender Data Sheet**:

13.4 Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the **Tender Data Sheet**:

- a) The Tender shall include all the information listed in the **Tender Data Sheet** pursuant to sub-Clause 13.3 above for each joint venture partner;
- b) The Tender shall be signed so as to be legally binding on all partners;
- c) One of the partners will be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
- d) The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of a joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
- e) All partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms and a statement to this effect shall be included in the authorization mentioned under (c) above as well as in the Tender and in the Agreement (in case of a successful Tender); and
- f) A copy of the joint venture agreement entered into by all partner shall be submitted with the Tender. Alternatively, a Letter of Intent to execute a joint venture agreement in the event of



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14. Lots Package

a successful Tender shall be signed by all partners and submitted with the Tender, together with a copy of the proposed Agreement.

- g) The Tender Security and Tender Securing Declaration as stated in accordance with ITT Clause 19, and in case of a successful Tender, the Agreement, shall be signed so as to be legally binding on all partners.

14.1 When Tendering for more than one contract under the lots arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the lots being tendered in regard to:

- a) Average annual turnover;
- b) Particular experience including key production rates;
- c) Financial means, etc;
- d) Personnel capabilities; and
- e) Equipment capabilities.

15. Form of Tender

16. Tender Prices

14.2 In case the Tenderer fail to fully meet any of these criteria, it may be qualified only for those lots for which the Tenderer meets the above requirement.

15.1 The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.

16.1 The Contract shall be for the whole Works, as described in sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.

16.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Bill of quantities.

16.3 All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 15 days prior to the deadline for submission of Tenders, shall be included in the rates, prices and total Tender price submitted by the Tenderer.

16.4 The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the **Tender Data Sheet** and the provisions of the Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the **Contract Data Sheet**.

**17. Tender
Currencies**

17.1 The unit rates and prices shall be quoted by the Tenderer in the currency as specified in the **Tender Data Sheet**.

17.2 Tenderers shall indicate details of their expected foreign currency requirements in the Tender, if any. The rates of exchange to be used by the Tenderers in arriving at the local currency equivalent shall be the selling rates for similar transactions established by the authority specified in the **Tender Data Sheet** prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. In any case, payments will be computed using the rates quoted in the Tender.

17.3 Tenderers may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data Sheet are reasonable and responsive to sub-Clause 17.1.

**18. Tender Validity
Period**

18.1 Tenders shall remain valid for the period specified in the **Tender Data Sheet** after the Tender submission deadline prescribed by the Procuring Entity, pursuant to ITT Clause 22. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

18.2 In exceptional circumstances, prior to expiry of the original Tender validity period, the Procuring Entity may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of

**19. Tender Security
and Tender
Securing
Declaration**

its Tender Security or Tender Securing declaration for the period of the extension, and in compliance with ITT Clause 19 in all respects.

18.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation shall be based on the Tender price without taking into consideration on the above correction.

19.1 Pursuant to ITT Clause 12, where required in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet**.

A Tender Securing Declaration as specified in the **Tender Data Sheet** in the format provided in section X shall be provided as a mandatory requirement.

19.2 The Tender Security or Tender Securing Declaration is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to ITT sub-Clause 19.9.

19.3 The Tender Security shall be denominated in the currency of the Tender and shall be in the following form:

a) A Bank Guarantee

19.4 The Tender Security shall be in accordance with the Form of the Tender Security included in Section X or another form approved by the Procuring Entity prior to the Tender submission.

19.5 The Tender Security shall be payable promptly upon written demand by the Procuring Entity in case any of the conditions listed in sub-Clause 19.8 are invoked.

19.6 Any Tender not accompanied by a Tender Security in accordance with sub-Clauses 19.1 or 19.3 shall be rejected by the Procuring



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Entity as non-responsive,
pursuant to ITT
Clause 28.



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19.7 The Procuring Entity shall immediately release any

Tender Security if:

- a) The procuring proceedings are terminated;
- b) The Procuring Entity determines that none of the submitted Tenders is responsive;
- c) A contract for the procurement is entered into.

19.8 The Tender Security shall be forfeited and the Tender Securing Declaration executed if the Tenderer:

- a) Withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which Tenders must remain valid;
- b) Rejects a correction of an arithmetic error pursuant to sub-Clause 29.2;
- c) Refuse to enter into a written contract in accordance with ITT Clause 40;
- d) Fails to furnish the Performance Security in accordance with ITT Clause 41.

19.9 The Tender Security and Tender Securing Declaration of a joint venture must be in the name of the joint venture submitting the Tender.

19.10 A Tenderer shall be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time indicated in the Tender Securing Declaration:

- a) If the Tenderer withdraws its Tender, except as provided in ITT sub-Clauses 18.2 and 29.2; or
- b) In the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:
 - (i) Sign the contract; or

(ii) Furnish the required Performance Security.

**20. Format and
Signing of Tender**

20.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT Clause 12 of these Instructions to Tenderers, with the Form of Tender, and clearly marked

21.2 The inner and outer envelopes shall:

20.2 The original and all copies of the Tenders shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer.

This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** 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, except for un-amended printed literature, shall be initialed by the person or persons signing the Tender.

20.3 Any interlineations, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the Tender.

20.4 The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to contract execution if the Tenderer is awarded the contract

D. Submission of Tenders

21. Sealing and Marking of Tenders

21.1 The Tenderer shall seal the original copy of the Tender in an envelope, duly marked as **“ORIGINAL”**. **A copy will also be submitted.** The envelopes shall then be sealed in an outer envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.

- a) Be addressed to the Procuring Entity at the address given in the **Tender Data Sheet**; and
- b) Bear the Project name indicated in the **Tender Data Sheet**, the Invitation for Tenders (IFB) title and number indicated in the **Tender Data Sheet**, and a statement: **“DO NOT OPEN BEFORE,”** to be completed with the time and the date specified in the **Tender Data Sheet**, pursuant to ITT sub-Clause 22.1.

21.3 In addition to the identification required in sub-Clause 21.2, the inner envelopes shall also indicate the name and address of the Tenderer to enable the Tender be returned



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unopened in case it is declared late, pursuant to sub-Clause 22.1 and for matching purpose under ITT Clause 23

21.4 If the outer envelope is not sealed and marked as required by ITT sub clause 21.2, the Procuring Entity shall assume no responsibility for misplacement or premature opening of the Tender.

22. Deadline for Submission of Tenders

22.1 Tenders shall be received by the Procuring Entity at the address specified under ITT sub-Clause 21.2 no later than the date and time specified in the **Tender Data Sheet**.

22.2 The Procuring Entity may, in exceptional circumstances and at its discretion, extend the deadline for the submission of Tenders by amending the Tendering documents in accordance with ITT Clause 9, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline will thereafter be subject to the new deadline.

22.3 The extension of the deadline for submission of Tenders shall not be made later than the period specified in the **Tender Data Sheet** before the expiry of the original deadline.

23. Late Tenders

23.1 The Procuring Entity shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 22.

23.2 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

24. Modification, Substitution and Withdrawal of Tenders

24.1 A Tenderer may modify or substitute or withdraw its Tender after it has been submitted, provided that written notice of the modification, including substitution or withdrawal of the Tender, is received by the Procuring Entity prior to the deadline prescribed for submission of Tenders prescribed under ITT sub-Clause 22.1.

- 24.2** The Tenderer's modification or substitution or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITT Clauses 20 and 21 with the outer and inner envelopes additionally marked "**MODIFICATION**" or **SUBSTITUTION** or "**WITHDRAWAL**" as appropriate. The notice may also be sent by electronic mail and facsimile, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of Tenders.
- 24.3** No Tender may be withdrawn, replaced 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 Tender Form. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of Tender Securing Declaration, pursuant to the ITT sub-Clause 19.9.
- 24.4** Withdrawal of a Tender between the deadline for submission of Tenders and the expiration of the period of Tender validity specified in the **Tender Data Sheet** or as extended pursuant to sub-Clause 22.2 shall result in the forfeiture of the Tender Security and execution of Tender Securing Declaration pursuant to ITT sub-Clause 19.9.
- 24.5** Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause, or included in the original Tender submission.

