



REPUBLIC OF KENYA

**MINISTRY OF HEALTH
STATE DEPARTMENT FOR MEDICAL SERVICES**

**EAST AFRICA'S CENTERS OF EXCELLENCE FOR SKILLS AND TERTIARY
EDUCATION IN BIOMEDICAL SCIENCES PHASE 1(ADDITIONAL FINANCING)**

**PROPOSED COMPLETION WORKS PHASE 1 OF EAST AFRICA'S
CENTERS OF EXCELLENCE COMPLEX AT KENYATTA NATIONAL
HOSPITAL (KNH) GROUNDS NAIROBI, KENYA**

**Country: KENYA
Loan No.: 2100150043449
OCBI/LCB No: MOH/SDMS/EACE/OCBI/001/2024-2025
Issued on: 27th March 2025
Works Programme No: D108 NB/NB/ 1801 JOB NO. 10398A**

**BIDDING DOCUMENT – VOL 1 OF 4
BIDDING PROCEDURES
EMPLOYER'S REQUIREMENTS
CONDITIONS OF CONTRACT AND CONTRACT FORMS
GRAND SUMMARY
(ALL RATES EXCLUSIVE OF TAXES)**

EMPLOYER

PRINCIPAL SECRETARY
MINISTRY OF HEALTH
STATE DEPARTMENT FOR MEDICAL
SERVICES
P.O BOX 30016-00100
NAIROBI, KENYA

EMPLOYER'S REPRESENTATIVE

WORKS SECRETARY
STATE DEPARTMENT FOR PUBLIC
WORKS
P.O BOX 30743-00100
NAIROBI, KENYA

MARCH, 2025

Bidding Document: Invitation for Bids – Works (Without Prequalification)

Part 1 – Bidding Procedures

Section I - Instructions to Bidders (ITB)

This Section provides relevant information to help Bidders prepare their Bids. It is based on a one-envelope Bidding process when prequalification has not taken place. Information is also provided on the submission, opening, and evaluation of Bids and on the award of Contracts. Section I contains provisions that are to be used without modification.

Section II - Bid Data Sheet (BDS)

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders.

Section III - Evaluation and Qualification Criteria

This Section specifies the criteria for evaluation of Bids and qualification of Bidders to perform the contract to determine the successful Bidder or Bidders that are substantially responsive to the bidding document and whose Bid (s) offer the lowest evaluated cost to the Employer. Only such criteria as appropriate for each procurement will be specified.

Section IV - Bidding Forms

This Section includes the forms for the Bid submission, Bill of Quantities, Schedules of Technical Proposal, including technical and financial qualifications, personnel, financial resources, and equipment, Bid Security and others to be completed and submitted by the Bidder as part of its Bid.

Section V - Eligible Countries

This Section contains information regarding eligible countries.

Section VI - Fraud and Corruption

This section includes the Fraud and Corruption provisions which apply to this Bidding process.

Part 2 – Works' Requirements

Section VII - Works' Requirements

This Section contains the Specification, the Drawings, and supplementary information that describe the Works to be procured. The Works' Requirements also include the environmental and social (ES) requirements (including requirements relating to Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) which are to be satisfied by the Contractor while executing the works.

Part 3 – Conditions of Contract and Contract Forms

Section VIII - General Conditions (GC)

This Section refers to the “General Conditions” which form part of the Conditions of Contract for Construction (Second Edition 2017) published by the Federation Internationale Des Ingenieurs – Conseils (FIDIC).

Section IX - Particular Conditions (PC)

This Section includes particular conditions of the contract consisting of: Part A- Contract Data; Part B -Specific Provisions, Part C – Fraud and Corruption; Part D – Environmental and Social (ES) Reporting Metrics for Progress Reports; and Part E - Eligibility. The contents of this Section supplement the General Conditions and shall be completed by the Employer.

Section X - Contract Forms

This Section contains the Letter of Acceptance, Contract Agreement and other relevant forms.

Specific Procurement Notice

Invitation for Bids [IFB]

Works

IFB Number: MOH/SDMS/EACE/OCB1/01/2024-2025
Employer: State Department for Medical Services; Ministry of Health
Project: Support for East Africa's Centers of Excellence for Skills and Tertiary Education in Biomedical Sciences Phase 1 (additional Financing)
Contract title: Proposed Completion Works of East Africa's Centres of Excellence Complex Phase 1, at Kenyatta National Hospital (KNH), Grounds Nairobi, Kenya
Country: Republic of Kenya
Loan No.: 2100150043449
Procurement Method: Open Competitive Bidding (International) (OCBI)
OCBI/LCB No: MOH/SDMS/EACE/OCBI/2024-2025
Issued on: 27th March 2025

1. The Government of the Republic of Kenya has received financing from African Development Fund hereinafter called the Bank toward the cost of the East Africa's Centre's of Excellence for Skills and Tertiary Education in Biomedical Science Phase 1 (Additional Financing) and intends to apply part of the proceeds toward payments under the contracts for the Proposed Completion Works of East Africa's Centers of Excellence Complex Phase 1 at Kenyatta National Hospital (KNH) Ground. For this contract, the Borrower shall process the payments using the Direct Payment disbursement method, as defined in the Bank's Disbursement Guidelines and procedures for Investment Project Financing.
2. The Ministry of Health; State Department for Medical Services now invites sealed Bids from eligible Bidders for the Proposed Completion Works of East Africa's Centers of Excellence Complex Phase 1 at Kenyatta National Hospital (KNH) Grounds Nairobi, Kenya.
3. Bidding will be conducted through the Open Competitive Bidding (International), OCBI procedures as specified in the Bank's [Procurement Framework](#) dated August 2015, and is open to all eligible Bidders as defined in the Procurement Framework.
4. Interested eligible Bidders may obtain further information from Ministry of Health Headquarters, procurement@health.go.ke and inspect the bidding document during office hours 8.00am-1.00pm and 2.00pm -5.00pm {EAT} at the address given below.
5. The bidding document in English Language shall be downloaded from the Ministry of Health Website: www.health.go.ke and Public Procurement Information Portal (PIIP) Portal: www.tenders.go.ke by interested eligible Bidders. Bidders who download bidding document must forward their particulars immediately to procurement@health.go.ke to facilitate any further clarification or addendum.

6. Bids must be delivered and placed in the tender box at the Ministry of Health, Headquarters Afya House, on 1st floor on or before Thursday **8th May 2025 at 10.00 A.M** (Kenyan Time). Electronic Bidding will not be permitted. Late Bids will be rejected. Bids will be publicly opened in the presence of the Bidders' designated representatives and anyone who chooses to attend at ADB Prefabricated Block Board Room, Afya House, Cathedral Road Off Ngong' Road on Thursday **8th May 2025 at 10.00 A.M** (Kenyan Time).
NB: Bulky documents submitted earlier than the date of opening should be delivered to the office of the Head, Supply Chain Management Services, on 5th floor Room 514 A, at Ministry of Health, Afya House, Cathedral Road, off Ngong' Road with a delivery note in duplicate.
7. All Bids must be accompanied by a Bid Security of Kshs. 10,000,000.00 in form of a bank guarantee, from a reputable bank and should be valid for 175 days from the date of Bid Opening. The beneficiary for the security shall be The Principal Secretary, State Department for Medical Services; P. O. Box 30016 – 00100 Nairobi.
8. Attention is drawn to the Procurement Framework requiring the Borrower to disclose information on the successful bidder's beneficial ownership, as part of the Contract Award Notice, using the Beneficial Ownership Disclosure Form as included in the bidding document.
9. The address (es) referred to above is:
The Principal Secretary,
State Department for Medical Services
Ministry of Health Headquarters
P.O Box 30016-00100 Nairobi,
Afya House Cathedral Road Off Ngong' Road,
Supply Chain Management Office 5th Floor Room 514A,
Ministry Website; www.health.go.ke
email Address: procurement@health.go.ke

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Part 1: Bidding Procedures

Section 1: Instructions to Bidders

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Section I: Instructions to Bidders

A. General

1. Scope of Bid

- 1.1 In connection with the Specific Procurement Notice – Invitation for Bids (IFB), specified in the Bid Data Sheet (BDS), the Employer, as specified in the BDS, issues this Bidding document for the provision of Works as specified in Section VII, Works' Requirements. The name, identification, and number of "whole of the works", hereafter called 'Works' invited under one or more lots (Contracts) or Packages each lot containing one or more 'Works' or each package containing one or more lots of this IFB are specified in the BDS.
- 1.2 Throughout this bidding document:
- (a) the term "in writing" means communicated in written form (e.g. by mail, e-mail, fax, including, if specified in the BDS, distributed or received through electronic-procurement system used by the Employer) with proof of receipt;
 - (b) if the context so requires, "singular" means "plural" and vice versa;
 - (c) "Day" means calendar day, unless otherwise specified as a "Business Day." A Business Day is any day that is a working day of the Borrower. It excludes the Borrower's official public holidays; and
 - (d) "ES" means environmental and social (including Sexual Exploitation, and Abuse (SEA) and Sexual Harassment (SH));
 - (e) "Sexual Exploitation and Abuse" "(SEA)" means the following:
"Sexual Exploitation" is defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
"Sexual Abuse" is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
 - (f) "Sexual Harassment" "(SH)" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Contractor's Personnel with other Contractor's or Employer's Personnel;
 - (g) "Contractor's Personnel" is as defined in Sub- Clause 1.1.17 of the General Conditions of Contract; and
 - (h) "Employer's personnel" is as defined in GCC Sub-Clause 1.1.31 of the General Conditions of Contract.

A non-exhaustive list of (i) behaviors which constitute SEA and (ii) behaviors which constitute SH is attached to the Code of Conduct form in Section IV.

2. Source of Funds

- 2.1 The Borrower or Recipient (hereinafter called "Borrower") specified in the BDS has received or has applied for financing (hereinafter called "funds") from the Specific Financing Institution named in the BDS (hereinafter called "the Bank") in an amount specified in the BDS, toward the project named in the BDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding document is issued.
- 2.2 Payment by the Bank will be made only at the request of the Borrower and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the Loan (or other financing) Agreement. The Loan (or other financing) Agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of goods, equipment, plant, or materials, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan (or other financing) Agreement or have any claim to the proceeds of the Loan (or other financing).

3. Fraud and Corruption

- 3.1 The Bank requires compliance with its Integrity Framework comprising the African Development Bank Group's Sanctions Procedures, the Bank's Whistle-blowing and Complaints Policy, the Bank's Procurement Policy under the Procurement Framework and any other applicable Policies and Procedures including their updates in regard to corrupt and fraudulent practices, as set forth in Section VI.
- 3.2 In further pursuance of this policy, bidders shall permit and shall cause their agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and their personnel, to permit the Bank to inspect all accounts, records and other documents relating to any prequalification process, bid submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Bank.

4. Eligible Bidders

- 4.1 A Bidder may be a firm that is a private entity, a state-owned enterprise or institution subject to ITB 4.6 or any combination of such entities in the form of a joint venture, consortium, or association (JVCA) hereinafter called JV, under an

existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, consortium, or association (JV): a) Unless otherwise specified in the BDS, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms; b) The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Bidding process and, in the event the JV is awarded the Contract, during contract execution; c) The maximum number of members proposed in a JV shall not exceed the number specified in the BDS, or the number derived from the percentage specified under ITB 4.1 (d), whichever is smaller unless both are equal, in which case anyone shall apply; and d) Participation by value of the contract as share of each of the JV partner (member) shall not be less than the percentage specified in the BDS. In case of any inconsistency between ITB 4.1 c) and ITB 4.1 d) such that both cannot be applied simultaneously, the latter shall prevail.

4.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this Bidding process, if the Bidder:

- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
- (b) receives or has received any direct or indirect subsidy from another Bidder; or
- (c) has the same legal representative as another Bidder; or
- (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the Bid of another Bidder, or influence the decisions of the Employer regarding this Bidding process; or
- (e) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the Bid; or
- (f) or any of its affiliates has been hired (or is proposed to be hired) by the Employer or Borrower as Engineer for the Contract implementation; or
- (g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
- (h) has a close business or family relationship with a professional staff of the Borrower (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the Bidding document or specifications of the Contract, and/or the Bid evaluation process of such Contract; or (ii) would be involved in the

implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Bank throughout the Bidding process and execution of the Contract.

- 4.3 A firm that is a Bidder (either individually or as a JV member) shall not participate in more than one Bid, except for permitted alternative Bids. This includes participation as a subcontractor in other Bids. Such participation shall result in the disqualification of all Bids in which the firm is involved. A firm that is not a Bidder or a JV member may participate as a subcontractor in more than one Bid.
- 4.4 A Bidder and all parties constituting the Bidder including any subcontractors or suppliers shall have the nationality of an eligible country of the Bank in accordance with the Bank's Procurement Policy for the Bank Group Funded Operations described under the Bank's Procurement Framework, and as listed in Section V, Eligible Countries, subject to the restrictions pursuant to ITB 4.8. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion shall also apply to the determination of the nationality of proposed subcontractors or subconsultants for any part of the Contract including related Services.
- 4.5 A Bidder that has been sanctioned by the Bank, pursuant to the Bank's Integrity Framework, and in accordance with its prevailing sanctions policies and procedures as set forth in the Bank's Integrity Framework, as described in Section VI paragraph 2.2 d. shall be ineligible to be prequalified for, bid for, or be awarded a Bank-financed contract or benefit from a Bank-financed contract, financially or otherwise, during such period of time as the Bank shall have determined. The list of debarred firms and individuals is available at the electronic address specified in the BDS.
- 4.6 Bidders that are state-owned enterprises or institutions in the Employer's Country may be eligible to compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the Bank, that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the Employer.
- 4.7 A Bidder shall not be under suspension from Bidding by the Employer as the result of the operation of a Bid-Securing Declaration.
- 4.8 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Borrower's country prohibits commercial

relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. When the Works are implemented across jurisdictional boundaries (and more than one country is a Borrower, and is involved in the procurement), then exclusion of a firm or individual on the basis of ITB 4.8 (a) above by any country may be applied to that procurement across other countries involved, if the Bank and the Borrowers involved in the procurement agree.

- 4.9 A Bidder shall provide such documentary evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.
- 4.10 A firm that is under a sanction of debarment by the Borrower from being awarded a contract is eligible to participate in this procurement, unless the Bank, at the Borrower's request, is satisfied that the debarment; (a) relates to fraud or corruption, and (b) followed a judicial or administrative proceeding that afforded the firm adequate due process.

5. Eligible Materials, Equipment, and Services

- 5.1 The materials, equipment and services to be supplied under the Contract and financed by the Bank shall have their origin in an eligible country of the Bank in accordance with the Bank's Procurement Policy for Bank Group Funded Operations described under the Bank's Procurement Framework, and as listed in Section V, Eligible Countries, subject to the restrictions specified therein, Eligible Countries, and all expenditures under the Contract will not contravene such restrictions. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.
- 5.2 The nationality of the firm that produces, assembles, distributes, or sells the materials and equipment shall not determine their origin.

B. Contents of Bidding Document

6. Sections of Bidding Document

- 6.1 The Bidding document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8.

PART 1 Bidding Procedures

- Section I - Instructions to Bidders (ITB)
- Section II - Bid Data Sheet (BDS)
- Section III - Evaluation and Qualification Criteria
- Section IV - Bidding Forms
- Section V - Eligible Countries
- Section VI - Fraud and Corruption

PART 2 Works Requirements

- Section VII - Works' Requirements

PART 3 Conditions of Contract and Contract Forms

- Section VIII - General Conditions (GC)
- Section IX - Particular Conditions (PC)
- Section X - Contract Forms

- 6.2 The Specific Procurement Notice - Invitation for Bids (IFB) issued by the Employer is not part of the Bidding document.
- 6.3 Unless obtained directly from the Employer, the Employer is not responsible for the completeness of the Bidding document, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the Bidding document in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Employer shall prevail.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding document and to furnish with its Bid all information and documentation as is required by the Bidding document.

7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting

- 7.1 A Bidder requiring any clarification of the Bidding document shall contact the Employer in writing at the Employer's address specified in the BDS or raise its enquiries during the pre-Bid meeting if provided for in accordance with ITB 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of Bids. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding document in accordance with ITB 6.3, including a description of the inquiry but without identifying its

source. If so specified in the BDS, the Employer shall also promptly publish its response at the web page identified in the BDS. Should the clarification result in changes to the essential elements of the Bidding document, the Employer shall amend the Bidding document following the procedure under ITB 8 and ITB 22.2.

- 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
- 7.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 7.4 If so specified in the BDS, the Bidder's designated representative is invited to attend a pre-Bid meeting and/or a Site of Works visit. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.5 The Bidder is requested to submit any questions in writing, to reach the Employer not later than one week before the meeting.
- 7.6 Minutes of the pre-Bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding document in accordance with ITB 6.3. If so specified in the BDS, the Employer shall also promptly publish the Minutes of the pre-Bid meeting at the web page identified in the BDS. Any modification to the Bidding document that may become necessary as a result of the pre-Bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITB 8 and not through the minutes of the pre-Bid meeting. Nonattendance at the pre-Bid meeting will not be a cause for disqualification of a Bidder.

8. Amendment of Bidding Document

- 8.1 At any time prior to the deadline for submission of Bids, the Employer may amend the Bidding document by issuing addenda.

- 8.2 Any addendum issued shall be part of the Bidding document and shall be communicated in writing to all who have obtained the Bidding document from the Employer in accordance with ITB 6.3. The Employer shall also promptly publish the addendum on the Employer's web page in accordance with ITB 7.1.
- 8.3 To give Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer should extend the deadline for the submission of Bids, pursuant to ITB 22.2.

C. Preparation of Bids

9. Cost of Bidding

- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.

10. Language of Bid

- 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Employer, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.

11. Documents Comprising the Bid

- 11.1 The Bid shall comprise the following:
- (a) Letter of Bid prepared in accordance with ITB 12;
 - (b) Schedules including priced Bill of Quantities, completed in accordance with ITB 12 and ITB 14;
 - (c) Bid Security or Bid-Securing Declaration, in accordance with ITB 19.1;
 - (d) Technical Bid - of Base Bid;
 - (e) Commercial Terms and Conditions;
 - (f) Alternative Technical Bid, if permissible, in accordance with ITB 13;
 - (g) Authorization: written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.3;

- (h) Eligibility and Qualifications: documentary evidence in accordance with ITB 17 establishing the Bidder's eligibility and qualifications to perform the Contract if its Bid is accepted;
 - (i) Conformity: documentary evidence in accordance with ITB 16 and ITB 30, and in support of above sub-paragraphs (d) and (e) of ITB 11.1, as necessary, to establish that the offered Works and Services, and Terms and Conditions of the Bid conform to the requirements and provisions of the bidding document; and
 - (j) any other document required in the BDS.
- 11.2 In addition to the requirements under ITB 11.1, Bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed Agreement.
- 11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.
- 11.4 The Bidder shall furnish in the Letter of Bid the names of three potential Dispute Avoidance/Adjudication Board (DAAB) members and attach their curriculum vitae. The list of potential DAAB members proposed by the Employer (Contract Data 21.1) and by the Bidder (Letter of Bid) shall be subject to the Bank's No-objection.

12. Letter of Bid and Schedules

- 12.1 The Letter of Bid and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.3. All blank spaces shall be filled in with the information requested.

13. Alternative Bids

- 13.1 Unless otherwise specified in the BDS, alternative Bids shall not be considered. If Alternative Bids are permitted, the BDS shall specify which of the following ITB (s) namely, ITB 13.2, ITB 13.3 and ITB 13.4 shall be considered.
- 13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the BDS, and the method of evaluating different

alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.

- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding document must first price the Employer's design as described in the Bidding document and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Bidder with the Lowest Evaluated Bid conforming to the basic technical requirements shall be considered by the Employer.
- 13.4 When specified in the BDS, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be identified in the BDS and described in Section VII, Works' Requirements. The method for their evaluation will be stipulated in Section III, Evaluation and Qualification Criteria.

14. Bid Prices and Discounts

- 14.1 The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Bill of Quantities shall conform to the requirements specified below.
- 14.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Bidder shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Employer. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Bid, and provided that the Bid is determined substantially responsive notwithstanding this omission, the average or the highest price of the item as specified in the BDS quoted by substantially responsive Bidders will be added to the Bid price and the equivalent total cost of the Bid so determined will be used for price comparison.
- 14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1, ITB 14.6 and ITB 14.7.
- 14.5 Unless otherwise specified in the BDS and the Conditions of Contract, the rates and prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions

of Contract. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Employer may require the Bidder to justify its proposed indices and weightings. A Bid submitted with a fixed price basis shall not be rejected unless otherwise specified in the BDS and in the latter case, a Bid submitted with fixed price shall be rejected.

- 14.6 **As specified in the BDS**, bids are being invited for "Works" as a single contract (or as one lot); or for individual lots (contracts) each lot containing one or more 'Works'; or for any combination of lots (packages). Bidders wishing to offer discounts for the award of more than one Contract (lot) shall specify in their Bid the price reductions applicable to each contract (lot) and package as the case may be. Bidders shall fully explain the methodology and calculations for applying such discounts, showing how the reductions are derived and the net amounts of each contract after the application of the offered discounts to individual items. Discounts can be offered only for those items for which the Bidder is required to bid and not for any item where the Employer has included its estimated cost as a fixed sum or a percentage in the Bills of Quantities. Discounts shall be submitted in accordance with ITB 14.4, and ITB 14.6 provided that the Bids for all lots (contracts) are opened at the same time.
- 14.7 Discounts offered shall be clear and without any vagueness or ambiguity to avoid rejection of the bid as no clarification shall be requested or permitted on this account after bid submission. The Employer's decision on a bid's discount will be based on the contents of the bid itself, without recourse to any extrinsic evidence. If in the Employer's opinion, which will be final, a discount offered in the bid: I) is unclear, ambiguous or vaguely presented to the extent that it cannot be either interpreted or applied with reasonable accuracy, the Bid shall be rejected; II) relates to any item of cost for which the Bidder is not required to submit a bid price or the Employer may have indicated the estimated cost e.g. for a provisional sum or contingencies as per the bidding document, then the bid will be evaluated without the application of the discount offered for such item of cost; and III) has minor discrepancy or unclarity which could be interpreted reasonably, the Employer in this case may decide not to reject the bid and apply the discount as it deems reasonable and appropriate resulting in the lowest evaluated cost to the Employer. If the Bidder does not accept the Employer's decision based on any of the above, the bid shall be rejected.
- 14.8 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder.

15. Currencies of Bid and Payment

- 15.1 The currency (ies) of the Bid and the currency (ies) of payments shall be as specified in the BDS.
- 15.2 Bidders may be required by the Employer to justify, to the Employer's satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Adjustment Data in the Appendix to Bid are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Bidders.

16. Documents Comprising the Technical Bid

- 16.1 The Bidder shall furnish details of technical specifications proposed in the Technical Bid including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Bidding Forms, or elsewhere in the bidding document, and if applicable, a statement of deviations and exceptions to any of the provisions of the bidding document, in sufficient detail to demonstrate the adequacy of the Bidder's proposal to meet the Employer's work's requirements and the completion time, and to demonstrate substantial responsiveness to the technical specifications required as per the provisions of the Section VII, Work's Requirements.

17. Documents Establishing the Eligibility and Qualifications of the Bidder

- 17.1 To establish Bidder's eligibility in accordance with ITB 4, Bidders shall complete the included in Section IV, Bidding Forms.
- 17.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Bidder shall provide the information requested in the corresponding forms included in Section IV, Bidding Forms.
- 17.3 If a margin of preference applies as specified in accordance with ITB 33.1, domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference or regional preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITB 33.1.

18. Period of Validity of Bids

- 18.1. Bids shall remain valid for the Bid Validity period specified in the BDS or any extended period if amended by the Employer in accordance with ITB 8. The Bid Validity period starts from the date fixed for the Bid submission deadline (as

prescribed by the Employer in accordance with ITB 22). A Bid valid for a shorter period shall be rejected by the Employer as nonresponsive.

- 18.2 In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 19, it shall also be extended for twenty-eight (28) days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request shall not be required or permitted to modify its Bid, except as provided in ITB 18.3.
- 18.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Bid validity period, the Contract price shall be determined as follows:
- (a) in the case of fixed price contracts, the Contract price shall be the Bid price adjusted by the factor specified in the BDS to reflect any increase in the cost of inputs over the period of extension, which for the purpose of this adjustment, shall be the period elapsed between the date arrived immediately after expiry of the fifty-six (56) days beyond the initial Bid validity period and the date of notification of award;
 - (b) in the case of adjustable price contracts, no adjustment shall be made; and
 - (c) in any case, Bid evaluation shall be based on the Bid price without taking into consideration the applicable correction from those indicated above.

19. Bid Security

- 19.1 The Bidder shall furnish as part of its Bid, either a Bid-Securing Declaration or a Bid Security amount as specified in the BDS, in original form and, in the case of a Bid Security amount, in the amount and currency specified in the BDS.
- 19.2 A Bid-Securing Declaration shall use the form included in Section IV, Bidding Forms.
- 19.3 If a Bid Security amount is specified pursuant to ITB 19.1, the Bid Security shall be a demand guarantee in any of the following forms at the Bidder's option:
- (a) an unconditional guarantee issued by a bank or non-bank financial institution (such as an insurance, bonding or surety company);
 - (b) an irrevocable letter of credit;

- (c) a cashier's or certified check; or
- (d) another security specified in the BDS,

The Bidders shall obtain the Bid Security from a reputable source from an eligible country. If an unconditional guarantee is issued by a non-bank financial institution located outside the Employer's Country, the issuing non-bank financial institution shall have a correspondent financial institution located in the Employer's Country to make it enforceable unless the Employer has agreed in writing, prior to Bid submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Bid Security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Employer prior to Bid submission. The Bid Security shall be valid for twenty-eight (28) days beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB 18.2.

- 19.4 If a Bid Security in amount or Bid-Securing Declaration is specified pursuant to ITB 19.1, any Bid not accompanied by a substantially responsive Bid Security in amount or Bid-Securing Declaration whichever is required, shall be rejected by the Employer as non-responsive.
- 19.5 If a Bid Security is specified pursuant to ITB 19.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the Performance Security and if required in the BDS, the Environmental and Social (ES) Performance Security pursuant to ITB 48.
- 19.6 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security, and if required in the BDS, the Environmental and Social (ES) Performance Security.
- 19.7 The Bid Security amount may be forfeited:
 - (a) if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder; or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 47; or

- (ii) furnish a Performance Security and if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with ITB 48.

19.8 The Bid Security amount or the Bid-Securing Declaration of a JV shall be in the name of the JV that submits the Bid. If the JV has not been legally constituted into a legally enforceable JV at the time of Bidding, the Bid Security amount or the Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.

19.9 If a Bid Securing Declaration is required in the BDS, pursuant to ITB 19.1, and:

- (a) if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Letter of Bid or any extension thereto provided by the Bidder; or
- (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 47; or
 - (ii) furnish a Performance Security and, if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with ITB 48,

the Borrower may execute the Bid Securing Declaration, as provided for in the BDS, declare the Bidder ineligible to be awarded a contract by the Employer for a period of time stated in the BDS.

20. Format and Signing of Bid

20.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative Bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE." In addition, the Bidder shall submit copies of the Bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 Bidders shall mark as "CONFIDENTIAL" all information in their Bids which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.

20.3 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All

pages of the Bid where entries or amendments have been made shall be signed or initialed by the person signing the Bid.

- 20.4 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 20.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

D. Submission and Opening of Bids

21. Sealing and Marking of Bids

21.1 The Bidder shall deliver the Bid in a single, sealed envelope (one-envelope Bidding process). Within the single envelope the Bidder shall place the following separate, sealed envelopes:

- (a) in an envelope marked "ORIGINAL", all documents comprising the Bid, as described in ITB 11; and
- (b) in an envelope marked "COPIES", all required copies of the Bid; and
- (c) if alternative Bids are permitted in accordance with ITB 13, and if relevant:
 - (i) in an envelope marked "ORIGINAL - ALTERNATIVE BID", the alternative Bid; and
 - (ii) in the envelope marked "COPIES - ALTERNATIVE BID", all required copies of the alternative Bid.

21.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Employer in accordance with ITB 22.1;
- (c) bear the specific identification of this Bidding process specified in accordance with BDS 1.1; and
- (d) bear a warning not to open before the time and date for Bid opening.

21.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.

22. Deadline for Submission of Bids

- 22.1 Bids must be received by the Employer at the address and no later than the date and time specified in the BDS. When so specified in the BDS, Bidders shall have the option of submitting their Bids electronically. Bidders submitting Bids electronically shall follow the electronic Bid submission procedures specified in the BDS.
- 22.2 The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding document in accordance with ITB 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. Late Bids

- 23.1 The Employer shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 22. Any Bid received by the Employer after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.

24. Withdrawal, Substitution, and Modification of Bids

- 24.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 20.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be:
- (a) prepared and submitted in accordance with ITB 20 and ITB 21 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
 - (b) received by the Employer prior to the deadline prescribed for submission of Bids, in accordance with ITB 22.
- 24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.
- 24.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

25. Bid Opening

- 25.1 Except in the cases specified in ITB 23 and ITB 24.2, the Employer shall publicly open and read out in accordance with this ITB all Bids received by the deadline, at the date, time and place specified in the BDS, in the presence of Bidders' designated representatives and anyone who chooses to attend. Any specific electronic Bid opening procedures required if electronic Bidding is permitted in accordance with ITB 22.1, shall be as specified in the BDS.
- 25.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Bid shall not be opened but returned to the Bidder. No Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Bid opening.
- 25.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Bid opening.
- 25.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening.
- 25.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid Price, per lot (contract) if applicable, including any discounts and alternative Bids; the presence or absence of a Bid Security or Bid-Securing Declaration, if required; and any other details as the Employer may consider appropriate.
- 25.6 Only Bids, alternative Bids and discounts that are opened and read out at Bid opening shall be considered further for evaluation. The Letter of Bid and the Bill of Quantities are to be initialed by representatives of the Employer attending Bid opening in the manner specified in the BDS.
- 25.7 The Employer shall neither discuss the merits of any Bid nor reject any Bid (except for late Bids, in accordance with ITB 23.1).
- 25.8 The Employer shall prepare a record of the Bid opening that shall include, as a minimum:

- (a) the name of the Bidder and whether there is a withdrawal, substitution, or modification;
 - (b) the Bid Price, per lot (contract) if applicable, including any discounts;
 - (c) any alternative Bids;
 - (d) the presence or absence of a Bid Security, if one was required.
- 25.9 The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

E. Evaluation and Comparison of Bids

26. Confidentiality

- 26.1 Information relating to the evaluation of Bids and recommendation of contract award shall not be disclosed to Bidders or any other persons not officially concerned with the Bidding process until information on Intention to Award the Contract is transmitted to all Bidders in accordance with ITB 43.
- 26.2 Any effort by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid.
- 26.3 Notwithstanding ITB 26.2, from the time of Bid opening to the time of Contract award, if a Bidder wishes to contact the Employer on any matter related to the Bidding process, it shall do so in writing.

27. Preliminary Examination & Clarification of Bids

- 27.1 Prior to the detailed evaluation, pursuant to ITB 35, the Employer will conduct preliminary examination of all bids that have been received by the deadline for bid submission and opened at the public bid opening as the first step towards determination of their substantial responsiveness to the bidding document. The Employer's determination of a bid's responsiveness is to be based on the contents of the bid itself, as defined in ITB 11 without recourse to extrinsic evidence. The Employer will verify and examine bids to determine whether they are complete, properly signed to bind the bidder, meet eligibility requirements of bidders, materials, equipment, and services, bidders have no conflict of interest and have provided required Bid validity, Bid Security or Bid Securing Declaration, as required and other essential documents to complete the evaluation, and whether the bids are generally in order. Subject to ITB 27.2 and 27.3, Bids failing to meet the above requirements shall be rejected and not retained for further review.