E. Opening and Evaluation of Tenders

25. Opening of Tenders

- 25.1** The Procuring Entity will open all Tenders including modifications, substitution or withdraw notices made pursuant to ITT Clause 24, in public, in the presence of Tenderers or their representatives who choose to attend and other parties with legitimate interest and Tender proceedings, at the place on the date and at time specified in the **Tender Data Sheet**. The Tenderers' representatives who are present shall sign a register as proof of their attendance.
- 25.2** Envelopes marked "**WITHDRAWAL**" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 24 shall not be opened but returned to the Tenderer. If the withdrawal envelope



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does not contain a copy of the “Power of Attorney” confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked "**MODIFICATION**" shall be opened and the submissions therein read out in appropriate detail. Thereafter all envelopes marked or "**SUBSTITUTION**" opened and the submissions therein read out in appropriate detail.

- 25.3** All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender security, and such other details as the appropriate tender opening committee may consider appropriate, will be announced by the Secretary of the Tender Opening Committee at the opening.
- 25.4** Tenders or modifications that are not opened and not read out at Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at Tender opening shall not be considered further.
- 25.5** Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any un-read information by the sent Tenderer's representative shall indemnify the Procuring Entity against any claim or failure to read out the correct information contained in the Tenderer's Tender.
- 25.6** No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to ITT Clause 23.
- 25.7** The Secretary of the appropriate tender opening committee shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender

Security or Tender Securing Declaration.

25.8 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 affect the record.

25.9 A copy of the minutes of the Tender opening shall be furnished to individual Tenderers upon request.

26. Confidentiality

26.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.

26.2 Any effort by a Tenderer to influence the Procuring Entity's processing of Tenders or award decisions may result in the rejection of his Tender.

26.3 Notwithstanding sub-Clause 26.2, 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.

27. Clarification of Tenders

27.1 To assist in the examination, evaluation, comparison of Tenders and post-qualification of the Tenderer, the Procuring Entity may, at its discretion, ask a Tenderer for clarification of its Tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered.

27.2 The 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 Tenders in accordance with ITT Clause 29.

27.3 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 Tender it should do so in writing.

28. Preliminary Examination of Tenders

28.1 Prior to the detailed evaluation of Tenders, the Procuring Entity will determine whether:



- a) The Tender has been submitted in the required format;
- b) Any Tender Security submitted is in the required form, amount and validity period;
- c) The Tender has been signed by the person lawfully authorized to do so;
- d) The required number of copies of the Tender have been submitted;
- e) The Tender is valid for the period required;
- f) All required documents and information have been submitted; and
- g) Any required samples have been submitted.

28.2 The Procuring Entity will confirm that the documents and information specified under ITT Clause 12 and ITT Clause 13 have been provided in the Tender. If any of these documents or information is missing, or is not provided in accordance with the Instructions to Tenderers, the Tender shall be rejected.

28.3 The Procuring Entity may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer

28.4 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation or reservation. A material deviation or reservation is one that:

- a) Affects in any substantial way the scope, quality, or execution of the Works;
- b) Limits in any substantial way, inconsistent with the Tendering documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
- c) If rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.



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28.5 If a Tender is not substantially responsive, it will be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

29. Correction of Errors

29.1 Tenders determined to be substantially responsive will be checked by the Procuring Entity for any arithmetic errors. Errors will be corrected by the Procuring Entity as follows:

- a) If there is a discrepancy between unit prices 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 the total price as quoted shall govern and the unit price shall be corrected;
- b) 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
- c) Where there is a discrepancy between the amounts in figures and in words, the amount in figures will govern.

29.2 The amount stated in the Tender will, be adjusted by the Procuring Entity in accordance with the above procedure for the correction of errors and, with, the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender Security may be forfeited and the Tender Securing Declaration may be executed in accordance with sub-Clause 19.9.

30. Conversion to Single Currency

30.1 To facilitate the evaluation and comparison, the Procuring Entity will convert all Tender prices expressed in the amounts in various currencies in which the Tender prices are payable to Kenya Shillings at the selling exchange rate established for similar transactions by the Central Bank of Kenya ruling on the date specified in the **Tender Data Sheet**.

31. Comparison of Tenders

31.1 The Procuring Entity shall evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT Clause 28.



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31.2 In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender price by adjusting the Tender price as follows:

Making any correction for errors pursuant to ITT Clause 29;

Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work, where priced competitively ; and

Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with sub-Clause 24.5.

31.3 The Procuring Entity may waive any minor informality or non-conformity, which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative standing of any Tenderer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.

32. National Preference

32.1 In the evaluation of Tenders the Procuring Entity shall apply exclusive preference to citizens of Kenya where:

- a) The funding is 100% from the Government of Kenya or a Kenyan body;
- b) The amounts are below the prescribed threshold of KShs.200 million;

32.2 To qualify for the preference the candidate shall provide evidence of eligibility by:

- a) Proving Kenyan citizenship by production of a Kenyan Identity Card; or
- b) Providing proof of being a “citizen contractor” in terms of section 3(1) of the Act, i.e. being a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Kenya.

32.3 The Minister of Finance may prescribe additional preference and/or reservation schemes, for example for procurements above these thresholds. If such



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additional preference schemes apply, details will be given in the **Tender Data Sheet**.

33. Determination of the Lowest Evaluated Tender

33.1 The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.

34. Post-qualification of Tenderer

34.1 If specified in the **Tender Data Sheet**, post-qualification shall be undertaken.

34.2 The Procuring Entity will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive Tender is qualified to perform the contract satisfactorily, in accordance with the criteria listed in sub-Clause 13.3.

34.3 The determination will take into account the Tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to sub-Clause 13.3, as well as such other information as the Procuring Entity deems necessary and appropriate. Factors not included in these Tendering documents shall not be used in the evaluation of the Tenderer's qualifications.

34.4 An affirmative determination will be a prerequisite for award of the contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Procuring Entity will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

F. Award of Contract

35. Criteria of Award

whose

35.1 Subject to ITT Clause 35 and 36, the Procuring Entity will award the Contract to the Tenderer Tender has been determined to be substantially responsive to the Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:

a) Eligible in accordance with the provisions



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of ITT Clause 3;



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- b) Is determined to be qualified to perform the Contract satisfactorily;
- c) Successful negotiations have been concluded.

35.2 If, pursuant to sub-Clause 14.1, this Contract is being awarded on a “lot and package” basis, the lowest evaluated Tender price will be determined when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderer for award of more than one Contract.

36. Clarifications

36.1 Clarifications may be undertaken with the lowest evaluated Tenderer relating to the following areas:

- a) A minor alteration to the technical details of the statement of requirements;
- b) Reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the Tendering documents;
- c) A minor amendment to the Contract Data Sheet;
- d) Finalizing payment arrangements;
- e) Mobilization arrangements;
- f) Agreeing final delivery or work schedule to accommodate any changes required by the Procuring Entity;
- g) The methodology or staffing; or
- h) Clarifying details that were not apparent or could not be finalized at the time of Tendering.

36.2 Clarifications shall not change the substance of the tender.

37. Procuring Entity’s Right to Accept any Tender and to Reject any or all

37.1 Notwithstanding ITT Clause 35, the Procuring Entity reserves the right to



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accept or reject any
Tender, and to cancel the

Tendering process



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Tenders

and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers.

37.2 Notice of the rejection of all Tenders shall be given promptly within 14 days to all Contractors that have submitted Tenders.

37.3 The Procuring Entity shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.

38. Procuring Entities Right to Vary Quantities at the Time of Award

38.1 The Procuring Entity reserves the right at the time of contract award to increase or decrease the quantity of goods or related services originally specified in these Tendering documents (schedule of requirements) provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tendering documents.

39. Notification of Award

39.1 The Tenderer whose Tender has been accepted will be notified of the award by the Procuring Entity prior to expiration of the Tender validity period by e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Procuring Entity will pay the Contractor in consideration of the provision and maintenance of the Work(s) as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

39.2 The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with ITT Clause 41 and signing the Contract in accordance with sub-Clause 40.2

39.3 At the same time as the person submitting the successful Tender is notified, the Procuring Entity



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will notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender

Security and Tender Securing Declaration of
the Tenderer pursuant to ITT sub Clause 19.7.

39.4 If, after notification of award, a Tenderer wishes to ascertain the grounds on which its Tender or application for pre-qualification was unsuccessful, it should address its request to the secretary of the Tender Committee that authorized the award of contract. The secretary of the Tender Committee shall, within fourteen days after a request, provide written reasons as to why the Tender, proposal or application to be pre-qualified was unsuccessful. However, failure to take this opportunity to clarify the grounds for rejection does not affect the Tenderer's right to seek immediate review by the Public Procurement Administrative Review Board under Clause 45.