- 27.2 To assist in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid, given a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB 31.
- 27.3 If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer's request for clarification, its Bid may be rejected.

28. Deviations, Reservations, and Omissions

28.1 During the evaluation of Bids, the following definitions apply:

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

29. Determination of Responsiveness

- 29.1 Following the rejection of Bids if any, pursuant to ITB 27, as the next step, the remaining Bids will be further reviewed to determine their substantial responsiveness. The Employer's determination of a Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB 11.
- 29.2 A substantially responsive Bid is one that meets the requirements of the Bidding document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding document, the Employer's rights or the Bidder's obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.

- 29.3 The Employer shall examine the technical aspects of the Bid in accordance with ITB 16, ITB 17, ITB 29, ITB 30, BDS if applicable, and Section III Evaluation and Qualification Criteria in particular, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission. To this end, in consideration of the materiality of any deviations, reservations or omissions, Bids failing to meet the mandatory technical requirements or minimum pass-fail technical criteria or failing to substantially meet any other technical requirements of the bidding document will risk their rejection.
- 29.4 The Employer shall similarly examine the commercial aspects of the bids including any deviations, other than technical specifications, submitted in response to the provisions of the bidding document, to determine if they conform to the terms and conditions of the draft contract and other documents included in the bidding document without any material deviation, reservation or omission, and establishment of materiality in such aspects will similarly risk rejection of the Bids.
- 29.5 If a Bid is not substantially responsive to the requirements of the Bidding document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. All other bids determined substantially responsive will be retained for further evaluation.

30. Nonmaterial Nonconformities

- 30.1 Provided that a Bid is substantially responsive, the Employer may waive any nonconformities in the Bid.
- 30.2 Provided that a Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 30.3 Provided that a Bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component and costs associated, if any,

with non-material deviations, reservations and omissions to the requirements of the bidding documents in the manner specified in the BDS.

31. Correction of Arithmetical Errors

31.1 Provided that the Bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:

- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
- (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) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid.

32. Conversion to Single Currency

32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as specified in the BDS.

33. Margin of Preference

33.1 Unless otherwise specified in the BDS no margin of domestic or regional preference shall apply. If a margin of preference is applicable, the application methodology shall be as specified in Section III, Evaluation and Qualification Criteria, and in accordance with the provisions stipulated in the Bank's Procurement Framework.

34. Subcontractors

34.1 Unless otherwise stated in the BDS, the Employer does not intend to execute any specific elements of the Works by subcontractors selected in advance by the Employer.

- 34.2 Bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as specified in the BDS. Subcontractors proposed by the Bidder shall be fully qualified for their parts of the Works.
- 34.3 The subcontractor's qualifications shall not be used by the Bidder to qualify for the Works unless their specialized parts of the Works were previously designated by the Employer in the BDS as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications with respect to only the specific work experience of the Specialized Subcontractors proposed by the Bidder may be added to the qualifications of the Bidder.

35. Evaluation of Bids

- 35.1 The Employer shall use the criteria and methodologies listed in this ITB and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Employer shall determine the successful Bid or Bids in accordance with ITB 40.
- 35.2 To evaluate Bids, the Employer shall consider the following factors, in accordance with the evaluation and award criteria as applicable for single contract (one lot), lots (contracts) or packages (combination of lots) and as specified under Section III-Evaluation and Qualification Criteria:
- a) the Bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, but including Daywork items, where priced competitively;
 - b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
 - c) price adjustment due to discounts offered in accordance with ITB 12.1, ITB 14.4, ITB 14.6 and ITB 14.7;
 - d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;
 - e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3;
 - f) the additional evaluation factors specified in the BDS and Section III, Evaluation and Qualification Criteria; and
 - g) price adjustment due to application of Margin of Preference, if applicable, as per BDS of ITB 33.1, and Section III, Evaluation and Qualification Criteria.

- 35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.
- 35.4 If this Bidding document allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the Letter of Bid, is specified in Section III, Evaluation and Qualification Criteria.

36. Comparison of Bids

- 36.1 The Employer shall compare the evaluated costs of all substantially responsive Bids established in accordance with ITB 35.2 to determine the Bid that has the lowest evaluated cost.

37. Abnormally Low Bids

- 37.1 An Abnormally Low Bid is one where the Bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the Bidder in regards to the Bidder's ability to perform the Contract for the offered Bid Price.
- 37.2 In the event of identification of a potentially Abnormally Low Bid, the Employer shall seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Bidding document.
- 37.3 After evaluation of the price analyses, in the event that the Employer determines that the Bidder has failed to demonstrate its capability to perform the Contract for the offered Bid Price, the Employer may reject the Bid.

38. Unbalanced or Front-Loaded Bids

- 38.1 If the Bid that is evaluated as the lowest evaluated cost is, in the Employer's opinion, seriously unbalanced or front loaded, the Employer may require the Bidder to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the Bid prices with the scope of works, proposed methodology, schedule and any other requirements of the Bidding document.
- 38.2 After the evaluation of the information and detailed price analysis presented by the Bidder, the Employer may as appropriate:
- (a) accept the Bid; or

- (b) require that the total amount of the Performance Security be increased at the expense of the Bidder to a level not exceeding 20% of the Contract Price; or
- (c) reject the Bid.

39. Qualifications of the Bidder

- 39.1 The Employer shall determine to its satisfaction whether the eligible Bidder or Bidders that is/are selected as having submitted the lowest evaluated cost and substantially responsive Bid(s), substantially meet the qualifying criteria specified in Section III, Evaluation and Qualification Criteria. To this end, the Employer will determine for which Lots and Packages, and/or their combinations, as the case may be, for which Bidder submitted bid, it substantially meets the respective minimum qualification criteria.
- 39.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17. The determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Bidding document), or any other firm(s) different from the Bidder.
- 39.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the Bid, in which event the Employer shall proceed to the Bidder or Bidders who offered substantially responsive Bid or Bids with the next lowest evaluated cost to make a similar determination of such Bidders' qualifications to perform satisfactorily.
- 39.4 The Employer reserves the right to waive minor deviations from the qualification criteria if they do not materially affect the technical capability and financial resources of the Bidder to perform the Contract or combination of Contracts.

40. Successful Bid or Bids

- 40.1 Having compared the evaluated costs of Bids, the Employer shall determine the successful Bid or combination of Bids as the case may be, in accordance with the additional Bid Evaluation Criteria as further described in Section III. Such Bid or Bids would be those which has/have been determined to:
 - (a) be substantially responsive to the Bidding document;
 - (b) offer the lowest evaluated cost to the Employer for all works to be procured based on either a single Contract or all multiple Contracts combined, as the case may be, in accordance with the ITB 14.6 inviting bid prices and

discounts, and provisions made in the Bidding Document for evaluation of bids and award of contract (s); and

- (c) be offered by Bidder or Bidders that substantially meet the qualification criteria applicable for Contract or combination of Contracts for which they are selected.

41. Employer's Right to Accept Any Bid, and to Reject Any or All Bids

- 41.1 The Employer reserves the right to accept or reject any Bid and to annul the Bidding process and reject all Bids at any time prior to Contract Award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically, Bid securities, shall be promptly returned to the Bidders.

42. Standstill Period

- 42.1 The Contract shall not be awarded earlier than the expiry of the Standstill Period. The Standstill Period shall be ten (10) Business Days unless extended in accordance with ITB 46. The Standstill Period commences the day after the date the Employer has transmitted to each Bidder the Notification of Intention to Award the Contract. Where only one Bid is submitted, or if this contract is in response to an emergency situation recognized by the Bank, the Standstill Period shall not apply.

43. Notification of Intention to Award

- 43.1 The Employer shall send to each Bidder the Notification of Intention to Award the Contract to the successful Bidder. The Notification of Intention to Award shall contain, at a minimum, the following information:
 - (a) the name and address of the Bidder submitting the successful Bid;
 - (b) the Contract price of the successful Bid;
 - (c) the names of all Bidders who submitted Bids, and their Bid prices as readout, and as evaluated;
 - (d) a statement of the reason(s) the Bid (of the unsuccessful Bidder to whom the notification is addressed) was unsuccessful, unless the price information in c) above already reveals the reason;
 - (e) the expiry date of the Standstill Period; and
 - (f) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

F. Award of Contract

44. Award Criteria

44.1 Subject to ITB 41, and unless otherwise specified in the BDS, the Employer shall award the Contract or Contracts to the Bidder or Bidders whose Bid or Bids has/have been determined successful in accordance with ITB 40.

45. Notification of Award

45.1 Prior to the expiry of the Bid Validity Period and upon expiry of the Standstill Period specified in ITB 42.1 or any extension thereof, and, upon satisfactorily addressing any complaint that has been filed within the Standstill Period, the Employer shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification of award (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the sum that the Employer will pay the Contractor in consideration of the execution of the Contract (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price").

45.2 Within ten (10) Business Days after the date of transmission of the Letter of Acceptance, the Employer shall publish the Contract Award Notice which shall contain, at a minimum, the following information:

- (a) name and address of the Employer;
- (b) name and reference number of the contract being awarded, and the selection method used;
- (c) names of all Bidders that submitted Bids, and their Bid prices as read out at Bid opening, and as evaluated;
- (d) names of all Bidders whose Bids were rejected either as nonresponsive or as not meeting qualification criteria, or were not evaluated, with the reasons therefor;
- (e) the name of the successful Bidder, the final total contract price, the contract duration and a summary of its scope; and
- (f) successful Bidder's Beneficial Ownership Disclosure Form, if specified in BDS ITB 47.1

45.3 The Contract Award Notice shall be published on the Employer's website with free access if available, or in at least one newspaper of national circulation in the Employer's Country, or in the official gazette. The Employer shall also publish the contract award notice in UNDB online.

- 45.4 Until a formal Contract is prepared and executed, the Letter of Acceptance shall constitute a binding Contract.

46. Debriefing by the Employer

- 46.1 On receipt of the Employer's Notification of Intention to Award referred to in ITB 43.1, an unsuccessful Bidder has three (3) Business Days to make a written request to the Employer for a debriefing. The Employer shall provide a debriefing to all unsuccessful Bidders whose request is received within this deadline.
- 46.2 Where a request for debriefing is received within the deadline, the Employer shall provide a debriefing within five (5) Business Days, unless the Employer decides, for justifiable reasons, to provide the debriefing outside this timeframe. In that case, the standstill period shall automatically be extended until five (5) Business Days after such debriefing is provided. If more than one debriefing is so delayed, the standstill period shall not end earlier than five (5) Business Days after the last debriefing takes place. The Employer shall promptly inform, by the quickest means available, all Bidders of the extended standstill period.
- 46.3 Where a request for debriefing is received by the Employer later than the three (3) Business Days deadline, the Employer should provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of Public Notice of Award of contract. Requests for debriefing received outside the three (3) days deadline shall not lead to extension of the standstill period.
- 46.4 Debriefings of unsuccessful Bidders may be done in writing or verbally. The Bidder shall bear its own costs of attending such a debriefing meeting.

47. Signing of Contract

- 47.1 The Employer shall send to the successful Bidder the Letter of Acceptance including the Contract Agreement, and, if specified in the BDS, a request to submit the Beneficial Ownership Disclosure Form providing additional information on its beneficial ownership. The Beneficial Ownership Disclosure Form, if so requested, shall be submitted within eight (8) Business Days of receiving this request.
- 47.2 The successful Bidder shall sign, date and return to the Employer, the Contract Agreement within twenty-eight (28) days of its receipt.

48. Performance Security

- 48.1 Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the Employer, the successful Bidder shall furnish the Performance Security and, if required in the BDS, the Environmental and Social (ES) Performance Security in accordance with the General Conditions of Contract, subject to ITB 38.2 (b), using for that purpose the Performance Security and ES Performance Security Forms included in Section X, Contract Forms, or another form acceptable to the Employer. If the Performance Security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country, unless the Employer has agreed in writing that a correspondent financial institution is not required.
- 48.2 Failure of the successful Bidder to submit the above-mentioned Performance Security and, if required in the BDS, the Environmental and Social (ES) Performance Security, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Employer may award the Contract to the Bidder or Bidders offering the next Lowest Evaluated Cost to the Employer as per the bid evaluation and award criteria.

49. Procurement Related Complaint

- 49.1 The procedures for making a Procurement-related Complaint are as specified in the BDS.

Section II: Bid Data Sheet (BDS)

The following specific data for the Works to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in the ITB.

A. General	
ITB 1.1	The reference number of the Invitation for Bids (IFB) is: MOH/SDMS/EACE/OCBI/001/2024-2025 The Employer is: <i>State Department for Medical Services; Ministry of Health</i> Name of Works: <i>Proposed Completion Works of East Africa's Centers of Excellence Complex Phase 1 at Kenyatta National Hospital (KNH) Grounds Nairobi, Kenya.</i> The name of the IFB is: <i>Open Competitive Bidding (International)</i> The number and identification of works under single or multiple lots (contracts) comprising this IFB is: MOH/SDMS/EACE/OCBI/001/2024-2025
ITB 1.2(a)	Electronic – Procurement System The Employer shall use the following electronic-procurement system to manage this Bidding process: NOT APPLICABLE (N/A)
ITB 2.1	The Borrower is: REPUBLIC OF KENYA Loan or Financing Agreement amount: USD 21,098,000 The Specific Bank financing institution is: ADF The name of the Project is: East Africa's Centres of Excellence For Skills and Tertiary Education in Biomedical Sciences – Phase I (Additional Financing)
ITB 4.1 (a)	i) The firms in a Joint Venture, Consortium or Association (JV) shall be jointly and severally liable.
ITB 4.1 (c)	Maximum number of members in the Joint Venture, Consortium or Association (JV) shall be Five (5No.)

ITB 4.1 (d)	Minimum share of a member of Joint Venture, Consortium or Association (JV) in the contract shall not be less than 20% percent of the total value of the contract.
ITB 4.5	A list of debarred firms and individuals is available on the Bank's external website: https://www.afdb.org/en/projects-operations/debarment-and-sanctions-procedures
B. Contents of Bidding Document	
ITB 7.1	For <u>Clarification of Bid purposes</u> only, the Employer's address is: Attention: <i>Principal Secretary, State Department for Medical Services</i> <i>Ministry of Health</i> Address: <i>Afya House, Cathedral Road off Ngóng Road</i> Floor/ Room number: <i>5th floor Room 514 A</i> City: <i>Nairobi</i> Country: <i>Republic of Kenya</i> Electronic mail address: procurement@health.go.ke Web page: www.health.go.ke Requests for clarifications should be received by the Employer no later than fifteen (15) days, prior to the deadline for submission of Bids.
ITB 7.4	A Pre-Bid meeting/Site Visit <i>shall</i> take place at the following date, time and place: Date: <i>Thursday 10th April, 2025</i> (2weeks after advert) Time: 10.00AM Place: <i>EAST AFRICA CENTRE OF EXCELLENCE PROJECT SITE LOCATED AT KNH GROUNDS ALONG NGONG' ROAD</i>
ITB 7.6	Web page: www.health.go.ke
C. Preparation of Bids	
ITB 10.1	The language of the Bid is: <i>English Language</i>. All correspondence exchange shall be in <i>English Language</i>. Language for translation of supporting documents and printed literature is <i>English Language</i>.
ITB 11.1 (j)	<i>The Bidder shall submit the following additional documents in its Bid:</i>

	<i>[list any additional document not already listed in ITB 11.1 that must be submitted with the Bid. The list of additional documents should include the following:]</i> 1. Code of Conduct for Contractor's Personnel (ES) The Bidder shall submit its Code of Conduct that will apply to Contractor's Personnel (as defined in Sub- Clause 1.1.17 of the General Conditions of Contract), to ensure compliance with the Contractor's Environmental and Social (ES) obligations under the Contract. The Bidder shall use for this purpose the Code of Conduct form provided in Section IV. No substantial modifications shall be made to this form, except that the Bidder may introduce additional requirements, including as necessary to take into account specific Contract issues/ risks. 2. Management Strategies and Implementation Plans (MSIP) to manage the (ES) risks The Bidder shall submit Management Strategies and Implementation Plans (MSIPs) to manage the following key Environmental and Social (ES) risks: a) Sexual Exploitation, and Abuse (SEA) <i>prevention and response action plan</i> b) <i>Traffic Management Plan to ensure safety of local communities from construction traffic.</i> 3. Certificate of incorporation/Registration and/or articles of association. 4. Valid Tax compliance certificate or Equivalent if not a Kenyan Company 5. All bidders are required to submit specific relevant technical brochures/ catalogues with the tender document, highlighting the catalogue numbers of the proposed items. Such brochures/ catalogues should indicate comprehensive relevant data of the proposed equipment/items which should include but not limited to the following: i. Standards of manufacture ii. Performance ratings/ characteristics iii. Material of manufacture iv. Electrical power ratings
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	The information in the technical brochures will be analyzed to determine compliance with the technical specifications for the works in the tender documents. 6. Valid National Construction Authority (NCA1 for Builders, Electrical and Mechanical Works) for Local contractors or equivalent for international contractors. (NB: The successful Bidder will be required to Apply for NCA 1 Certificate if it's a Foreign Company). 7. Valid Energy and Petroleum Regulatory Authority (EPRA) CLASS A1 license for Local contractors or equivalent for international contractors for Electrical Works. 8. Valid license and compliance certificate from Communications Authority of Kenya as a Telecommunication Contractor. 9. Joint Venture/consortium Agreement if applicable.
ITB 13.1	Alternative Bids <i>shall not be considered</i> .
ITB 13.2	Alternative times for completion <i>shall not be</i> permitted.
ITB 13.3	Technical Alternative as per ITB 13.3 <i>shall not be</i> permitted.
ITB 13.4	Alternative technical solutions <i>shall not be</i> permitted.
ITB 14.2	The adjustment shall be based on the <i>Average</i> price of the item as quoted in other substantially responsive Bids.
ITB 14.5	The prices quoted by the Bidder shall be: <i>subject to adjustment</i>. A bid submitted with fixed price <i>shall not be</i> rejected.
ITB 14.6	Bids are invited, and Bidders shall bid for 'Works'.
ITB 15.1	The currency(ies) of the Bid and the payment currency(ies) shall be in accordance with Alternative <i>"B"</i> as described below: Alternative B (Bidders allowed to quote in local and foreign currencies): (a) The unit rates and prices shall be quoted by the Bidder in the Bill of Quantities separately in the following currencies: (i) for those inputs to the Works that the Bidder expects to supply from within the Employer's Country, in <i>Kenyan Shillings</i>, and further referred to as "the local currency"; and

	(ii) for those inputs to the Works that the Bidder expects to supply from outside the Employer's Country (referred to as "the foreign currency requirements"), in up to any two foreign currencies (USD and Euro).
ITB 18.1	The Bid validity period shall be <i>One Hundred and Forty-Seven (147 No.)</i> days.
ITB 18.3 (a)	The Bid price shall be adjusted by the following factor(s): <i>Not Applicable.</i>
ITB 19.1	<i>A Bid Security amount shall be required.</i> <i>A Bid-Securing Declaration shall not be required.</i> <i>The amount and currency of the Bid Security shall be Kenya Shillings Ten Million (Kshs. 10,000,000.00).</i> <i>The security shall be in the form of a Bank Guarantee and must be from a reputable bank valid for 175 days from the date of Bid opening (any other source shall be rejected).</i> <i>The beneficiary of the security shall be The Principal Secretary, State Department for Medical services; Ministry of Health P.O. Box 30016 – 00100 Nairobi.</i> <i>The bidder shall use the format of Form of Bid Security - Demand Guarantee provided in Section IV-Bidding Forms</i>
ITB 19.3 (d)	Other types of acceptable securities: <i>None</i>
ITB 19.9	<i>Omitted.</i>
ITB 20.1	In addition to the original of the Bid, the number of copies is: <i>One (1No)</i> <i>Bid Document should be Sequentially Serialized and tape bound. The employer shall not be held responsible for loss of any loose documents.</i>
ITB 20.3	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: <i>A Notarized Power of Attorney.</i>
D. Submission and Opening of Bids	
ITB 22.1	For <u>Bid submission purposes</u> only, the Employer's address is: Attention: <i>Principal Secretary, State Department for Medical Services; Ministry of Health</i> Street Address: <i>Afya House, Cathedral Road off Ngóng Road</i>

	Floor/ Room number: <i>First Floor in Tender Box</i> City: <i>Nairobi</i> Postal Code: <i>P.O BOX 30016-00100</i> Country: <i>Kenya</i> The deadline for Bid submission is: Date: <i>Thursday 8th May 2025</i> Time: <i>10:00 am Kenyan Time.</i> <i>NB: Bulky documents submitted earlier than the date of opening should be delivered to the office of the Head, Supply Chain Management Services, on 5th floor Room 514 A, at Ministry of Health, Afya House, Cathedral Road, off Ngong' Road with a delivery note in duplicate.</i> Bidders <i>shall not</i> have the option of submitting their Bids electronically.
ITB 25.1	The Bid opening shall take place at: Street Address: <i>Ministry of Health, Afya House, Cathedral Road off Ngóng Road</i> Floor/ Room number: <i>ADB (EACE OFFICES) Prefabricated Block Boardroom.</i> City: <i>Nairobi</i> Country: <i>Kenya</i> Date: <i>Thursday 8th May 2025</i> Time: <i>10:00 am Kenyan Time.</i>
ITB 25.1	<i>Omitted.</i>
ITB 25.6	<i>The Letter of Bid, Cover Page, Bid Security and the Grand Summary of the priced Bill of Quantities shall be initialed by Four (4 No) representatives of the Employer conducting Bid opening.</i>
E. Evaluation, and Comparison of Bids	
ITB 30.3	The adjustment with respect to a missing or non-conforming item or component, and costs associated, if any, with non-material deviations, reservations or omissions to the requirements of the bidding document shall be based on the <i>Average</i> price of the item or component and cost, if any, of non-material deviations, reservations or

	omissions as quoted in or derived from other substantially responsive Bids unless any other specific evaluation criteria has been provided elsewhere in the bidding document for such adjustments in which case the latter shall be applied. If the price or cost of any of the above cannot be derived from the price of other substantially responsive Bids, the Employer shall use its best estimate based on its own judgment, past experience or market search, as considered appropriate.
ITB 32.1	The currency that shall be used for Bid evaluation and comparison purposes to convert at the selling exchange rate all Bid prices expressed in various currencies into a single currency is: Kenyan Shillings. The source of exchange rate shall be: Central Bank of Kenya. The date for the exchange rate shall be: The Date of Bid opening The currency(ies) of the Bid shall be converted into a single currency in accordance with the procedure under Alternative "B" that follows: <i>Alternative A: Bidders quote entirely in local currency</i> For comparison of Bids, the Bid Price, corrected pursuant to ITB 31, shall first be broken down into the respective amounts payable in various currencies by using the selling exchange rates specified by the Bidder in accordance with ITB 15.1. In the second step, the Employer will convert the amounts in various currencies in which the Bid Price is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above. OR <i>Alternative B: Bidders quote in local and foreign currencies</i> The Employer will convert the amounts in various currencies in which the Bid Price, corrected pursuant to ITB 31, is payable (excluding Provisional Sums but including Daywork where priced competitively) to the single currency identified above at the selling rates established for similar transactions by the authority specified and on the date stipulated above.
ITB 33.1	A margin of domestic preference <i>shall not</i> apply. A margin of regional preference <i>shall not</i> apply.

ITB 34.1	At this time the Employer <i>does not intend</i> to execute certain specific parts of the Works by subcontractors selected in advance.
ITB 34.2	Contractor's proposed subcontracting: Maximum percentage of subcontracting permitted is: <i>30% of the total contract amount</i>. Bidders planning to subcontract more than 10% of total volume of work shall specify, in the Letter of Bid, the activity (ies) or parts of the Works to be subcontracted along with complete details of the subcontractors and their qualification and experience.
ITB 34.3	The parts of the Works for which the Employer permits Bidders to propose Specialized Subcontractors are designated as key activities, as follows and further identified under sub-factor 4.2 (b) of Section III: Builders Works a) Civil Works; b) Landscaping; c) Interiors fit outs and branding. Electrical Works a) General Electrical Installations; b) Voltage Stabilizer UPS c) Nurse Call System, Public Address & Voice Evacuation System Installations d) CCTV Surveillance and Access Control System Installation e) Information and Communication Technology Systems Installation f) Building Management System Installation g) Conference Facilities Audio Visual Installation Mechanical Works a) Sanitary Fittings, Plumbing, Drainage and Fire Fighting Installations; b) Heating Ventilation & Air Conditioning; c) Medical Gases Pipeline System; d) Kitchen and Laundry Equipment installations; e) Bore Hole Drilling and Equipping. For the above-designated parts of the Works that may require Specialized Subcontractors, the relevant qualifications with respect to Specific Experience on ly of the proposed Specialized Subcontractors will be

	added to the qualifications of the Bidder for the purpose of evaluation in accordance with paragraph 2.6 of Section III.
ITB 35.2 (f)	Other Criteria: Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
F. Award of Contract	
ITB 47.1	The successful Bidder <i>shall</i> submit the Beneficial Ownership Disclosure Form.
ITB 48.1 and 48.2	Environmental and Social (ES) Performance Security Shall be REQUIRED
ITB 49.1	The procedures for making a Procurement-related Complaint are detailed in the Part B of the Operations Procurement Manual under the Procurement Framework of the African Development Bank. If a Bidder wishes to make a Procurement-related Complaint, the Bidder shall submit its complaint following these procedures to the employer, in writing (by the quickest means available, such as by email in accordance with the following: For the attention: <i>Principal Secretary;</i> Employer: <i>State Department for Medical Services; Ministry of Health.</i> Email address: procurement@health.go.ke <i>Copy to Director General; Public Procurement Regulatory Authority)</i> info@ppra.go.ke; complaints@ppra.go.ke In summary, a Procurement-related Complaint may challenge any of the following: 1. the terms of the Bidding Documents; 2. the purchaser's decision to exclude a bidder from the procurement process prior to the award of contract; and 3. the Employer's decision to award the contract. The Bank's Procurement Framework stipulates that bidders may send copies of their communications with the Borrowers to the Bank or write to the Bank directly when, Borrowers do not respond promptly, any questions on any issues regarding the implementation of Bank funded projects, or when the communication is a complaint against the Borrower. In this regard, if a bidder wishes to protest against a decision made by a Borrower or the Bank with regards to the procurement process or wishes to inform the Bank that the Bank's procurement rules and/or provisions of the bidding documents have not been complied with, an email can be sent to the following address: Email: procurementcomplaints@afdb.org

Section III - Evaluation and Qualification Criteria

This section contains all the criteria that the Employer shall use to evaluate Bids and qualify Bidders. No other factors, methods or criteria shall be used other than specified in this Bidding document. The Bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms. Wherever a Bidder is required to state a monetary amount, Bidders should indicate the USD equivalent using the rate of exchange determined as follows:

- For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
- Value of single contract - Exchange rate prevailing on the date of the contract.

Exchange rates shall be taken from the publicly available source identified in the ITB 32.1. Any error in determining the exchange rates in the Bid may be corrected by the Employer.

[The Employer shall select the criteria deemed appropriate for the Bidding process, insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]

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1. Successful Bid or Bids & Evaluation

In continuation and accordance with ITB 40, the Employer shall use the criteria and methodologies listed in this Section to evaluate Bids. By applying these criteria and methodologies the Employer shall determine the Successful Bid or Bids which has/have been determined to:

- (a) be substantially responsive to the Bidding document;
- (b) offer the lowest evaluated cost to the Employer for all works to be procured based on either a single Contract or all multiple Contracts combined, as the case may be, in accordance with the ITB 14.6 inviting bid prices and discounts, and provisions made of the Bidding Document for evaluation of bids and award of contract (s); and
- (c) be offered by Bidder or Bidders that substantially meet the qualification criteria applicable for Contract or combined Contracts for which they are selected.

1.1 Evaluation (ITB 35)

In addition to the criteria listed in ITB 35.2 and BDS, the following criteria shall apply:

- (i) Assessment of adequacy of Technical Proposal with Requirements (Reference ITB 16 and ITB 29.3): The Employer will determine whether the Bids are substantially responsive to the Technical Requirements.

Evaluation of the Bidder's Technical Proposal will include an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail and fully in accordance with the requirements stipulated in Section VII, Works' Requirements. *[The Employer will highlight herein any special requirements under the specifications, work method, personnel, equipment, environment and social management plan (ESMP), etc. which the Bidder is required to specifically confirm or provide details as per Section VII, Work's Requirements or other parts of the bidding document. To avoid confusion, attach template or describe clearly information and list of documentation required to be submitted by Bidders to make this assessment]* -----

iii. The bidder is required to Submit environment and social management plan (ESMP).

- (ii) **Assessment of adequacy of Commercial Terms and Conditions of the Bid** (Reference ITB 29.4): The Employer will determine whether the Bids are substantially responsive to the Commercial and Contractual Terms and Conditions.

2.2 Single and Multiple Contracts

Pursuant to ITB 14.6, and ITB 35.4 and in accordance with how bids are invited either for "Works" or Works are grouped in lots (contracts) or packages (one or more lots) and bids are invited for multiple lots or packages, evaluation and award will be as follows:

Award Criteria for a Single Contract:

'Works'

Evaluation and Award Criteria for 'Works' as One (Single) Contract: The bids will be evaluated for 'Works' and the contract will be awarded to the Bidder offering the lowest evaluated cost to the Employer for 'Works', subject to the selected Bidder substantially meeting the required qualification criteria for the contract, and determination of substantial responsiveness of the Bid.

2.3 Alternative Completion Times

"Alternative time for completion is **not permitted**. Bids offering completion time longer than that specified under Part A-Contract Data under Section IX-Particular Conditions of Contract shall be rejected."

2.4 Sustainable Procurement: Based on the following main considerations:

- i) Socio-economic consideration *[Employer to provide appropriate criteria as agreed with the Bank]*
- ii) Environmentally and Socially Responsible Procurement *[Employer to provide appropriate criteria as agreed with the Bank]*

*[If specific **sustainable procurement technical requirements** have been specified in Section VII- Specification, **either** state that (i) those requirements will be evaluated on a pass/fail (compliance basis) **or** otherwise (ii) in addition to evaluating those requirements on a pass/fail (compliance basis), if applicable, specify the monetary adjustments to be applied to Bid prices for comparison purposes on account of Bids that exceed the specified minimum sustainable procurement technical requirements.]*

2.5 Alternative Technical Solutions for specified parts of the Works

If permitted under ITB 13.4, will be evaluated as follows: **Not Permitted**

2.6 Specialized Subcontractors

If permitted under ITB 34, only the specific experience of Subcontractors for specialized works permitted by the Employer will be considered. The general

experience and financial resources of the Specialized Subcontractors shall not be added to those of the Bidder for purposes of qualification of the Bidder.