40. Signing of Contract

40.1 Promptly, and in no case later than 14 days, after notification, Procuring Entity shall send the successful Tenderer the Agreement and Contract Data Sheet, incorporating all agreements between the parties obtained as a result of Contract negotiations.

40.2 Within the period specified in the notification or Tender Data Sheet but not earlier than fourteen (14) days since notification of award of contract, the successful Tenderer shall sign and date the contract and return it to the Procuring Entity.

41. Performance Security

41.1 Within thirty (30) days but after 14 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Procuring Entity a Performance Security in the amount and in the form stipulated in the **Tender Data Sheet** and the Contract Data Sheet, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

41.2 If the Performance Security is provided by the successful Tenderer in the form of a Bank Guarantee or Insurance Bond, it shall be issued either:

a) At the Tenderer's option, by a bank or



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insurance firm located in Kenya, or a foreign bank or insurance firm through a correspondent bank or insurance firm located in Kenya;

b) With the consent of the Procuring entity, directly by a foreign bank acceptable to the Procuring entity.

41.3 Failure of the successful Tenderer to comply with the requirement of sub-Clause 41.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security, in which event the Procuring Entity may make the award to the next lowest evaluated Tenderer or call for new Tenders.

42. Advance Payment

42.1 Advance payment not applicable in this contract.

43. Adjudicator

43.1 The Procuring Entity proposes the person named in the Tender Data Sheet to be appointed as Adjudicator under the Contract, at an hourly fee specified in the **Tender Data Sheet**, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in the Tender. If, in the Letter of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Contract Data Sheet at the request of either party.

G. Review of Procurement Decisions

44. Right to Review

44.1 A Tenderer who claims to have suffered or risk suffering, loss or damage or injury as a result of breach of a duty imposed on a Procuring Entity or an Approving Authority by the Public Procurement and Asset Disposal Act, 2015 and The Public Procurement and Asset Disposal Regulations, 2006, the procurement proceedings or processes, may seek administrative review as prescribed by the Act. The following matters, however, shall not be subject to the administrative review:

a) The choice of procurement method;



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- b) a decision by the Procuring Entity to reject all Tenders, proposals or quotations;
- c) Where a contract is signed in accordance to Section 68 of the Public Procurement and Disposal Act, 2005;
- d) Where an appeal is frivolous.

45. Time Limit on Review

45.1 The Tenderer shall submit an application for review in the number of copies and pay fees as prescribed by The Public Procurement and Asset Disposal Regulations, 2006 within fourteen (14) days of the time the Tenderer became or should have become aware of the circumstances giving rise to the complaint or dispute.

46. Submission of Applications for Review by the Public Procurement Administrative Review Board

46.1 Any application for administrative review shall be submitted in writing to the Secretary, Public Procurement Administrative Review Board on Form RB 1 at the address shown in the **Tender Data Sheet**. The secretary to the review board shall immediately after filing of the request, serve a copy thereof on the Procuring Entity or Director-General as the case may be.

46.2 The application for administrative review shall be in accordance with the requirements of Regulation 73 of the Public Procurement and Disposals Regulations, 2006, including:

- a) Reasons for the complaint, including any alleged breach of the Act or Regulations;
- b) An explanation of how the provisions of the Act and or Regulation has been breached or omitted, including the dates and name of the responsible public officer, where known;
- c) Statements or other evidence supporting the complaint where available as the applicant considers necessary in support of its request;
- d) Remedies sought;
- e) Any other information relevant to the complaint.

47. Decision by the Public Procurement Administrative

47.1 The Administrative Review Board shall within thirty days after receipt of an application for administrative review deliver a written decision



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Review Board

which shall indicate:

- a) Annulling anything the Procuring Entity has done in the procurement proceedings, including annulling the procurement proceedings in their entirety;
- b) Giving directions to the Procuring Entity with respect to anything to be done or redone in the procurement proceedings;
- c) Substituting the decision of the Review Board for any decision of the Procuring Entity in the procurement proceedings;
- d) Order the payment of costs as between parties to the review.

47.2 The decision made by the Review Board shall, be final and binding on the parties unless judicial review thereof commences within fourteen (14) days from the date of the Review Board's decision.

48. Appeal on the decision of the Review Board

48.1 Any party to the review aggrieved by the decision of the Review Board may appeal to the High Court and the decision of the High Court shall be final.



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SECTION III: TENDER DATA SHEET

Tender Data Sheet (TDS)
Instructions to Tenderers Clause Reference

TDS Reference Number	ITT Clause Number	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
A. Introduction		
1.	1.1	The Procuring Entity is TANA WATER WORKS DEVELOPMENT AGENCY
2.	1.1	Name of Project is CONSTRUCTION OF MITHERU WATER PROJECTS CLUSTER (Kamwene water project, Wakulima Water, Giankanja water project, Gatua Karimba Water Project and Mikuu Nkumari water project)
3.	1.2	The expected completion date of the works is 180 days from issuance of commencement letter
4.	1.3	The Objectives of the Project are: To increase coverage for both domestic and irrigation water supply to the community of the Project Area
5.	2.1	Name of financing institution is GOVERNMENT OF KENYA Name of the Procuring is TANA WATER WOKS DEVELOPMENT AGENCY Financial Year 2020– 2021 Describe works under the contracts: CONSTRUCTION OF MITHERU WATER PROJECTS CLUSTER
6.	2.2	The loan/ credit number is N/A
7.	5.1	Alternative Tenders are “ <i>not allowed</i> ” in this Tender.
8.	5.2	Alternative time for completion NOT <i>applicable</i>



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9.	3.1	Only Tenderers registered as Civil Engineering Contractors in Class NCA 5 with the National Construction Authority and Ministry of Water and Irrigation Class D and above for water works construction are eligible.
10.	7.3	Pre-Tender site meeting will take place at the site on Tuesday, 4th – Friday 7th May 2021 at 9.00 a.m. The point of convergence shall be at the NG-CDF Offices , Maara Constituency Chogoria (GPS Coordinates 37M 350623E, 9974907N)
11.	7.5	The minutes of the pre-Tender meeting will be transmitted within 7 days and these minutes shall form part of the contract agreement
	7.6	Non-attendance at the pre-tender meeting will result in Disqualification



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		B. Tendering Documents
12.	8.2	The number of copies to be completed and returned with the Tender is 2 copies (One Original and One Copy)
13.	8.1	Address for any clarification of the Tendering Document info@twwda.go.ke and <u>tanawaterboard@yahoo.com</u>
14.	8.2	<p>Period to Respond to request for clarification by the Procuring Entity is 5 days</p> <p>Period Prior to deadline for submission of Tenders for Tenderers to request clarification is 7 days</p>



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		C. Preparation of Tenders
15.	11.1	Language of Tender and all correspondence shall be English
16.	13.3	<p>Other information or materials required to be completed and submitted by Tenderers :</p> <ul style="list-style-type: none"> a) Copies of original documents defining the constitution or legal status, place of registration, and principal, place of business; written power of attorney authorizing the signatory of the Tender to commit the Tenderer. b) The minimum required average annual volume of construction work for the successful Tenderer in any of the last 3 years shall be: KShs 100 Million. c) Evidence of experience as prime contractor in the construction of at least three projects of a nature and complexity equivalent to the Works of this Contract in the last 3 years (to comply with this requirement, works cited should be at least 75 percent complete). d) . The essential equipment to be made available for the Contract by the successful Tenderer (proposals for timely acquisition or own, lease, hire, etc.) shall be: <ul style="list-style-type: none"> i) Concrete mixer ii) Poker vibrator iii) Excavator e) A Project Manager with a minimum of 5 years" experience in works of an equivalent nature and volume. f) Site Agent with a minimum of 4 years" experience in works of an equivalent nature and volume g) Inspector of works with a minimum of 4 years" experience in works of an equivalent nature and volume h) Surveyor with a minimum of 3 years" experience in works of an equivalent nature and volume i) Evidence of adequate working capital for this contract. j) Information regarding litigation, current and past
17.	13.4	In the case of joint venture each partner shall submit information required under Clause ITT Clause 13.4.
18.	16.4	The price shall be Fixed Information to be submitted with the Tender are as per the Questionnaire
19.	17.1	The currency in which the prices shall be quoted shall be: Kenyan Shillings