2.7 Other Criteria *[Delete if "None". If any other criteria is applied then describe it here] include specialized services criteria*

3. Qualification

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
1. Eligibility							
1.1.1	Nationality	Nationality in accordance with ITB 4.4	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid & Forms ELI – 1.1 and 1.2, with attachments
1.1.2	Eligibility of Materials, Equipment and Services	Country of Origin in accordance with ITB 5	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid & Form ELI-1.3
1.2	Conflict of Interest	No conflicts of interest in accordance with ITB 4.2	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of B
1.3	Bank Eligibility	Not having been declared ineligible by the Bank, as described in ITB 4.5.	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid
1.4	State- owned Enterprise or Institution of the Borrower country	Meets conditions of ITB 4.6	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
1.5	United Nations resolution or Borrower's country law	Not having been excluded as a result of prohibition in the Borrower's country laws or official regulations against commercial relations with the Bidder's country, or by an act of compliance with UN Security Council resolution, both in accordance with ITB 4.8 and Section V.	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 and 1.2, with attachments
2. Historical Contract Non-Performance							
2.1	History of Non-Performing Contracts	Non-performance of a contract that ¹ did not occur as a result of contractor default since 1 st January 2019.	Must meet requirement	Must meet requirements	Must meet requirement ²	N/A	Form CON-2
2.2	Suspension Based on Execution of	Not under suspension based on execution of a Bid Securing	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter of Bid

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

² This requirement also applies to contracts executed by the Bidder as JV member.

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
	Bid Securing Declaration by the Employer or withdrawal of the Bid within Bid validity period or other failures	Declaration or other failures pursuant to ITB 4.7 and ITB 19.9					
2.3	Pending Litigation	Bid's financial position and prospective long-term profitability still sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Bidder	Must meet requirement	N/A	Must meet requirement	N/A	Form CON – 2
2.4	Litigation History	No consistent history of court/arbitral award decisions against the Bidder ³ since 1 st January 2019	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form CON – 2

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

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
2.5	Declaration: Environmental and Social (ES) past performance	Declare any civil work contracts that have been suspended or terminated and/or performance security called by an employer for reasons related to the non-compliance of any environmental, or social (including sexual exploitation and abuse (SEA) and gender-based violence (GBV)), or health or safety requirements or safeguard in the past five years . ⁴	Must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration.	N/A	Each must make the declaration. Where there are Specialized Sub-contractor/s, the Specialized Sub-contractor/s must also make the declaration.	N/A	Form CON-3 ES Performance Declaration
3. Financial Situation and Performance							

⁴ The Employer may use this information to seek further information or clarifications in carrying out its due diligence.

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
3.1	Financial Capabilities	(i)The Bidder shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as: Kenya Shillings Three Hundred and Million (KES. 300,000,000.00); for the subject contract(s) net of the Bidder's other commitments	Must meet requirement	Must meet requirement	N/A	N/A	Form FIN – 3.1, 3.3 and 3.4 with attachments
		(ii) The Bidders shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.	Must meet requirement	Must meet requirement	N/A	N/A	
		(iii) The audited balance sheets or, if not required by the laws of the				N/A	

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
		Bidder's country, other financial statements acceptable to the Employer, for the last <i>Five years</i> shall be submitted and must demonstrate the current soundness of the Bidder's financial position and indicate its prospective long-term profitability.	Must meet requirement	N/A	Must meet requirement		
3.2	Average Annual Construction Turnover	Minimum average annual construction turnover of Kenya Shillings One Billion Two Hundred Million (KES. 1,200,000,000); calculated as total certified payments received for contracts in progress and/or completed within the last <i>Five years</i> , divided by 5 years	Must meet requirement	Must meet requirement	Must meet <i>[insert number] %, [insert percentage in words] of the requirement</i>	Must meet <i>[insert number]%, [insert percentage in words] of the requirement</i>	Form FIN – 3.2
4. Experience							

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
4.1 (a)	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last <i>Five (5 No) years</i> , starting <i>1st January 2019</i> .	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP – 4.1 With attachments (Letters of award , signed contract agreements, completion certificates for respective projects.
4.2 (a)	Specific Construction & Contract Management Experience	(i) A minimum number of <i>two (2No)</i> similar contracts specified below that have been satisfactorily and substantially ⁵ completed as a prime contractor,	Must meet requirement	Must meet requirement ⁷	N/A	Must meet the following requirements for the key activities listed	Form EXP 4.2(a) With attachments (Letters of award , signed contract agreements, completion

⁵ Substantial completion shall be based on 80% or more works completed under the contract.

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

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
		joint venture member⁶, management contractor or sub-contractor between 1st January [2019] and the bid submission deadline: Two contracts, each of minimum value of: Kenya Shillings Five Hundred Million (KES. 500,000,000); The similarity of the contracts shall be based on the following: <i>[Based on Section VII, Scope of Works, specify the minimum key requirements in terms of physical size, complexity, construction method, technology and/or other characteristics including part of the requirements that may be met by specialized subcontractors, if permitted in accordance with ITB 34.3]</i>				below [list key activities and the corresponding minimum requirements to be met by one member otherwise state: "N/A"]	certificates for respective projects, for ongoing projects (at least 80%Complete) provide copies of interim certificates

⁶ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share, by value, shall be considered to meet this requirement

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
4.2 (b)	Construction Experience in Key Activities	For the above and any other contracts [substantially completed and under implementation] as prime contractor, joint venture member, or sub-contractor between 1st January 2019 and Bid submission deadline, a minimum construction experience in the following key activities successfully completed⁸: Builders works-80,000,000.00 Electrical works-80,000,000.00 Mechanical 90,000,000.00 <i>[list key activities indicating volume, number or rate of production as applicable.</i> <i>Under 4.2(a), specified requirements define similarity of contracts, whereas the key</i>	Must meet requirements <i>[Specify activities that may be met through a specialized subcontractor, if permitted in accordance with ITB 34.3]</i>	Must meet requirements <i>[Specify activities that may be met through a Specialized Subcontract or, if permitted in accordance with ITB 34.3]</i>	N/A	Must meet the following requirements for key activities listed below <i>[if applicable, out of the key activities in the first column of this 4.2 b), list key activities (volume, number or rate of production</i>	Form EXP – 4.2 (b)

⁸ Volume, number or rate of production of any key activity can be demonstrated in one or more contracts combined if executed during same time period.

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
		<i>activities or production rates to be specified under 4.2 (b) define the required capability of the Bidder to timely execute the Works. There shall not be any inconsistency or repetition of requirement between 4.2(a) and 4.2(b). For the rate of production, specify any one or both the following options. If both options are permitted, then to qualify, Bidder would be required to meet any one of the two options]</i> " i) The minimum average annual rate of production of --- (name the key activity) during the specified period [i.e. Jan. 1--- (specify year) and Bid submission deadline] shall be ---- or more (specify number and unit). This should account for all contracts where the above key activity was successfully completed during the same specified period mentioned above." OR "ii) The minimum				<i>as applicable) and the corresponding minimum requirements that have to be met by one member, otherwise this cell should state: "N/A".]</i>	

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
		aggregate production of ---(name the activity) during the period not exceeding any 12 consecutive months between Jan.1 --- (Specify year) and Bid submission deadline under one or more contracts shall be ----or more (specify number and unit). The aggregation of production under more than one contract shall take into account only such quantities of the activity that have been successfully completed during the same 12 consecutive months."					
4.2 (c)	Specific Experience in managing ES aspects	For the contracts in 4.2 (a) above and/or any other contracts [substantially completed and under implementation] as prime contractor, joint venture member, or Subcontractor between 1st January 2019 and Bid submission deadline, experience in managing ES risks and impacts in the following aspects: <i>[Based on the ES assessment, specify, as appropriate, specific experience</i>	Must meet requirements	Must meet requirement	Must meet the following requirements: <i>[list key requirements to be met by each member otherwise</i>	Must meet the following requirements: <i>[list key requirements to be met by one member otherwise</i>	Form EXP – 4.2 (c)

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
		requirements to manage ES aspects.]			state: "N/A"]	state: "N/A"]	

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

4. Contractor's Representative and Key Personnel

The Bidder must demonstrate that it will have a suitably qualified Contractor's Representative and suitably qualified (and in adequate numbers) Key Personnel, as described in the Specification.

The Bidder shall provide details of the Contractor's Representative and Key Personnel and such other Key Personnel that the Bidder considers appropriate to perform the Contract, together with their academic qualifications and work experience. The Bidder shall complete the relevant Forms in Section IV, Bidding Forms.

Builders Works

<i>No.</i>	<i>Position</i>	<i>Total Work Similar Experience (years)</i>	<i>In Similar Works Experience – Health sector (years)</i>
1.	<i>Project Manager</i>	15	10
2.	<i>Site Agent</i>	12	8
3.	<i>Health and Safety Officer</i>	5	5
4.	<i>Foreman – Building Works</i>	10	8
5.	<i>Foreman – Civil Works</i>	10	8

Electrical Works

<i>No.</i>	<i>Position</i>	<i>Total Work Similar Experience (years)</i>	<i>In Similar Works Experience – Health sector (years)</i>
1.	<i>Site Agent</i>	12	8
2.	<i>Foreman – Electrical Works</i>	10	8
3.	<i>Supervisor – General Electrical and fire detection and Alarm Systems Installations Works</i>	8	5
4.	<i>Supervisor – ICT & Nurse Call Works and Conference System, Security System Installation Works</i>	8	5
5.	<i>Supervisor – Building Management Installation Works</i>	8	5

<i>No.</i>	<i>Position</i>	<i>Total Work Similar Experience (years)</i>	<i>In Similar Works Experience – Health sector (years)</i>
6.	<i>Supervisor – Generator, UPS & Voltage Stabilizer Works</i>	8	5

Mechanical Works

<i>No.</i>	<i>Position</i>	<i>Total Work Similar Experience (years)</i>	<i>In Similar Works Experience – Health sector (years)</i>
1.	<i>Site Agent</i>	12	8
2.	<i>Foreman – Mechanical Works</i>	10	8
3.	<i>Supervisor – Plumbing, Drainage and Fire Fighting</i>	8	5
4.	<i>Supervisor – Heating, Ventilation and Air Conditioning works</i>	8	5
5.	<i>Supervisor – Bore Hole Installation</i>	8	5
6.	<i>Supervisor – Medical Gases installation works</i>	8	5
7.	<i>Supervisor-Boiler and Steam Systems</i>	8	5
8.	<i>Supervisor – Kitchen and Laundry Works</i>	8	5
9.	<i>Supervisor-Waste Management System</i>	8	5

NOTE: Additional Information to be provided for Qualifications

5. Equipment

The Bidder must demonstrate that it has the key equipment listed hereafter:

[Specify requirements for each lot as applicable]

Builders Works

No.	Equipment Type and Characteristics	Minimum Number required
1.	Excavator	1
2.	Loaders	1
3.	Hoisting Crane	1
4.	Concrete Mixers	3
5.	Dumpers	2
6.	Compactors – 25 Tonne	1
7.	Tippers – 20 Tonne	3
8.	Lorries – Min 10 Tonne	4
9.	Water Bowsers 10,000 Litres	2
10.	Pick Up 1 Tonne	2
11.	Survey Equipment	1

Electrical Works

No.	Equipment Type and Characteristics	Minimum Number required
1.	Pick Up 1 Tonne	1
2.	Basic Tools; Pliers, Tape Measure, Phase Testers etc	1
3.	Digital Multimeter	2
4.	Megger tester	2
5.	Fluke test equipment	1

Mechanical Works

No.	Equipment Type and Characteristics	Minimum Number required
1.	Pick Up 1 Tonne	1
2.	Air flow testing Kits	1
3.	Air Pressure Testing Kit	1
4.	Sound Meter	1
5.	Thermo gun	1
6.	Medical gases gas analyser	1
7.	Medical gases pressure gauge	1
8.	GI pipe threading machine	1

The Bidder shall provide further details of proposed items of equipment using Form EQU in Section IV, Bidding Forms.

NOTE: Provide proof of ownership of the equipment

Section IV - Bidding Forms

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Letter of Bid

*INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED
THE DOCUMENT*

*The Bidder must prepare this Letter of Bid on stationery with its letterhead clearly
showing*

the Bidder's complete name and business address.

Note: All italicized text in is to help Bidders in preparing this form.

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

OCBI/LCB No.: *[insert number of bidding process as per procurement plan]*

Invitation for Bid No.: *[insert same IFB number as advertised]*

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

To: *[insert complete name of Employer]*

We, the undersigned, declare that:

- (a) **No reservations:** We have examined and have no reservations to the bidding document, including Addenda issued in accordance to ITB 8;
- (b) **Eligibility of Bidder:** We, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries and meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) **Eligibility of Materials, Equipment and Services:** We meet the eligibility requirements for Materials, Equipment and Services in accordance with ITB 5;
- (d) **Bid-Securing Declaration:** We have not been suspended nor declared ineligible by the Employer based on execution of a Bid-Securing Declaration in the Employer's country in accordance with ITB 4.7;
- (e) **Conformity:** We offer to execute in conformity with the bidding document and in accordance with the construction schedule the following Works: *[insert a brief description of the Works]*;
- (f) **Bid Price:** The total price of our Bid, excluding any discounts offered in item (g) below is: *[Insert one of the options below as appropriate]*

[Option 1, in case of one Contract for 'Works':] Total price is: [insert the total price of the Bid in words and figures, indicating the various amounts and the respective currencies];

Or

[Option 2, in case of multiple lots or Option 3, in case of multiple packages each package comprising of one or more lots:] (a) Total price of each lot identifying its package number if it belongs to a package [insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]; and (b) Total price of all lots (sum of all lots) [insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];

- (g) **Discounts:** The discounts offered and the methodology for their application are:
- (i) The discounts offered are: *[Specify in detail each discount offered.]*
- (ii) The exact method of calculations to determine the net price of each item and 'Works', and in case of multiple lots or multiple packages, net price of each item, each lot and each package after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts and ensure clarity, unambiguity, etc. in accordance with ITB 14.7];*
- (h) **Bid Validity Period:** Our Bid shall be valid for a period specified in BDS 18.1 (or as amended if applicable) from the date fixed for the Bid submission deadline specified in BDS 22.1 (or as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (i) **Performance Security:** If our Bid is accepted, we commit to obtain a Performance Security *[and an Environmental and Social (ES) Performance Security, **Delete if not applicable**]* in the forms in accordance with the bidding document;
- (j) **One Bid Per Bidder:** We are not submitting any other Bid(s) as an individual Bidder, and we are not participating in any other Bid(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITB 4.3, other than alternative Bids submitted in accordance with ITB 13;
- (k) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Bank or a debarment imposed by the Bank in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the Bank and other development banks. Further, we are not ineligible under the Employer's country laws or official regulations or pursuant to a decision of the United Nations Security Council;
- (l) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITB 4.6];*
- (m) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each*

commission or gratuity was paid and the amount and currency of each such commission or gratuity]

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If none has been paid or is to be paid, indicate "none.");

- (n) **Binding Contract:** We understand that this Bid, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (o) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Bid, or any other Bid that you may receive;
- (p) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- (q) **Potential DAAB Members:** We hereby propose the following three persons, whose curriculum vitae are attached, as potential DAAB members:

Name	Address
1.	
2.	
3.	

Name of the Bidder: **[insert complete name of person signing the Bid]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder: ***[insert complete name of person duly authorized to sign the Bid]*

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

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

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

Date signed _____ day of _____, _____

- * In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder or names of all members (partners) of JV and sign on behalf of the JV and not on behalf of only one member that has been given power of attorney.
- ** Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid. If the Bidder is a JV, the power of attorney shall be given by the JV or by all members of the JV.

Appendix to Bid: Schedule of Adjustment Data

(Applicable only if Prices are subject to adjustment as per ITB 18.3 (a) and Sub-Criteria 13.7 of Part A-Contract Data under PC)

[In Tables A, B, and C, below, the Bidder shall (a) indicate its amount of local currency payment, (b) indicate its proposed source and base values of indices for the different foreign currency elements of cost, (c) derive its proposed weightings for local and foreign currency payment, and (d) list the exchange rates used in the currency conversion.]

Table A. Local Currency

Index code*	Index description*	Source of index*	Base value and date*	Bidder's related currency amount	Bidder's proposed weighting
	Nonadjustable	—	—	—	A: ____* B: ____* C: ____* D: ____* E: ____*
Total					1.00

[* To be entered by the Employer. Whereas "A" should a fixed percentage, B, C, D and E should specify a range of values and the Bidder will be required to specify a value within the range such that the total weighting = 1.00]

Table B. Foreign Currency (FC)

State type: [If the Bidder is allowed to receive payment in foreign currencies this table shall be used. If Bidder wishes to quote in more than one foreign currency (up to three currencies permitted) then this table should be repeated for each foreign currency.]