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20.	17.2 30.2	The authority for establishing the rates of exchange shall be Central Bank of Kenya. The applicable date for exchange rates for tendering and evaluation purposes is 28 days earlier than the final deadline for the submission of tenders.
21.	18.1	The Tender validity period shall be 150 days .
22.	19.1	The amount of Tender Security shall be: not less than 2% of the Bid Price in form of an irrevocable Bank Guarantee . The tender security shall be valid for an additional thirty (30) Calendar days after the expiry of the tender validity period .
23.	20.1	In addition to the original of the Tender, the Tenderer should submit 1 copy of the Tender.
24.	20.2	Written confirmation of authorization is for person signing the tender Power of Attorney [<i>list</i>] [<i>Provide power of attorney</i>]

D. Submission of Tenders

25.	21.2 a)	Tenders shall be submitted to [<i>Specify below</i>]: Tana Water Works Development Agency, P.O. Box 1292 – 10100 Maji House, Baden Powell Road, NYERI.
26. s	21.2 b)	Project name Construction of MITHERU WATER PROJECTS CLUSTER Tender numbers: TWWDA/T/049/2020-2021 Time and date for submission Wednesday, 19 th May, 2021 at 10.00am.
27.	22.1	The deadline for Tender submission is a) Day: Wednesday b) Date 19/05/2021 c) Time 10.00 a.m.



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28.	22.3	The extension of the deadline (if any) for submission of Tenders shall be made not later than 7 days before the expiry of the original deadline.
E. Opening and Evaluation of Tenders		
29.	25.1	The Tender opening shall take place at: Tana Water Works Development Agency Building/Plot No. Maji House Floor/Room No. Resource Centre City/Town: Nyeri Country: Kenya Date 27/05/2021 Time 10.00 a.m.
30.	32.3	Additional Preference <i>N/A</i>
31.	34.1	Prequalification shall be undertaken for firms that have previously not <i>undertaken any works with TWWDA</i> .
32.	38.1	Percentage for quantities increase or decrease should not exceed 20%
F. Award of Contract		
33.	41.1	The amount of Performance Security shall be 10% of the contract price in the form of a Bank Guarantee
34.	42.1	The Advance Payment shall NOT BE APPLICABLE
35.	43.1	The proposed adjudicator for the project is from name recommended by the Kenya chapter of Chartered Institute of Arbitrators, P.O Box 50163-00200, Nairobi
G. Review of Procurement Decisions		



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37.	46.1	<p>The address for submitting appeals to Administrative Review Board :</p> <p>The Secretary, Public Procurement Administrative Review Board , The Public Procurement Regulatory Authority, 10th Floor, National Bank House, P.O. Box 58583-</p>
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Tel: +254 (0) 20 3244000

Email: info@PPRA.go.ke

Website: www.PPRA.go.ke



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SECTION IV: CONTRACT DATA SHEET (CDS)

49. Contract Data Sheet

Instructions for completing the Contract Data Sheet

CDS Clause	GCC Clause	Description
1	1.1	<p>A. General</p> <p>(Itemise Definitions to take the same numbering as per the General Conditions)</p> <p>The Procuring Entity is Tana Water Works Development Agency P.O. Box 1292 - 10100 Maji House, Baden Powell Road, NYERI.</p> <p>The Adjudicator is Chairman, Institute of Engineers of Kenya</p> <p>The Defects Liability Period is 12 Months</p> <p>The Project Manager is CHIEF TECHNICAL MANAGER</p> <p>The name and identification number of the Contract is. Mitheru Water Projects Cluster Contract No: TWWDA /T/049/2020-2021</p> <p>The Works consist of Construction/Rehabilitation of Intake works, Supply, Excavation and Laying of pipes and Associated Works.</p> <p>The objectives of the contract is to increase the access to safe, clean, potable and affordable water to Mitheru community</p> <p>The Start Date shall be 14 Days on Issuance of Commencement Letter.</p>



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		<p>The Intended Completion Date for the whole of the Works shall be 180 days from commencement.</p> <p>The following documents also form part of the Contract:</p> <ol style="list-style-type: none"> 1. Contact Agreement 2. Letter of Acceptance 3. Form of Tender 4. Tender Data Sheet 5. Contract Data Sheet 6. Conditions of Contract 7. Specifications 8. Drawings 9. Priced Bills of Quantities <p>The Site is located in Mitheru Ward, Maara Sub County in Tharaka Nithi County</p>
2.	2.2	Indicate whether there is sectional completion : N/A
3.	2.3(9)	List other documents that form part of the contract if any: See CDS Clause 1 above
		<p>a) Pre-Tender site visit minutes.</p> <p>b) Pre-contract signing minutes</p> <p>c) Any addenda issued</p>
4.	3.1	The language of the Contract documents is English The law that applies to the Contract is the Kenyan Law.
5.	9.1	Include the Schedule of Other Contractors, if any. <i>[give list of other contractors]</i>
6.	10.1	<p>Include the Schedule of Key Personnel.</p> <p>Project manager/Director</p> <p>Site manager/Agent</p> <p>Artisan/Operator</p>



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7.		<p>14.1 (a) loss of or damage to the Works, Plant, and Materials = Contract Sum</p> <p>(b) Loss of or damage to Equipment =1,000,000</p> <p>(c) Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection the Contract = 1,000,000</p> <p>(d) Personal injury or death = 5,000,000.</p>
8.	15.1	<p>Site Investigation Reports available to the Tenderers are: N/A</p> <p>a).....</p> <p>b).....</p> <p>c).....</p>
9.	22.4	<p>The other measures include:</p> <p>a. Minimising the number of migrant workers employed on the project and household in the site camp</p> <p>b. Providing access to voluntary counselling and testing (VCT)</p> <p>c. Providing psychological support and health care including prevention and treatment of opportunistic infections for workers infected and affected, as well as their families</p> <p>d. Providing condoms (male and female) to workers</p>
10.	24.1& 47.1	<p>The Site Possession Date shall be <i>on signing of Contract Agreement</i></p>
11.	28.3	<p>Arbitration will take place at in accordance with rules and regulations published in Kenya in accordance with the provisions of the Arbitration Act of the Laws of Kenya or any other enactment replacing or modifying the same for the time</p>



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being in force, by a single arbitrator appointed by the
Chairman of the Engineer's Registration Board of Kenya on
application by either party

13.	29.1	Appointing Authority for the Adjudicator: <i>Chairman of the Engineer's Registration Board of Kenya</i>
B. Time Control		
14.	30.1	The Contractor shall Submit a Programme for the Works within 14 days of delivery of the Letter of Acceptance.
15.	30.3	The period between Programme updates is 28 days .
16.	30.3	The amount to be withheld by the Project Manager in the case the contractor does not submit an updated programme is: N/A .
C. Quality Control		
17.	38.1	The Defects Liability Period is 12 Months .
D. Cost Control		
18.	45.7	Minimum Amount of Interim Payment Certificate will be 30% of the Contract Amount
19.	46.1	The interest rate shall be N/A above prevailing interest rate for commercial borrowing from the contractors bank
20.	47.1(a)	The Site Possession Date shall be 7 days on signing of Contract Agreement
21.	50	The contract is not subject to price adjustment.
22.	51.1	The amount of retention is 10% of value of works of Interim Payment Certificate".
		Limit of retention will be 10% of contract price.
23.	52.1	The rate of liquidated damages is 0.15 % of contract price per day
	52.1 62.2 (g)	The maximum amount of liquidated damages is 10% of Contract Price



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24.	53.1	The bonus for early completion is N/A
25.	54.1	The amount of advance payment shall be N/A
26.	55.1	The Performance Security shall be 10% of the contract price.
		E. Finishing the Contract
27.	61.1	As built drawings shall be supplied by the contractor 30 days after completion
28.	61.2	The amount to be withheld by the Project Manager in the case the contractor does not submit as built drawings is: 5% of contract amount The amount to be withheld by the Project Manager in the case the contractor does not submit operating manual is : N/A
29.	63.1	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is 10% .



SECTION V: TENDER FORMS



A. Form of Tender

[date]

To: [name and address of Procuring Entity]

We offer to execute the [name and identification number of contract] in accordance with the Conditions of Contract accompanying this Tender for the Contract Price of [amount in numbers], [amount in words] [name of currency].

The Contract shall be paid in the following currencies:

Currency	Percentage payable in currency	Rate of exchange: one foreign equals [insert local]	Inputs for which foreign currency is required
(a)			
(b)			

We accept the appointment of [name proposed in Tender Data Sheet] as the adjudicator.

or

We do not accept the appointment of [name proposed in Tender Data Sheet] as the Adjudicator, and propose instead that [name] be appointed as Adjudicator, whose daily fees and biographical data are attached.

We are not participating, as Tenders, in more than one Tender in this Tendering process other than alternative Tenders in accordance with the Tendering documents.

Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the contract has not been declared ineligible by the Kenya Government under Kenya's laws or any other official regulations.

This Tender and your written acceptance of it shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any Tender you receive.

We hereby confirm that this Tender complies with the Tender validity and Tender Security required by the Tendering documents and specified in the Tender Data Sheet.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: _____

Address: _____



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B. Tender-Securing Declaration

Date: *[insert **date** (as day, month and year)]*

Tender No.: *[insert **number of Tendering process**]*

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

To: *[insert **complete name of Procuring Entity**]*

We, the undersigned, declare that:

We understand that, according to your conditions, Tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Tendering in any contract with the Procuring Entity 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 Tender conditions, because we;

- a) Have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or
- b) Having been notified of the acceptance of our Tender by the Procuring Entity during the period of Tender validity,

(i). Fail or refuse to execute the Contract, if required, or

(ii). Fail or refuse to furnish the Performance Security, in accordance with the ITT. We

understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of;

1) Our receipt of your notification to us of the name of the successful Tenderer; or

2) Thirty days after the expiration of our Tender.

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Tender Securing Declaration]*

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

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

Dated on _____ day of _____, _____ *[insert **date of signing**]*

Corporate Seal (where appropriate)



C. Confidential Business Questionnaire

- 1 **Individual Tenderer or Individual Members of joint Ventures**
- 1.1 Constitution or legal status of Tenderer: *[attach copy]*
- Place of registration: *[insert]*
- Principal place of business: *[insert]*
- Power of attorney of signatory of Tender: *[attach]*
- Registration certificate *[attach]* current Business License *[attach]*
- 1.2 Total annual volume of construction work performed in two years, in Kenyan shillings as specified in the Tender Data Sheet; *[insert]*
- 1.3 Work performed as prime Contractor on works of a similar nature and volume over the last two years or as specified in the Tender Data Sheet in Kenyan Shillings. Also list details of work under way or committed, including expected completion dates.

Project name and country	Name of client and contact person	Contractors Participation	Type of work performed and year of completion	Value of contract
(a)				
(b)				

- 1.4 Major items of Contractor's Equipment proposed for carrying out the works. List all information requested below. Refer also to sub-Clause 12.3 of the Instructions to Tenderers.

Item of equipment	Description, make, and age (years)	Condition (new, good, Poor) and number available	Owned, leased (from whom?) or to be purchased (from whom?)
(a)			
(b)			
(c)			



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--	--	--	--



(d)			
-----	--	--	--

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to sub-Clause 12.3 of the Instructions to Tenderers and Sub- Clause 10.1 of the General Conditions of Contract.

Position	Name	Years of Experience (general)	Years of experience in proposed position
(a)			
(b)			

- 1.6 Proposed sub-contractor and firms involved. Refer to Clause 7 of General Conditions of Contract.

Sections of the Works	Value of subcontract	Subcontractor (name and address)	Experience in similar work
(a)			
(b)			

- 1.7 Financial reports for the number of years specified in the Tender Data Sheet.
- 1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.
- 1.9 Name, address, and telephone, e-mail address, and facsimile numbers of banks that may provide references if contracted by the Procuring Entity.
- 1.10 Information on current litigation in which the Tenderer is involved.



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Other party(ies)	Cause of dispute	Amount involved
(a)		
(b)		

1.11 Statement of compliance with the requirements of sub-Clause 3.2 of the Instructions to Tenderers.

1.12 Proposed Program (work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the Tendering documents.

2. Joint Ventures

2.1 The information listed in 1.1 – 1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory (ies) of the Tender authorizing signature of the Tender on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

3. Additional Requirements

3.1 Tenderers should provide any additional information required in the **Tender Data Sheet** or to fulfil the requirements of sub-Clauses 12.1 of the Instructions to Tenderers, if applicable.



D. Integrity Declaration

UNDERTAKING BY TENDERER ON ANTI – BRIBERY POLICY / CODE OF CONDUCT AND COMPLIANCE PROGRAMME

1. Each Tenderer must submit a statement, as part of the Tender documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the Tendering company and, where relevant, of its subsidiary in the Kenya. If a Tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.
2. Tenderers will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners; the Tenderer may cover the subcontractors and consortium partners in its own statement, provided the Tenderer assumes full responsibility.
3.
 - a) Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.
 - b) Each Tenderer will make full disclosure in the Tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the Tender and, if successful, the implementation of the contract.
 - c) The successful Tenderer will also make full disclosure [quarterly or semi- annually] of all payments to agents and other third parties during the execution of the contract.
 - d) Within six months of the completion of the performance of the contract, the successful Tenderer will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that they are sufficient to establish the legitimacy of the payments made.
 - e) Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.
4. Tenders which do not conform to these requirements shall not be considered.
5. If the successful Tenderer fails to comply with its No-bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:
 - a) Cancellation of the contract;



- b) Liability for damages to the public authority and/or the unsuccessful competitors in the Tendering possibly in the form of a lump sum representing a pre-set percentage of the contract value (liquidated).
- 6. Tenderers shall make available, as part of their Tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.
- 7. The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by Tenderers for this contract, and to which in turn all Tenderers and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a Tenderer may be disclosed to another Tenderer or to the public).



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E. ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE

(Sections 39, 40, 41, 42, 43 & of the PPD Act, 2005)

I/We/Messrs.....

of Street, Building, P O Box.....

.....

Contact/Phone/E mail.....

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No

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

Authorized Signature.....

Name and Title of Signatory.....



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F. NOTIFICATION OF INTENTION TO ENTER INTO A CONTRACT

[Letter head paper of the Procuring Entity]

[date]

To: *[name and address of the Contractor]*

This is to notify you that your Tender dated [date] for execution of the [name of the Contract and identification number, as given in the Contract Data Sheet] for the Contract Price of the equivalent of [amount in numbers and works] [name of currency], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

We confirm that *[insert name proposed by the procuring entity]* to be the Adjudicator.

We accept that *[name proposed by Tenderer]* be appointed as Adjudicator.

Or

We do not accept that *[name proposed by Tenderer]* be appointed as adjudicator, and by sending a copy of this letter of acceptance to *[insert the name of the Appointing Authority]*, we are hereby requesting *[name]*, the Appointing Authority, to appoint the adjudicator in accordance with Clause 44.1 of the Instructions to Tenderers.

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

Please return the contract dully signed.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

SECTION VI: EVALUATION CRITERIA

TANA WATER WORKS DEVELOPMENT AGENCY
GITIJE KANDUNGU WATER PROJECT EVALUATION CRITERIA
BIDDER NO..... EVALUATOR NO.

G. STAGE 1 – MANDATORY REQUIREMENTS

In this stage bidders are to be evaluated on yes or no basis. Any bidder who does not meet any of the requirements in this stage does not proceed to stage 2. The evaluator must clearly indicate the reasons for disqualification (if any) at the bottom of the table

	MANDATORY REQUIREMENTS	Yes	No	Remarks (Fail or Pass) at the bottom
	Submission of valid documents under listed:-			
1.	Valid Tax Compliance Certificate			
2.	List of Directors with respective shareholding & details of citizenship – Attach CR12			
3.	Audited Accounts for the last three years (i.e. within the period of 2017 to 2019 which must be signed by the auditor and the directors)			
4.	Evidence/proof of having undertaken similar works in the last 3 years.			
5.	Certificate of Company Registration Certificate under the Companies Act, Cap 486 and in existence for at least Five (5) years.			
6.	A copy of current Registrations Certificate as a construction firm by The Ministry of Water and Sanitation and Irrigation for the current year at least category „D“ and above			
7.	A copy of current Registrations Certificate as a construction firm by the National Construction Authority at least category “5” and above			
8.	Valid Bid Security in form of a Bank Guarantee valid for 180 days from closing date in the prescribed format as described in the ITB			
9.	Company Profile and Key staff resumes			
10.	Registered office, including physical address of the current office,			
11.	Proof of availability of major plant and equipment required for construction works.			
12.	Form of Bid MUST be duly filled, stamped and signed by an authorized person and any Cancellations in the Form of Bid MUST be countersigned			

13.	The BOQ MUST be duly filled, stamped and signed by an authorized person and any Cancellations in BOQs and MUST be countersigned			
14.	The Bidder MUST provide Power of Attorney to the person signing the tender			
15.	Original Pre Bid Site visit Certificate must be attached			

Reasons for disqualification (if any)

.....