Index code	Index description	Source of index	Base value and date	Bidder's related source currency in type/amount	Equivalent in FC1	Bidder's proposed weighting
	Nonadjustable	—	—	—		A: ____* B: ____* C: ____* D: ____* E: ____*
Total						1.00

[* To be entered by the Employer. Whereas "A" should a fixed percentage, B, C, D and E should specify a range of values and the Bidder will be required to specify a value within the range such that the total weighting = 1.00]

Table C. Summary of Payment Currencies

[In case of multiple lots or multiple packages Bidder shall prepare separate table for each lot identified by package number and related lot number]

Table: Alternative A

For *[Employer to Select i) or ii) and delete the other]* i) Whole of the Works / ii) *[Insert name of Section of the Works.]* *[If ii) is selected, then Employer to prepare similar Table C for all sections of works including the summary Table C of all sections to account for whole works under the contract]*

Name of payment currency	A Amount of currency	B Rate of exchange (local currency per unit of foreign)	C Local currency equivalent $C = A \times B$	D Percentage of Total Bid Price (TBP) $\frac{100 \times C}{TBP}$
Local currency _____		1.00		
Foreign currency #1 _____				
Foreign currency #2 _____				
Foreign currency # 3 _____				
Total Bid Price				100.00
Provisional sums expressed in local currency <i>[If ii) above is selected]</i>	<i>[To be entered by the Employer]</i>	1.00	<i>[To be entered by the Employer]</i>	

<i>Employer to specify provisional sums as applicable for each section]</i>				
TOTAL BID PRICE of (i) or (ii) as applicable (including provisional sum)				

Table: Alternative B

To be used only with Alternative B Prices directly quoted in the currencies of payment. (ITB 15.1)

Summary of currencies of the Bid for Employer to Select i) or ii) and delete the other
[i] Whole of the Works / ii) Insert name of Section of the Works. *If ii) is selected, then Employer to prepare similar Table C for all sections of works including the summary Table C of all sections to account for whole works under the contract]*

<i>Name of currency</i>	<i>Amounts payable</i>
Local currency: _____	
Foreign currency #1: _____	
Foreign currency #2: _____	
Foreign currency #3: _____	
Provisional sums expressed in local currency	<i>[To be entered by the Employer] [If ii) above is selected Employer to specify provisional sums as applicable for each section]</i>

Bill of Quantities

Notes for Preparing a Bill of Quantities

These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

Objectives

The objectives of the Bill of Quantities are

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

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

Content

The Bill of Quantities should be divided generally into the following sections:

- (a) Preamble;
- (b) Work Items (grouped into parts);
- (c) Daywork Schedule; and
- (d) Summary.

Preamble

The Preamble should indicate the inclusiveness of the unit prices and should state the methods of measurement that have been adopted in the preparation of the Bill of Quantities and that are to be used for the measurement of any part of the Works.

Rock

Where excavation, boring, or driving is included in the Works, a comprehensive definition of rock (always a contentious topic in contract administration), should be provided in the Technical Specification and this definition should be used for the purposes of measurement and payment.

Work Items

The items in the Bill of Quantities should be grouped into sections to distinguish between those parts of the Works that by nature, location, access, timing, or any other special characteristics may give rise to different methods of construction, phasing of the Works, or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bill of Quantities. When a family of Price Adjustment Formulae are used, they should relate to appropriate sections in the Bill of Quantities.

Quantities

Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no allowance should be made for bulking, shrinkage, or waste. Quantities should be rounded up or down where appropriate and spurious accuracy should be avoided.

Units of Measurement

The following units of measurement and abbreviations are recommended for use (unless other national units are mandatory in the country of the Employer).

Unit	Abbreviation	Unit	Abbreviation
cubic meter	m ³ <i>or</i> cu m	millimeter	mm
hectare	ha	month	mon
hour	h	number	nr
kilogram	kg	square meter	m ² <i>or</i> sq m
lump sum	sum	square millimeter	mm ² <i>or</i> sq mm
meter	m	week	wk
metric ton (1,000 kg)	t		

Ground and Excavation Levels

The commencing surface should be identified in the description of each item for work involving excavation, boring, or driving, for which the commencing surface is not also the original surface. The excavated surface should be identified in the description of each item for work involving excavation for which the excavated surface is not also the final surface. The depths of work should be measured from the commencing surface to the excavated surface, as defined.

Daywork Schedule

A Daywork Schedule should be included if the probability of unforeseen work, outside the items included in the Bill of Quantities, is relatively high. To facilitate checking by the Employer of the realism of rates quoted by the bidders, the Daywork Schedule should normally comprise:

- (a) a list of the various classes of labour, materials, and Contractor's Equipment for which basic Daywork rates or prices are to be inserted by the bidder, together with a statement of the conditions under which the Contractor will be paid for work executed on a Daywork basis; and
- (b) a percentage to be entered by the bidder against each basic Daywork Subtotal amount for labour, materials, and Plant representing the Contractor's profit, overheads, supervision, and other charges.

Provisional Quantities and Sums

Provision for quantity contingencies in any particular item or class of work with a high expectation of quantity overrun should be made by entering specific "Provisional Quantities" or "Provisional Items" in the Bill of Quantities, and *not* by increasing the quantities for that item or class of work beyond those of the work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a "Provisional Sum" in the Summary of the Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a "Provisional Sum" in the Summary of the Bill of Quantities. The inclusion of such Provisional Sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises.

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by a Nominated Subcontractor should be specified in the relevant part of the Bill of Quantities as a particular Provisional Sum with an appropriate brief description. A separate bidding procedure is normally carried out by the Employer to select the specialists, who are then nominated as subcontractors to the main or prime contractor. To provide an element of competition among the main bidders (or prime contractors) in respect of any facilities, amenities, attendance, etc., to be provided by the successful bidder as prime contractor for the use and convenience of the specialist or nominated subcontractor, each related Provisional Sum should be followed by an item in the Bill of Quantities inviting a percentage (to be quoted by the main bidder) payable on the actual expenditure from the Provisional Sum.

Summary

The Summary should contain a tabulation of the separate parts of the Bill of Quantities carried forward, with provisional sums for Daywork, for physical (quantity) contingencies, and for price contingencies (upward price adjustment) where applicable.

Sample Bill of Quantities

A. Preamble

1. The Bill of Quantities shall be read in conjunction with the Instructions to Bidders, General and Particular Conditions of Contract, Technical Specifications, and Drawings.
2. The quantities given in the Bill of Quantities are estimated and provisional, and are given to provide a common basis for bidding. The basis of payment will be the actual quantities of work ordered and carried out, as measured by the Contractor and verified by the Engineer and valued at the rates and prices bid in the priced Bill of Quantities, where applicable, and otherwise at such rates and prices as the Engineer may fix within the terms of the Contract.
3. The rates and prices bid in the priced Bill of Quantities shall, except insofar as it is otherwise provided under the Contract, include all Constructional Plant, labour, supervision, materials, erection, maintenance, insurance, profit, taxes, and duties, together with all general risks, liabilities, and obligations set out or implied in the Contract.
4. A rate or price shall be entered against each item in the priced Bill of Quantities, whether quantities are stated or not. The cost of Items against which the Contractor has failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the Bill of Quantities.
5. The whole cost of complying with the provisions of the Contract shall be included in the Items provided in the priced Bill of Quantities, and where no Items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related Items of Work.
6. General directions and descriptions of work and materials are not necessarily repeated nor summarized in the Bill of Quantities. References to the relevant sections of the Contract documentation shall be made before entering prices against each item in the priced Bill of Quantities.
7. Provisional Sums included and so designated in the Bill of Quantities shall be expended in whole or in part at the direction and discretion of the Engineer in accordance with Sub-Clause 13.5 and Clause 13.6 of the General Conditions.
8. The method of measurement of completed work for payment shall be in accordance with *[insert the name of a standard reference guide, or full details of the methods to be used]*.¹

¹ The method of measurement should be spelled out precisely in the Preamble to the Bill of Quantities, describing for example the allowances (if any) for timbering in excavation, etc. Many national standard reference guides have been prepared on the subject, and one such guide is the *Standard Method of Measurement* of the U.K. Institution of Civil Engineers.

B. Work Items

1. The Bill of Quantities usually contains the following part Bills, which have been grouped according to the nature or timing of the work:

Bill No. 1—General Items;

Bill No. 2—Earthworks;

Bill No. 3—Culverts and Bridges;

Bill No. 4—etc., as required;

Daywork Schedule; and

Summary Bill of Quantities.

2. If BDS-ITB 15.1 (a) applies, Bidders shall price the Bill of Quantities in local currency only and shall indicate in the Appendix to Bid the percentage expected for payment in foreign currency or currencies. If BDS-ITB 15.1 (b) applies Bidders shall price the Bill of Quantities in the applicable currency or currencies.

[Note to the Employer: The tables in BOQ must be prepared in accordance with the currency alternative retained in BDS – ITB 15.1.]

Bill No. 1: General Items

Section IV: Bidding Forms _____ Page | 82

Bill No. 2: Earthworks

[illegible]

Bill No. 3: Culverts and Bridges

[illegible]

Daywork Schedule

[Note to the Employer:

- (i) A "Daywork Schedule" is commonly found in contracts where the likely incidence of unforeseen work cannot be covered by definitive descriptions and approximate quantities in the Bill of Quantities. The preferred alternative is to value the additional work in accordance with the Conditions of Contract. A Daywork Schedule normally has the disadvantage of not being competitive among bidders, who may therefore load the rates assigned to some or all the items. If a Daywork Schedule is to be included at all in the bidding documents, it is preferable to include nominal quantities against the items most likely to be used, and to carry the sum of the extended amounts forward into the Bid Summary in order to make the basic Schedule of Daywork Rates competitive.*
- (ii) The total amount assigned to such competitive daywork is normally 3–5 percent of the estimated base Contract Price and is regarded as a Provisional Sum for contingencies to be expended under the direction and at the discretion of the Engineer.]*

General

1. Reference should be made to Sub-Clause 13.6 of the General Conditions. Work shall not be executed on a daywork basis except by written order of the Engineer. Bidders shall enter basic rates for daywork items in the Schedules, which rates shall apply to any quantity of daywork ordered by the Engineer. Nominal quantities have been indicated against each item of daywork, and the extended total for Daywork shall be carried forward as a Provisional Sum to the Summary Total Bid Amount. Unless otherwise adjusted, payments for daywork shall be subject to price adjustment in accordance with the provisions in the Conditions of Contract.

Daywork Labour

2. In calculating payments due to the Contractor for the execution of daywork, the hours for labour will be reckoned from the time of arrival of the labour at the job site to execute the particular item of daywork to the time of return to the original place of departure, but excluding meal breaks and rest periods. Only the time of classes of labour directly doing work ordered by the Engineer and for which they are competent to perform will be measured. The time of gangers (charge hands) actually doing work with the gangs will also be measured but not the time of foremen or other supervisory personnel.
3. The Contractor shall be entitled to payment in respect of the total time that labour is employed on daywork, calculated at the basic rates entered by the Contractor in the **Schedule of Daywork Rates: 1. Labour**, together with an additional percentage payment on basic rates representing the Contractor's profit, overheads, etc., as described below:

- (a) The basic rates for labour shall cover all direct costs to the Contractor, including (but not limited to) the amount of wages paid to such labour, transportation time, overtime, subsistence allowances, and any sums paid to or on behalf of such labour for social benefits in accordance with [country of Borrower] law. The basic rates will be payable in local currency only.
- (b) The additional percentage payment to be quoted by the bidder and applied to costs incurred under (a) above shall be deemed to cover the Contractor's profit, overheads, superintendence, liabilities, and insurances and allowances to labour, timekeeping, and clerical and office work, the use of consumable stores, water, lighting, and power; the use and repair of stagings, scaffolding, workshops, and stores, portable power tools, manual plant, and tools; supervision by the Contractor's staff, foremen, and other supervisory personnel; and charges incidental to the foregoing. Payments under this item shall be made in the following currency proportions:
 - (i) foreign: ____ percent (to be stated by bidder).²
 - (ii) local: _____ percent (to be stated by bidder).

[Note to the Employer:

This method of indicating profit and overheads separately facilitates the addition of further items of daywork, if needed, the basic costs of which can then be checked more easily. An alternative is to make Daywork rates all-inclusive of the Contractor's overhead and profit, etc., in which case this paragraph and the relevant Daywork Schedule should be modified accordingly.]

Daywork Materials

4. The Contractor shall be entitled to payment in respect of materials used for daywork (except for materials for which the cost is included in the percentage addition to labour costs as detailed heretofore), at the basic rates entered by the Contractor in the **Schedule of Daywork Rates: 2. Materials**, together with an additional percentage payment on the basic rates to cover overhead charges and profit, as follows:
 - (a) the basic rates for materials shall be calculated on the basis of the invoiced price, freight, insurance, handling expenses, damage, losses, etc., and shall provide for delivery to store for stockpiling at the Site. The basic rates shall be stated in local currency, but payment will be made in the currency or currencies expended upon presentation of supporting documentation.

² The bidder shall state the percentage in a common foreign currency equivalent required for payment and the exchange rates and official sources used.

- (b) the additional percentage payment shall be quoted by the bidder and applied to the equivalent local currency payments made under (a) above. Payments under this item will be made in the following currency proportions:
 - (i) foreign: ____ percent (to be stated by the bidder);³
 - (ii) local: _____ percent (to be stated by the bidder);
- (c) the cost of hauling materials for use on work ordered to be carried out as daywork from the store or stockpile on the Site to the place where it is to be used will be paid in accordance with the terms for Labour and Construction in this schedule.

Daywork Contractor's Equipment

5. The Contractor shall be entitled to payments in respect of Contractor's Equipment already on Site and employed on daywork at the basic rental rates entered by the Contractor in the **Schedule of Daywork Rates: 3. Contractor's Equipment**. Said rates shall be deemed to include due and complete allowance for depreciation, interest, indemnity, and insurance, repairs, maintenance, supplies, fuel, lubricants, and other consumables, and all overhead, profit, and administrative costs related to the use of such equipment. [***Note to the Employer:** This is an example of wording to include overhead and profit, etc., in the daywork rates. A separate percentage addition could be used as for labour and materials.*] The cost of drivers, operators, and assistants will be paid for separately as described under the section on Daywork Labour. [***Note to the Employer:** An alternative, sometimes adopted for administrative convenience, is to include the cost of drivers, operators, and assistants in the basic rates for Contractor's Equipment. The last sentence of this paragraph 5 should then be modified accordingly.*]
6. In calculating the payment due to the Contractor for Contractor's Equipment employed on daywork, only the actual number of working hours will be eligible for payment, except that where applicable and agreed with the Engineer, the travelling time from the part of the Site where the Contractor's Equipment was located when ordered by the Engineer to be employed on daywork and the time for return journey thereto shall be included for payment.
7. The basic rental rates for Contractor's Equipment employed on daywork shall be stated in local currency, but payments to the Contractor will be made in currency proportions, as follows:
 - (a) foreign: _____ percent (to be stated by the bidder).⁴
 - (b) local: _____ percent (to be stated by the bidder).

³ The bidder shall state the percentage in a single foreign currency equivalent and the exchange rates and official sources used.

⁴ The bidder shall state the percentage in a single foreign currency equivalent and the exchange rates and official sources used.

Schedule of Daywork Rates: 1. Labour

[illegible]

a. To be entered by the Bidder.

Schedule of Daywork Rates: 2. Materials

<i>Item no.</i>	<i>Description</i>	<i>Unit</i>	<i>Nominal quantity</i>	<i>Rate</i>	<i>Extended amount</i>
Subtotal					
Allow _ percent of Subtotal for Contractor's overhead, profit, etc., in accordance with paragraph 4 (b) above.					
Total for Daywork: Materials _____ (carried forward to Daywork Summary, p. __)					

a. To be entered by the Bidder.