H. STAGE 2(i)– OTHER REQUIREMENTS

In this stage bidders are to be evaluated on marks. Any bidder who does not achieve at least 75% in this stage does not proceed to stage 3

	TECHNICAL REQUIREMENTS	EVALUATION Required Marks	Awarded Marks	Remarks
	<p><u>Key Personnel Qualifications and Company's past Experience/Operation performance</u></p> <p>(a) <u>Key Personnel Qualifications and experiences – 40 points</u></p> <p>1. Project Manager</p> <ul style="list-style-type: none"> Academic Qualification: Bachelor Degree or Higher National Diploma in Civil Engineering/Water Engineering or Construction Technology or a related field (Attach copies of Qualification) (7 marks) Experience: Minimum five (5) years" experience (Attach testimonials) (5 marks) <p>2 .Site Agent</p> <ul style="list-style-type: none"> Academic Qualification: Diploma in Civil Engineering or Construction Technology or a related field (Attach copies of qualification) (7 marks) Experience: Minimum of four (4) 	<p>12</p> <p>11</p>		



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years (4 marks)		
<p>3. Inspector of Works-Pipeline</p> <ul style="list-style-type: none"> Academic Qualification: National Diploma in Civil Engineering Water Engineering or Construction Technology (<i>Attach copies of qualification</i>) (7marks) Experience: Minimum of four (4) years.(4 Marks) <p>11</p> <p>4. Surveyor</p> <ul style="list-style-type: none"> Academic Qualification: Diploma in Survey (<i>Attach copies of qualification</i>) (3 marks) Experience: Minimum of three (3) years (3 Mark) <p>6</p> <p>NB: Certified copies of CVs, signed by both the employer and employee MUST be attached. Any uncertified CVs shall not be considered.</p>		
<p><u>Company's past Experience/operation performance - (39) points</u></p> <p>The Company must have undertaken and successfully completed at least three similar works for at least three years that can best demonstrate past experience in undertaking similar projects. Provide details of client as below:</p> <ul style="list-style-type: none"> (a) Names (1 point each)3 (b) Addresses (1 point each)3 (c) Contact persons (1point each)3 (d) Completion certificate each (15 point each or Zero for less) (e) Attaching any evidence like letters of engagement, contract award etc from the said clients (4 points each or Zero for none)15 	39	



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Confirmed by:

1.Sign.....

2.Sign.....

3.Sign.....

4.Sign.....

5.Sign.....

Date.....

SECTION VII - BILLS OF QUANTITIES

PREAMBLE TO THE BILLS OF QUANTITIES GENERAL DIRECTIONS

1. The Conditions of Contract together with the Specification and the Drawings shall be read in conjunction with the Bill of Quantities and in so far as they have any bearing shall be referred to for details of the description, quality, test and strength of material used and the workmanship, conditions, obligations, liabilities and instructions generally which shall be complied with in carrying out this Contract. The cost of complying with all conditions, obligations and liabilities described in the Conditions of Contract and Specification and in the Bill of Quantities, including all overhead charges shall be deemed to be spread over and included in the prices or sums stated by the Contractor in the Bill of Quantities.
2. Each item shall be priced and extended to the "Amount" column by the Contractor with the exception of the items for which a rate only is required or which already have Provisional Sums affixed thereto. If the Contractor omits to price any items in the bill of quantities then the cost of the work/s of such item/s shall be held to be spread over and included in the prices given in the other items of work. The Day work Schedule shall also be completed.

The Bill of Quantities has been divided into sections, where possible. Notwithstanding such division of the Works for convenience of pricing and re-measurement thereof, nothing contained therein shall in any way relieve nor be deemed to relieve the Contractor of his responsibility set forth elsewhere in the contract.

3. The quantities of work and material set forth in the Bill of Quantities are in estimate only and are not to be considered as limiting nor as extending the amount of work to be done and material to be supplied by the Contractor. The Works as completed in accordance with the Contract shall be measured and paid for as described in this Bill of Quantities and in accordance with the Conditions of Contract and Specification.
4. Progress payments in the Interim Certificate referred to in Clause 60 of the Conditions of Contract in respect of "sum" items in the Bill of Quantities shall be by means of interim progress instalments, such instalments not exceeding in aggregate the total of each sum item. Such interim progress instalments shall be assessed by the Engineer based on the extent that the work to be done or liabilities or charges to be incurred by the Contractor under the description of each item bears to the extent of such work, liabilities or charges actually carried out under each sum item from time to time.

Such progress payments in respect of sum items shall be subject to the terms of retention referred to in Clause 60 of the Conditions of Contract.

5. The units of measurement described in the Bill of Quantities are metric units. Abbreviations used in the Bill of Quantities are as follows:-



km	=	Kilometre
m	=	Metre
mm	=	Millimetre
m	=	Square Metre
m	=	Cubic Metre
mm ²	=	Square Millimetre
nr.	=	Number
kg	=	Kilogramme
Mg	=	Megagramme (metric tonne)
litre	=	Litre
ml	=	Millilitre (cubic centimetres)

All rates and sums of money quoted in the Bill of Quantities shall be in Kenya Shillings and Cents.

The Contractor is referred to the Additional General Instructions Clause 1 to 17 inclusive hereafter regarding measurement and pricing of the various items in the Bill of Quantities, and these instructions shall be read in conjunction with the Specification, Conditions of Contract and Drawings as stated in 1 above.

6. The following abbreviations are used in the description of items in the Bills of Quantities:-

A.C.	=	Asbestos Cement
C.I.	=	Cast Iron (Grey Iron)
D.I.	=	Ductile Iron
E.O.	=	Extra Over
m.h.	=	Manhole
n.e.	=	Not exceeding
r.c.	=	Reinforced concrete
p.c.	=	Precast Concrete
uPVC	=	unplasticized Poly Vinyl Chloride



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PARTICULAR INSTRUCTIONS FOR MEASUREMENTS AND PRICING OF ITEMS IN THE BILL OF QUANTITIES

A. 1. Dealing with Water

No measurement will be taken for the construction, maintenance and removal of temporary diversion works or other works including pumping required for dealing with water during the execution of the Works except where specifically required and items appear in the Bill of Quantities.

B. 2. Site Clearance and Demolition

The units of measurement shall be:

- | | | |
|-------|---------------------------------------|---------------|
| (i) | General Site Clearance | square metres |
| (ii) | General Site clearance for pipelines | metre |
| (iii) | Removal of trees and stumps | number |
| (iv) | Demolition of building and structures | sum |
| (v) | Demolition of pipelines | metre |

Girths of trees shall be measured 600 mm above ground level.

There will be no measurement of the stumps of trees which are themselves to be removed. General Site clearance shall include the removal of trees with a girth less than 500 mm and stumps of diameter less than 150mm.

C. 3. Excavation and Earthworks

(a) The units of measurements shall be:

- | | | |
|-------|---|---------------|
| (i) | Bulk excavation and filling | cubic metre |
| (ii) | Excavation, filling and compaction for pipelines | Metre |
| (iii) | Excavation in rock, extra over (i) and (ii) above | cubic metre |
| (iv) | Preparation of surface, trimming of slopes,
pitching, soiling and grassing | square metres |

(b) Method of Measurement

- (i) Earthworks measured by the cubic metre. The measured volume shall be the net-in-situ volume obtained from the difference between the lines, levels and profiles of the ground or rock surface agreed with the Engineer before excavation is commenced and the lines, levels and profiles as shown on the Drawings, or as may be ordered by the Engineer as necessary for the Works. Where the Drawings do not indicate the profiles of the excavation, the measured volume shall be the volume of the voids that would be formed if the completed structure, for which the excavation is performed, were to be lifted vertically out of the ground.
- (ii) Pipelines measured by the cubic metre.