Schedule of Daywork Rates: 3. Contractor's Equipment

[illegible]

a. To be entered by the Bidder.

Daywork Summary

	<i>Amount^a</i> <i>(KES)</i>	<i>%</i> <i>Foreign</i>
1. Total for Daywork: Labour		
2. Total for Daywork: Materials		
3. Total for Daywork: Contractor's Equipment		
4. Total for Daywork: Direct Charges		
5. Total for Daywork: Schedule of Rates		
Total for Daywork (Provisional Sum) (carried forward to Bid Summary, p. _)		

a. The Employer should insert local currency unit.

Summary of Specified Provisional Sums in the Bill of Quantities

<i>Bill no.</i>	<i>Item no.</i>	<i>Description</i>	<i>Amount</i>
1	A.	Fluctuations	
2	B.	Imaging Room	
3	C.	Changing Room	
4	D.	Making Good Works	
5	E.	Sports Field – Volley Ball Pitch Area	
6	F.	Core Drilling	
		[To be entered by the Employer; Delete if not applicable.] provisional sums for additional ES outcomes.	
		[To be entered by the Employer] provisional sums for the Employer's portion of DAAB costs	
etc.			
Total for Specified Provisional Sums (carried forward to Grand Summary (B), p. __)			

Grand Summary

Contract Name: PROPOSED COMPLETION WORKS PHASE 1 OF EAST AFRICA'S CENTERS OF EXCELLENCE COMPLEX AT KENYATTA NATIONAL HOSPITAL (KNH) GROUNDS NAIROBI, KENYA

Contract No.:

<i>General Summary</i>	<i>Page</i>	<i>Amount</i>
Volume 2: Builders, External & Civil Works		
Particular Preliminaries	PP-12	
General Preliminaries	GP-21	
Bill No. 1: General Remedial Works	2B-5	
Bill No. 2: Basement Works		
Basement Sterilization Room	2C1-9	
Basement Refectory, serving & Distribution Room	2C2-9	
Basement Pharmacy Storage	2C3-5	
Basement Labs & Offices	2C4-12	
Bill No. 3: Main Building - Third & Fourth Floor	2D-42	
Bill No. 4: External Works Outside Plot Boundary		
Drive and Parking – Opp Traffic Police	2E1-3	
Walkways and Foot paths	2E2-1	
Storm water Drainage	2E3-1	
Landscaping	2E4-1	
Bill No. 5: External Works Within Plot boundary		
Raising Gates	2F1-1	
Entrance & Exit Canopies	2F2-1	
Earthworks (Moving Soil Heap & Level)	2F3-1	
Bill No. 6: Sports Fields - 2 No. Volleyball Pitch	2G1-8	
Bill No. 7: Services Houses		
Waste Management House	2H1-14	
Boiler House	2H2-14	
Screen Wall	2H3-1	
Relocation of existing walkway - Services House	2H4-2	
Area		
Bill No. 8: Signage	SG / 4	

Volume 3 : Electrical Works		
3.1 General Electrical Installations	<i>VOL 3.1/102</i>	
3.2 AVR & UPS Installations	<i>VOL 3.2/16</i>	
3.3 Nurse Call, Master Clock & PA/VA Installations	<i>VOL 3.3/46</i>	
3.4 Security Systems Installations	<i>VOL 3.4/34</i>	
3.5 ICT Installations	<i>VOL 3.5/40</i>	
3.6 BMS Installations	<i>VOL 3.6/49</i>	
3.7 Conference Facilities	<i>VOL 3.7/49</i>	
Volume 4: Mechanical Works		
4.1 Plumbing, Drainage & Firefighting	<i>VOL 4.1/ 108</i>	
4.2 Air Conditioning	<i>VOL 4.2/106</i>	
4.3 Medical Gases Pipeline System	<i>Vol 4.3/79</i>	
4.4 Kitchen & Laundry Equipment and LPG Gas	<i>Vol 4.4/79</i>	
4.5 Borehole Drilling and Equipping	<i>VOL 4.5/25</i>	
<i>Subtotal of Bills</i>	<i>(A)</i>	
<i>Total for Daywork (Provisional Sum)*</i>	<i>(B)</i>	
<i>Specified Provisional Sums not included in subtotal of billsⁱⁱ</i>	<i>(C)</i>	
<i>Total of Bills Plus Provisional Sums (A + B + C)ⁱ</i>	<i>(D)</i>	
<i>Add 16% VAT</i>	<i>(E)</i>	
<i>Subtotal (D + E)</i>	<i>(F)</i>	
<i>Add Provisional Sum for 10% Contingency Allowance (if any)ⁱⁱ</i>	<i>(G)</i>	
<i>Bid Price (F + G) (Carried forward to Letter of Bid)</i>	<i>(H)</i>	

i) All Provisional Sums are to be expended in whole or in part at the direction and discretion of the Engineer in accordance with +Clause 13.5 of the General Conditions.

ii) To be entered by the Employer.

* For evaluation purpose, Provisional Sums (PS) that are specified as a fixed amount or percentage of the contract amount shall be excluded and neither be priced or changed by Bidders. However, all costs where a bidder is required to bid e.g. Dayworks (also called PS), and Bidder's mark-up (overhead, profit, etc.) for specific provisional work item (s) if included in any bill (s), to be quoted as a percentage of the fixed PS amount specified for such item (s), will be included.

Technical Bid

- Technical Bid-Base Bid
- Site Organization
- Method Statement
- Mobilization Schedule
- Construction Schedule
- ES Management Strategies and Implementation Plans
- Code of Conduct (ES)
- Equipment
- Key Personnel Schedule
- Others

Technical Bid-Base Bid

[Note for information of Bidder: Bidders shall demonstrate compliance with the Employer's requirements and Technical Specifications as described in Section VII of the Bidding Documents. Any departures or deviations from the required Technical Specifications shall be highlighted and if there are none, full compliance shall be confirmed.

The Bidder shall provide the Technical Bid for the Base-Bid complete in all respect including Technical information and standards, codes, designs and specifications, of Works offered along with all documentation mentioned in ITB 16 and Section VII of the Bidding Document. This will include relevant literatures, data or drawings, test results and other supporting documents, including all information requested in the Bidding Document and as may be necessary to establish conformity with the Employer's Specifications and requirements.

Any deviations in the technical standards, codes, designs or specifications or other requirements from those stated in the Bidding Documents shall be explained indicating their impact on the performance requirements, characteristics or parameters of the works. To this end, for any such deviations to be acceptable, Bid shall establish to the satisfaction of the Employer substantial responsiveness to the required technical specifications by explaining and documenting for the offered works, equivalency with or improvement to the required technical standards, codes, designs and Specifications.

Any Major deviation from the Employer's requirements shall be the cause for rejection of the Bid. Any deviation which in the Bidder's opinion is considered minor, the Bidder shall provide evidence to this effect including evidence of any monetary implications caused by such deviation. The Employer's evaluation shall be independent of Bidder's opinion on such matters and shall be final]

Site Organization

[insert Site Organization information]

Method Statement

[insert Method Statement]

Mobilization Schedule

[insert Mobilization Schedule]

In accordance with the Particular Conditions, Sub-Clause 4.1, the Contractor shall not carry out mobilization to Site unless the Engineer gives consent that appropriate measures are in place to address environmental and social risks and impacts, which as a minimum shall include applying the Management Strategies and Implementation Plans (MSIPs) and Code of Conduct for Contractor's Personnel, submitted as part of the Bid and agreed as part of the Contract.

Construction Schedule

[insert Construction Schedule]

The construction schedule shall include the following key milestones:

- *No-objection to the Contractor's MSIPs, which collectively form the C-ESMP, in accordance with the Particular Conditions – Special provisions Sub-Clause 4.1.*
- *Constitution of the DAAB*

ES Management Strategies and Implementation Plans

(ES-MSIP)

The Bidder shall submit comprehensive and concise Environmental **and Social (ES)** Management Strategies and Implementation Plans (ES-MSIP) as required by ITB 11.1 (j) of the Bid Data Sheet. These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor, and its subcontractors.

In developing these strategies and plans, the Bidder shall have regard to the ES provisions of the contract including those as may be more fully described in the Works Requirements in Section VII.

Code of Conduct for Contractor's Personnel (ES) Form

Note to the Employer:

The following minimum requirements shall not be modified. The Employer may add additional requirements to address identified issues, informed by relevant environmental and social assessment.

The types of issues identified could include risks associated with: labour influx, spread of communicable diseases, Sexual Exploitation and Abuse (SEA), Sexual Harassment (SH) etc.

Delete this Box prior to issuance of the bidding documents.

Note to the Bidder:

The minimum content of the Code of Conduct form as set out by the Employer shall not be substantially modified. However, the Bidder may add requirements as appropriate, including to take into account Contract-specific issues/risks.

The Bidder shall initial and submit the Code of Conduct form as part of its bid.

CODE OF CONDUCT FOR CONTRACTOR'S PERSONNEL

We are the Contractor, [enter name of Contractor]. We have signed a contract with [enter name of Employer] for [enter description of the Works]. These Works will be carried out at [enter the Site and other locations where the Works will be carried out]. Our contract requires us to implement measures to address environmental and social risks related to the Works, including the risks of sexual exploitation, sexual abuse and sexual harassment.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the Works. It applies to all our staff, labourers and other employees at the Works Site or other places where the Works are being carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as "**Contractor's Personnel**" and are subject to this Code of Conduct.

This Code of Conduct identifies the behavior that we require from all Contractor's Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behavior will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

REQUIRED CONDUCT

Contractor's Personnel shall:

1. carry out his/her duties competently and diligently;
2. comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;
3. maintain a safe working environment including by:
 - a. ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
 - b. wearing required personal protective equipment;
 - c. using appropriate measures relating to chemical, physical and biological substances and agents; and
 - d. following applicable emergency operating procedures.
4. report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
5. treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
6. not engage in Sexual Harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature with other Contractor's or Employer's Personnel;
7. not engage in Sexual Exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
8. not engage in Sexual Abuse, which means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
9. not engage in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;
10. complete relevant training courses that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters, Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH);
11. report violations of this Code of Conduct; and
12. not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the grievance mechanism for Contractor's Personnel or the project's Grievance Redress Mechanism.

RAISING CONCERNS

If any person observes behavior that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

1. Contact [*enter name of the Contractor's Social Expert with relevant experience in handling sexual exploitation, sexual abuse and sexual harassment cases, or if such person is not required under the Contract, another individual designated by the Contractor to handle these matters*] in writing at this address [] or by telephone at [] or in person at []; or
2. Call [] to reach the Contractor's hotline (*if any*) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the country law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There will be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

There will be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

Any violation of this Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.

FOR CONTRACTOR'S PERSONNEL:

I have received a copy of this Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this Code of Conduct, I can contact [*enter name of Contractor's contact person with relevant experience*] requesting an explanation.

Name of Contractor's Personnel: [insert name]

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____

ATTACHMENT 1: Behaviors constituting Sexual Exploitation and Abuse (SEA) and behaviors constituting Sexual Harassment (SH)

ATTACHMENT 1 TO THE CODE OF CONDUCT FORM

BEHAVIORS CONSTITUTING SEXUAL EXPLOITATION AND ABUSE (SEA) AND BEHAVIORS CONSTITUTING SEXUAL HARASSMENT (SH)

The following non-exhaustive list is intended to illustrate types of prohibited behaviors.

(1) Examples of sexual exploitation and abuse include, but are not limited to:

- A Contractor's Personnel tells a member of the community that he/she can get them jobs related to the work site (e.g. cooking and cleaning) in exchange for sex.
- A Contractor's Personnel that is connecting electricity input to households says that he can connect women headed households to the grid in exchange for sex.
- A Contractor's Personnel rapes, or otherwise sexually assaults a member of the community.
- A Contractor's Personnel denies a person access to the Site unless he/she performs a sexual favor.
- A Contractor's Personnel tells a person applying for employment under the Contract that he/she will only hire him/her if he/she has sex with him/her.

(2) Examples of sexual harassment in a work context

- Contractor's Personnel comment on the appearance of another Contractor's Personnel (either positive or negative) and sexual desirability.
- When a Contractor's Personnel complains about comments made by another Contractor's Personnel on his/her appearance, the other Contractor's Personnel comment that he/she is "asking for it" because of how he/she dresses.
- Unwelcome touching of a Contractor's or Employer's Personnel by another Contractor's Personnel.
- A Contractor's Personnel tells another Contractor's Personnel that he/she will get him/her a salary raise, or promotion if he/she sends him/her naked photographs of himself/herself.

Form EQU: Equipment

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

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment ☐ Owned ☐ Rented ☐ Leased ☐ Specially manufactured	

Omit the following information for equipment owned by the Bidder.

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

Form PER -1

Contractor's Representative and Key Personnel Schedule

Bidders should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Contractor' Representative and Key Personnel

1.	Title of position: Contractor's Representative	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
2.	Title of position: <i>[Environmental Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
3.	Title of position: <i>[Health and Safety Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>

	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
4.	Title of position: <i>[Social Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
5.	Title of position: Sexual Exploitation, Abuse and Harassment Expert <i>[Where a Project SEA risks are assessed to be substantial or high, Key Personnel shall include an expert with relevant experience in addressing sexual exploitation, , sexual abuse and sexual harassment cases]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
6.	Title of position: <i>[insert title]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>

Form PER-2:
Resume and Declaration
Contractor's Representative and Key Personnel

Name of Bidder

Position [# 1]: <i>[title of position from Form PER-1]</i>		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
Details		
	Address of employer:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present employer:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration

I, the undersigned *[insert either "Contractor's Representative" or "Key Personnel" as applicable]*, certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Bid:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>

I understand that any misrepresentation or omission in this Form may:

- (a) be taken into consideration during Bid evaluation;
- (b) result in my disqualification from participating in the Bid;
- (c) result in my dismissal from the contract.

Name of Contractor's Representative or Key Personnel: *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Bidder:

Signature: _____

Date: (day month year): _____

NB: The Personnel must provide evidence for academic and professional qualifications in form of copies of certificates.

Commercial Terms and Conditions

[Bidder shall specify any deviations to the provisions of the Bidding Document (other than Technical Specifications) in particular those specified in Part 3 of the Bidding document including General and Particular Conditions of Contract. If "None" it shall be confirmed accordingly]

Bidders Qualification without prequalification

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

Form ELI -1.1

Bidder Information Form

Date: _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Bidder's name
In case of Joint Venture (JV), name of each member:
Bidder's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Bidder's actual or intended year of incorporation:
Bidder's legal address [in country of registration]:
Bidder's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.4 ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1 ☐ In case of state-owned enterprise or institution, in accordance with ITB 4.6, documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Bidder is not under the supervision of the Employer 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under BDS ITB 47.1, the successful Bidder shall provide additional information on beneficial ownership, using the Beneficial Ownership Disclosure Form.]</i>

Form ELI -1.2

Bidder's JV Information Form
(to be completed for each member of Bidder's JV)

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

JV Information of the Reporting Firm

Bidder's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.4. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Employer, in accordance with ITB 4.6. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[If required under BDS ITB 47.1, the successful Bidder shall provide additional information on beneficial ownership for each JV member using the Beneficial Ownership Disclosure Form.]</i>

Form ELI -1.3

Eligible Materials, Equipment and Services Form

(to be completed by the Bidder)

Bidder's Name: _____

Date: _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Eligible Materials, Equipment and Services: In compliance with ITB 5, provide the following information for all Materials, Equipment and Services included under the Contract. Instead of listing each and every item, broad categories are listed below. Include all items in these categories unless any item to be supplied is not covered by any one of them in which case list them separately.