Where excavation for pipe runs is measured in the Bill of Quantities by the cubic metre then the measurement shall be taken as the vertical depth from the commencing surface down to



formation level and the width of the excavation as 400 mm wider than the nominal internal diameter of the pipe or as directed by the Engineer.

- (iii) Pipelines measured by the metre
Depths used for classification in the Bill of Quantities shall be measured from the commencing surface to the inverts of the pipes.
- (iv) No measurement will be taken for material excavated beyond the limits and levels specified above.

(c) Item Coverage

No separate payment will be made beyond the rates for excavation for:-

- (i) All necessary Temporary Works including dealing with water in the excavation;
- (ii) Any over breakage and any additional working space required and refilling of same;
- (iii) Making good all slips or falls of materials;
- (iv) Trimming of excavation to correct lines levels and profiles;
- (v) Preparation of foundations as specified except where specifically provided for in separate Bill items;
- (vi) Reinstatement of ground along pipelines to its former nature except where specifically provided for in separate Bill items
- (vii) Location, uplifting, transportation, handling and sorting of approved selected material from the excavations for use in the backfilling of trench and other excavations;
- (viii) Backfilling and disposal of materials and removal of surplus to spoil dump all as specified.

(d) Filling:

Normal material from store forming embankments around structures shall be measured by the cubic metre as the net compacted volume of filling comprised within the sections shown on the Drawings to the approval of the Engineer. No extra payment will be made for additional material placed to allow for the effect of settlement.

D. 4. Concrete and Reinforced Concrete

- (a) The units of measurement shall be:

- (i) In-situ concrete other than blinding and granolithic concrete cubic metre
- (ii) Blinding concrete and granolithic concrete with the thickness stated square metre

- (b) Method of measurement:

All cast-in-situ concrete will be the quantity calculated from the dimensions shown on the Drawings or as approved by the Engineer. No deductions in the measurement will be made for:

- (i) Mortar beds;
- (ii) chamfers, ducts, chases, fillets, splays, drips, rebates, recesses, grooves and the like, not exceeding 0.005 square metres in cross sectional area;



- (iii) Bolt holes, pockets, sockets, mortices and the like formed in the concrete not exceeding 0.1 cubic metres in volume.
- (iv) Cast in components each less than 0.1 cubic metres in volume;
- (v) Reinforcement and other metal sections.

(c) Item coverage:

No separate payment will be made beyond the rates for concrete for:-

- (i) Trial mixes (for Specification Classes of concrete only);
- (ii) Supply of cement, water and processed aggregates;
- (iii) Supply and placing of mortar beds or rendering as specified;
- (iv) Mixing, transporting, placing, compacting, surface tamping to provide U finish, protecting and curing the concrete;
- (v) hacking, cleaning and roughening by wet sand blasting, scrubbling or other means concrete surfaces on or against which further concrete is to be placed;
- (vi) Rubbing down faces;
- (vii) shuttering and waterstops to construction joints, not expressly required by the Engineer, Keys and the like.
- (viii) Providing samples and testing of materials and concrete;
- (ix) Provision and use of admixtures;
- (x) Placing and compacting concrete around steel reinforcement and other cast in components;
- (xi) Placing and compacting concrete at varying heights;
- (xii) Creating falls, cambers and shaped profiles;
- (xiii) Formwork to edge of concrete in blinding layers;
- (xiv) All additional concrete to fill overbreak and/or working space;
- (xv) Where concretes of different cement contents are required to be placed simultaneously in the same life of concrete;
- (xvi) Placing and compacting concrete to inclined or battered faces including any necessary upper surfaces formwork inclined at an angle of less than 15° to the horizontal.

E. 5. Precast Concrete

(a) The units of measurement shall be:

- | | | |
|------|---|--------|
| (i) | Beams, slabs, segmental units: | number |
| (ii) | Copings, sills and the like of uniform cross-section: | metre |

- (b) The term "precast concrete" applies to any concrete unit or member cast on site but not in its final position and to concrete units or members manufactured off site.

- (c) Item coverage:

No separate payment will be made beyond the rates for precast concrete for:

- (i) trial mixes;
- (ii) reinforcement, cement and processed aggregates;
- (iii) formwork, surface finishing, lifting devices and bearing plates;
- (iv) forming sockets, holes, grooves, rebates recesses and ducts; and except where otherwise indicated,
- (v) handling, laying and fixing the units in position;
- (vi) aligning members and units, adjusting levels and soffit profiles, and temporary fixing to prevent displacement;
- (vii) cutting and trimming copings, sills and the like to size.

F. 6. Steel Reinforcement

- (a) The Units of measurement shall be:

- | | | |
|-------|--|-----------------|
| (i) | Steel rod reinforcement | kilogramme (kg) |
| (ii) | Steel fabric reinforcement | square metres |
| (iii) | Steel dowels of stated diameter and length | Number |

- (b) Method of measurement:

The weight of steel rod reinforcement shall be calculated on the basis that steel weighs 7,850 kgs per cubic metre. The steel rod reinforcement shall be measured as the net theoretical calculated weight of the steel actually used in the work (including laps as specified) in accordance with the bending schedules prepared by the Engineer with no allowance being made in the measurement thereof for rolling margin or otherwise. Tying wire shall not be measured.

Fabric reinforcement shall be measured as the area of work covered, the weight per square metre being stated.

- (c) Item coverage:

No separate payment will be made beyond the rates for steel reinforcement for:

- (i) Supplying, cutting to length, cleaning, bending, hooking, waste incurred by cutting, handling;



- (ii) Placing and fixing in the required position, including binding wire or other approved material;
- (iii) Placing supports and spacers;
- (iv) Extra fabric reinforcement in laps;
- (v) In the case of dowels - drilling holes or forming pockets in the structure and casting dowels into their final position.

G. 7. Formwork

- (a) The units of measurement shall be:

- | | | |
|------|-------------------------------|--------------|
| (i) | General formwork | square metre |
| (ii) | Formwork less than 300mm wide | metre |



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- (iii) Boxouts, pockets, etc. of stated size number
- (iv) Rebates, chases, etc. of staged size metre

(b) Method of measurement

Subject to the limitations stated below general formwork will be measured as the superficial area of formwork actually in contact with the finished face of the concrete but no deduction shall be made for openings in formwork of 0.4 square metres or less.

Formwork shall not be measured:

- (i) for forming construction joints (whether shown or not on the Drawings), skewbacks, stunt ends, steppings, bonding chases, keys and the like;
- (ii) for forming boxouts, pockets, etc., of stated size that are measured by number;
- (iii) for forming rebates, chases, etc., of stated size that are measured by the metre;
- (iv) to edge of concrete in blinding layers;
- (v) to upper surfaces of concrete inclined at angle of less than 15EC to the horizontal.

(c) Classification of formwork;

Plane formwork shall be classified according to its angle of inclination as follows:-

Class	Angle of inclination to the vertical
Horizontal	5E- 90E
Sloping	10E- 85E
Battered	0E- 10E
Vertical	0E

(d) Item coverage:

No separate payment will be made beyond the rates for formwork for:

- (i) falsework, centering, fabricating, assembling, cutting, fitting and fixing in position and taking all measurement necessary to produce the required profiles;
- (ii) forming cambers or falls;
- (iii) linings and taking all measures necessary to produce the required finish to the surfaces of the concrete;



- (iv) cutting and fitting around projecting members, pipes reinforcement and the like;
- (v) forming fillets, chamfers, splays, drips, rebates, recesses, grooves and the like not exceeding 0.0025 square metre in cross-sectional area, unless itemised in the Bill of Quantities.
- (vi) maintaining in place until it is struck and allowing for any variation from the minimum period for striking arising from prevailing weather conditions.
- (vii) striking, taking down and removing;
- (viii) any additional concrete provided in lieu of formwork to fill overbreak or working space.

H. 8. Building in Plant, Equipment and Pipework

Items appear in the Bill of Quantities for building-in plant equipment and pipework. The rates in the Bill of Quantities shall include for all materials, formwork, etc. required for such building-in. No additional payment will be made should the Contractor choose to form boxouts, pockets, etc., and grout in at a later date.

I. 9. Unshuttered Surfaces

The unit of measurement shall be square metre

Unshuttered surfaces are described in the Specification. Items are provided where appropriate for surface finish type U2, U3 and U4 and the rates entered under these items shall include for all material, plant and labour required to finish the unshuttered concrete as specified.

No measurement shall be made for the normal screeded finish type U1.

J. 10. Breaking out Reinforced Concrete and Blockwork

(a) The units of measurement shall be:

- (i) Breaking out, section thickness stated or shown on the Drawings -cubic metres
- (ii) Making good perimeter of permanent openings, section thickness stated or shown on the Drawings square metre
- (iii) Building in pipe work, etc of stated size number

(b) Method of measurement:

- (i) Breaking out. The section thicknesses stated or shown on the Drawings are nominal thicknesses only. For measurement the thicknesses of the sections shall be as measured on Site.
- (ii) Making good. For measurement purposes the perimeter shall be that existing after any making good of permanent openings. The perimeters and section thicknesses shall be as measured on site. The rates in the Bill of

Quantities shall include for all materials, formwork, etc. and for filling of overbreak.

(c) Item coverage:

No separate payment will be made beyond the rates for breaking out for:

- (i) All equipment necessary;
- (ii) Any temporary supports, staging and the like;
- (iii) Any overbreak;
- (iv) Material for building in pipes and supporting the pipe;
- (v) Formwork;
- (vi) Removal of broken out materials off site;
- (vii) Cutting through reinforcement.

K. 11. Pipes and Pipe work

(a) The units of measurement shall be:

- (i) Pipelines : Number- lengths of 6m each
- (ii) Pipework, fittings and valves : number

(b) Method of measurement:

- (i) Lengths of pipelines shall be measured net as laid along their centre lines.
- (ii) Short lengths of pipes, the dimensions of which are detailed in the Bill of Quantities, shall be measured by number.
- (iii) Lengths of drainage pipes built into manholes and other chambers shall be measured from the inside faces of chambers.

(c) Item coverage:

No separate payment will be made beyond the rates for pipes and pipework for:-

- (i) Cost of supplying all pipes, jointing materials and short lengths to suit fittings;
- (ii) All necessary cutting and waste;
- (iii) All plant, labour and materials required for handling, distribution, laying and jointing in position;
- (iv) Testing of the pipe system.

L. 12. Pipework Ancillaries

(a) The units of measurement shall be:

- (i) Beds, haunches and surrounds: metre
- (ii) Concrete stools and thrust and anchor blocks: cubic metre



(b) Method of measurement:

- (i) Separate measurement shall not be made for beds to haunched or surrounded pipes where the same material is used for beds and haunches or beds and surrounds respectively.

(c) Item coverage:

No separate payment will be made beyond the rates for thrust blocks, surrounds and the like for:

- (i) Excavation including working space;
- (ii) Formwork type F1 finish;
- (iii) Providing unshuttered surfaces to type U1.

M.13. Structural and Miscellaneous Metal Work

(a) The units of measurement shall be:

- (i) Structural and miscellaneous metal work including stairways, landings, walkways and platforms . Megagramme (Metric tonne)
- (ii) Ladders, handrails and the like metre Flooring,
- (iii) duct covers and the like square metre
- (iv) Tanks number

(b) Method of measurement:

The weight of mild steel to B.S 4360 grades 43A1 and 43A shall be taken for measurement as 7,850 kg/cu. m.

The measurement of metal work in (a) (i), including bolts, washers, and all other fixing shall be the net theoretical calculated weights of metalwork used in the work in accordance with the Drawings or as ordered by the Engineer. No allowance shall be made in the measurement thereof for rolling margin and other permissible deviations from standard weights.

(c) Item coverage:

No separate payment will be made beyond the rates for metal work for:

- (i) Cost of supplying materials;
- (ii) moulding, fabricating, welding, drilling, machining, screwing, galvanizing or painting as may be specified.
- (iii) Handling, transporting, hoisting, fitting and fixing in position complete;
- (iv) supply of all fixings;



- (v) Painting after erection as specified;

N. 14. Brickwork, Block work and Masonry

- (a) The units of measurements shall be:

- (i) Brickwork, blockwork and masonry not exceeding 1 metre in thickness square metres
- (ii) Brickwork, blockwork and masonry exceeding 1 metre in thickness cubic metres
- (iii) Damp proof courses, wall thickness stated metre

- (b) Method of measurement:

- (i) Volumes and areas measured for brickwork, blockwork and masonry shall include the volumes and areas of joints.
- (ii) No deduction or addition to the volumes and areas measured shall be made for rebates, projecting courses or other surface features each less than 0.05 square metre in cross sectional area.
- (iii) No deduction from the Volumes and areas measured shall be made for holes and openings in walls or surfaces each less than 0.25 square metre in cross-sectional area.
- (iv) Areas shall be measured at the centre lines of brickwork, blockwork and masonry.

- (c) Item coverage:

No separate payment will be made beyond the rates for the rates for brickwork, blockwork and masonry for:

- (i) Jointing, pointing and fair-faced work, in any type of bond including all rough and fair cutting;
- (ii) Plinths, corbels, bull noses, chases, rebates, quoins, brick copings string courses and the like;
- (iii) Centering and all temporary supports;
- (iv) Bonding into existing work;
- (v) Protection of work;
- (vi) Building in pipes, holdfasts, bolts and the like and forming openings less than 0.25 square metre in cross section;
- (vii) Ties and reinforcement.

O. 15. Roofing

- (a) The units of measurement shall be:

- (i) Galvanized corrugated sheet iron or proprietary sheet metal roofing SM
- (ii) Translucent panels, extra over (i) above square metre



(b) Method of measurement:

(i) Roofing shall be measured net as the overall area of finished roofing.

(c) Item coverage:

No separate payment will be made beyond the rates for roofing for:

(i) Cutting to length, waste and laps;

(ii) Fixings, flashing, ridges and closure pieces.

P. 16. Doors and Windows

(a) The unit of measurement shall be number.

(b) The rate in the Bill of Quantities shall include for the supply and building-in of all frames, glazing and all iron mongery as specified.

Q. 17. Refurbishment of Valves

Valves shall be refurbished as follows:-

(a) Cut off water by closing up stream valve.

(b) Remove bolts attaching bonnet (top half) to body (bottom half).

(c) Withdraw bonnet including stem (spindle) and wedge (gate), leaving body only in pipeline.

(d) Place steel blanking plate and gasket and bolt in position.

(e) Turn on water.

The time for the above shall be kept to an absolute minimum by loosening bolts etc. early and shall not exceed one hour.

Valve interiors shall be fully stripped inspected and cleaned (wire brushed) in a workshop and reassembled, greased with new gland packing and new external bolts and gaskets. Any worn out parts e.g. spindles shall be replaced as instructed.

When valves have been refurbished, the water shall be turned off, the blanking plate removed, the interior of the body cleaned by wire brushing and the valve reassembled. The time for the above shall be kept to an absolute minimum and shall not exceed one hour.

The rate in the BoQ for refurbishment shall include for all labour, plant and tools to turn off and on the water supply for the removal, stripping, inspection, cleaning and reassembly of the valve both on site and in the workshop, for the supply of the temporary blanking plate, gasket and bolts, and for the supply of new gland packing, new gaskets and bolts and all oils and greases.



The Contractor shall be paid extra for the material costs only of any additional parts he is instructed to renew e.g. spindles and wedges.

R. 18. Measurement and Payment for Gabions

(a) Chain Link Fencing, Weld mesh etc.:

The unit of measurement for chain link fencing weld mesh etc for the manufacture of gabions will be per square metre, calculated from the area required to construct the boxes as shown on the drawings or directed by the Engineer without allowing for waste.

The rate shall include for supplying, transporting to any point on the site, cutting, waste, bending, welding or binding, placing in position and binding, and all labour, tools plant, supervision, overheads and profit.

(b) Rock Fill to Gabions:

The unit measurement shall be per cubic metre of rock fill calculated from the volume of the boxes shown on the drawing or directed by the Engineer. The rate shall include for providing and selecting rock or boulders, transporting to any point on site, hand packing inside boxes trimming and compaction of surface to receive boxes, and all labour, plant, supervision, over-heads and profit.

(c) Any excavation and backfilling required to place gabions in cut will be paid for as "Excavation for Structure". No additional payment will be made for filling behind gabions placed in front of embankments or fills and any additional work shall be included in the rate for earthworks.