1 S. No.	2 Description of Broad Category of Materials/Equipment and Services	3 Estimated Quantity - <i>[Indicate: "All quantity as required" or quantity by subcategory of items]</i>	Estimated Aggregate Value (US Dollar Equivalent)	5 Countries of Origin
1	All Construction and Testing Materials including raw materials, Cement, Steel, Timber, Lime, Sand, Aggregates, Plastics, Bitumen, Oils, Lubricants, etc. as per specification			
2	All types of Plants, Equipment including Laboratory and Testing Equipment, All types of Vehicles, Furniture, Fittings and Fixtures, Pipes, Tools, Steel and Other Structures, Utensils, Computers and Other IT			

	Equipment, etc. as per specification			
3	All Types of Services including Construction, Installation, Assembly, Inspection, Supervision, Care of Sites, Labor (Skilled and Unskilled), Drilling, Mapping, Transportation and Insurance, etc. as per specification			

Form CON – 2

Historical Contract Non-Performance, Pending Litigation and Litigation History

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV]

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

Historical Contract Non-Performance, Pending Litigation and Litigation History of the Reporting Firm

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria			
☐ Contract non-performance did not occur since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.			
☐ Contract(s) not performed since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, requirement 2.1			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
☐ No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.			
☐ Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), USD Equivalent (exchange rate)
		Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____ Party who initiated the dispute: ____ Status of dispute: _____	
		Contract Identification: Name of Employer: Address of Employer: Matter in dispute: Party who initiated the dispute: Status of dispute:	
Litigation History in accordance with Section III, Evaluation and Qualification Criteria			
☐ No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4. ☐ Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.			

Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (currency), USD Equivalent (exchange rate)
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

Form CON – 3

Environmental and Social (ES) Performance Declaration

[The following table shall be filled in by the Bidder, by each member of a Joint Venture and each Specialized Subcontractor]

Bidder's Name: *[insert full name]*

Date: *[insert day, month, year]*

Joint Venture Member's or Specialized Subcontractor's Name: *[insert full name]*

OCBI/LCB No. and title: *[insert IFB number and title]*

Page *[insert page number]* of *[insert total number]* pages

Name of the Reporting Firm _____

Environmental and Social (ES) Performance Declaration of the Reporting Firm

Environmental and Social Performance Declaration			
in accordance with Section III, Qualification Criteria, and Requirements			
☐ No suspension or termination of contract: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental or Social (ES) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5.			
☐ Declaration of suspension or termination of contract: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental or Social (ES) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5. Details are described below:			
Year	Suspended or terminated portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s) e.g. gender-based violence; sexual exploitation or sexual abuse breaches]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i>	<i>[insert amount]</i>

		Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	
...	...	<i>[list all applicable contracts]</i>	...
Performance Security called by an employer(s) for reasons related to ES performance			
Year	Contract Identification		Total Contract Amount (current value, currency, exchange rate and US\$ equivalent)
<i>[insert year]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for calling of performance security: <i>[indicate main reason(s) e.g. for gender-based violence; sexual exploitation, or sexual abuse breaches]</i>		<i>[insert amount]</i>

Form FIN – 3.1: Financial Situation and Performance

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV]

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

Financial Situation and Performance of the Reporting Firm

1. Financial data

Type of Financial information in (currency)	Historic information for previous _____ years, _____ (amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					

Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITB 15 for the exchange rate

2. Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (US\$ equivalent)
1		
2		
3		

3. Financial documents

The Bidder and its parties shall provide copies of financial statements for *the last Five (5) years* pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.1. The financial statements shall:

- (a) reflect the financial situation of the Bidder or in case of JV member, and not an affiliated entity (such as parent company or group member).
- (b) be independently audited or certified in accordance with local legislation.
- (c) be complete, including all notes to the financial statements.
- (d) correspond to accounting periods already completed and audited.

☐ Attached are copies of financial statements⁵ for the _____ years required above; and complying with the requirements

⁵ If the most recent set of financial statements is for a period earlier than 12 months from the date of Bid, the reason for this should be justified.

Form FIN – 3.2: Average Annual Construction Turnover

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV]

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

Average Annual Construction Turnover of the Reporting Firm

		Annual turnover data (construction only)	
Year	Amount Currency	Exchange rate	USD equivalent
<i>[indicate year]</i>	<i>[insert amount and indicate currency]</i>		
Average Annual Construction Turnover *			

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

Form FIN – 3.3: Financial Resources

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV]

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of Reporting Firm: _____

Financial Resources of the Reporting Firm

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III, Evaluation and Qualification Criteria consistent with information provided under form FIN--3.4

Financial Resources		
No.	Source of financing	Amount (US\$ equivalent)
1		
2		
3		

Form FIN – 3.4: Current Contract Commitments / Works in Progress

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV]

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of Reporting Firm: _____

Current Contract Commitments / Works in Progress of the Reporting Firm

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

Based on value of all outstanding works and average monthly invoicing, the Bidder and each Member to a JV shall explain how completion by estimated time is proposed to be achieved for each contract listed.

The Bidder and each Member of a JV shall also demonstrate based on access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments consistent with information provided by the Bidder/Each JV Member under Forms FIN--3.1, FIN 3.3 and this Form FIN 3.4 how the overall cash flow requirements for this Contract and their all other current contract commitments will be met.

Current Contract Commitments and Cash-Flow Requirements

1	2	3	4	5	6	7
S. No.	Name of Contract	Employer's Contact Address, Tel, Fax	Value of Outstanding Work [Current US\$ Equivalent]	Estimated Completion Date/Time in Months to complete	Average Monthly Invoicing Over Last Six Months [US\$/month]	Estimated Cash-Flow Required for every 4 months= [Value under column 4 divided by Months under column 5 times 4]

Explanation:

Form EXP - 4.1: General Construction Experience

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV]

Bidder's Name: _____

Date: _____

JV Member's Name _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

General Construction Experience of the Reporting Firm

Starting Year	Ending Year	Contract Identification	Role of Bidder
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	

Form EXP - 4.2(a): Specific Construction and Contract Management Experience

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV and specialized Sub-Contractors, if applicable]

Bidder's Name: _____

Date: _____

JV Member's Name if the Bidder is a JV _____

Specialized Subcontractor's Name *[Insert full name if permitted]* _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

Specific Construction and Contract Management Experience of the Reporting Firm

Similar Contract No.	Information			
Contract Identification	<i>[insert contract name and number, if applicable]</i>			
Name of the firm that was awarded the contract identified above				
Award date	<i>[insert day, month, year, e.g., 15 June 2016]</i>			
Completion date ^{**}	<i>[insert day, month, year, e.g., 03 May 2018]</i>			
Role in Contract identified above <i>[check the appropriate box. Check box as "Prime Contractor" if contract was awarded to the reporting firm as a single construction contractor. Check Box "Member in JV" if the contract was awarded to a JV and was a member of the JV. Check Box "Management Contractor" if the reporting firm signed the construction contract and was responsible for its performance and completion of works as per terms and conditions of the contract. Also see *** below. Check Box "Sub-Contractor" if the reporting firm was a sub-contractor appointed by the main contractor who was awarded the contract]</i>	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐ ^{***}	Sub-contractor ☐

Total Contract Amount	<i>[insert total contract amount in local currency]</i>		US\$ <i>[insert Exchange rate and total contract amount in US\$ equivalent]*</i>
If reporting firm was a member in a "JV" or "sub-contractor", as per box checked above, it can claim experience only for its' own share of works actually performed under the contract and not the entire contract. As such, the reporting firm shall indicate its share as a percentage of the total Contract amount and also in absolute amount	<i>[insert the percentage of the total contract amount indicated above which represents reporting firm's share under the contract performed]</i>	<i>[insert amount the reporting firm received or entitled to for the works performed as its share in the total contract amount in local currency]</i>	<i>[insert exchange rate and total contract amount in US\$ equivalent]*</i>
Roles and Responsibilities	<i>[Briefly describe roles and responsibilities of the Reporting firm under the above contract]</i>		
Employer's Name:	<i>[Insert Full Name]</i>		
Address: Telephone/fax number E-mail:	<i>[indicate street / number / town or city / country] [insert telephone/fax numbers, including country and city area codes] [insert e-mail address, if available]</i>		

* Refer Section III for guidance on the date and source of exchange rate.

** If contract is not fully completed but substantially completed then indicate the absolute total value of the completed part of the contract and also the percentage completion calculated as a percentage of the total value of the contract upon completion.

*** In claiming experience as a Management Contractor, the Bidder shall furnish copies of the contracts signed by the Bidder demonstrating scope of construction works performed. It should be noted that a Construction Manager is not the same as a Management Contractor. Construction Manager is a Consultant for or agent of the Borrower and mainly responsible for supervision of the construction works and does not take the risks associated with the performance of the construction contracts as the Management Contractor does. Instead of performing the works directly, a Management Contractor contracts out and manages the work of other contractors taking on full responsibility and risk for price, quality and timely performance as per the terms and conditions of contracts it signs with the Employers.

Form EXP - 4.2(a) (cont.): Specific Construction and Contract Management Experience (cont.)

Similar Contract No.	Information
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

Form EXP - 4.2(b): Construction Experience in Key Activities

[The form shall be filled in by the Bidder, and each member of a Joint Venture, if the Bidder is a JV and specialized Sub-Contractors, if applicable]

Bidder's Name: _____

Date: _____

Bidder's JV Member Name: _____

Sub-contractor's Name⁶ (as per ITB 34): _____

OCBI/LCB No. and title: _____

Page _____ of _____ pages

Name of the Reporting Firm _____

Construction Experience in Key Activities of the Reporting Firm under each contract completed or under implementation

Bidder, Members of the JV or proposed Specialized Contractors claiming experience for key activities must complete the information in this form as per ITB 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2. *[Provide information for each contract separately when claiming experience by aggregating quantities of the key activity completed in more than one contract]*

1. Key Activity No One: _____

	Information			
Contract Identification				
Award date				
Completion date as per Contract				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Sub-contractor ☐
Total Contract Amount			US\$	

⁶ If applicable

	Information		
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	Information		
	<i>[insert response to Employer's inquiry indicated in left column]</i>		
Quantity (Volume, number or rate of production, as applicable for the Key activity) performed under the contract per year or part of the year. For each year indicate quantities performed and specify both start and end months. <i>[Insert extent of participation indicating actual quantity of key activity successfully completed in the role performed]</i>	Total quantity in the contract (i)	Percentage participation (ii)	Actual Quantity Performed (i) x (ii)
Year 1 <i>[e.g. 2016 from January to September]</i>			
Year 2 <i>[e.g. 2017 from January to December]</i>			
Year 3			
Year 4			
In response to the criterion for rates of production in 12 consecutive months or less, if performance under more than one contract spread over more than one year are considered, the Applicant shall provide information by months for each such contract to demonstrate which same 12			
Employer's Name:			

	Information
Address: Telephone/fax number E-mail:	

2. Activity No. Two

3.

Form EXP - 4.2(c)

Specific Experience in Managing ES aspects

[The following table shall be filled in for contracts performed by the Bidder, and each member of a Joint Venture]

Bidder's Name: _____

Date: _____

Bidder's JV Member Name: _____

RFB No. and title: _____

Page _____ of _____ pages

1. Key Requirement no 1 in accordance with 4.2 (c): _____

Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Subcontractor ☐
Total Contract Amount			US\$	
Details of relevant experience				

2. Key Requirement no 2 in accordance with 4.2 (c): _____

3. Key Requirement no 3 in accordance with 4.2 (c): _____

Form of Bid Security - Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[Insert name and address of the Employer]*

Invitation for Bids No: _____ *[Insert reference number for the Invitation for Bids]*

OCBI/LCB No.: _____ *[Employer to insert same OCBI number as in procurement plan]*

Date: _____ *[Insert date of issue]*

BID GUARANTEE No.: _____ *[Insert guarantee reference number]*

Guarantor: _____ *[Insert Guarantor's name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its Bid (hereinafter called "the Bid") for the execution of _____ under Invitation for Bids No. _____ ("the IFB") and Open Competitive Bidding (International) No. _____ ("the OCBI").

Furthermore, we understand that, according to the Beneficiary's conditions, Bids must be supported by a Bid guarantee.

At the request of the Applicant to issue this guarantee, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____, (_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

- (a) has withdrawn its Bid during the period of Bid validity set forth in the Applicant's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance Security and, if required, the Environmental and Social (ES) Performance Security, in accordance with the Instructions to Bidders ("ITB") of the Beneficiary's Bidding document.

This guarantee will expire: (a) if the Applicant is the successful Bidder, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, if required, the Environmental and Social (ES) Performance Security, issued to the Beneficiary in relation to such contract agreement; or (b) if the Applicant is not the successful Bidder, upon the earlier of (i) our receipt of a copy of the

Beneficiary's notification to the Applicant of the results of the Bidding process; or (ii) twenty-eight days after the end of the Bid Validity Period.

Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.

[signature(s)]

[Note: In case the Applicant is a Joint Venture indicate the name of the Joint Venture or names of all members of the Joint Venture that submitted or will submit the Bid]

Form of Bid-Securing Declaration

Date: _____

OCBI/LCB No.: *[insert number as in procurement plan]*: _____

Alternative No.: _____

To:

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for Bidding in any contract with the Employer for the period of time of *[insert number of months or years consistent with BDS 19.9]* _____, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) have withdrawn our Bid during the period of Bid validity specified in the Letter of Bid or any extension thereto provided by us; or
- (b) having been notified of the acceptance of our Bid by the Employer during the period of Bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security and, if required, the Environmental and Social (ES) Performance Security, in accordance with the ITB 48.

The start date of suspension shall be the first date we perform any of the actions mentioned in paragraphs (a) and (b) above. We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Name of the Bidder* _____

Name of the person duly authorized to sign the Bid on behalf of the Bidder** _____

Title of the person signing the Bid _____

Signature of the person named above _____

Date signed _____ day of _____, _____

* In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

** Person signing the Bid shall have the power of attorney given by the Bidder attached to the Bid

[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all members to the Joint Venture that submits the Bid.]

Section V - Eligible Countries

Eligibility for the Provision of Goods, Works and Non-Consulting Services in Bank Group Financed Procurement

A. Provisions under Section 5 “Eligibility” of the Procurement Policy for Bank Group Funded Operations and Chapter A2 of the Operations Procurement Manual under Procurement Framework of the African Development Bank

1. The African Development Fund (ADF) permits firms and individuals from all countries to offer goods, works and services for ADF funded projects.

However, the proceeds of any Financing undertaken in the operations of the African Development Bank (ADB) and the Nigeria Trust Fund (NTF) shall be used for procurement of goods and works, including the related services, provided by bidders from Eligible¹ Countries.² Any conditions for participation shall be limited to those that are essential to ensure the firm’s capability to fulfill the contract in question. In the case of ADB and NTF, bidders from non-Member Countries offering goods, works and related services (including transportation and insurance) are not eligible even if they offer these from Eligible Member Countries. Any waiver to this rule will be in accordance with the Articles 17(1) (d) of the Agreement Establishing the African Development Bank and 4.1 of the Agreement Establishing the Nigeria Trust Fund.

B. Rules and Procedures for Procurement of Goods and Works

Overview

1. The eligibility criteria for participation in the supply of goods, works and related services, to be procured through the ADB and NTF Financing, derive from the requirements of the Agreement Establishing the African Development Bank, Article 17.1.d, and the Agreement Establishing the Nigeria Trust Fund, Article 4.1. The foregoing requirements basically prescribe two types of eligibility criteria:

- (a) The eligibility of the bidder;
- (b) The eligibility of the goods, works and related services.

Eligibility of the Bidder under the ADB and NTF Financing

2. The eligibility of the bidder shall be based on nationality, in accordance with the following rules:
 - (a) Natural Persons: A natural person is eligible if he or she is a national of a Member Country of the ADB. Where a person has more than one nationality, such a person

¹ Refer to Bank Procurement Framework for additional information on Eligibility.

² “Eligible Countries” shall mean: (a) in the case of the African Development Bank (ADB) and the Nigeria Trust Fund, the Member Countries of the ADB; and (b) in the case of the African Development Fund (ADF), any country.

shall be eligible if the nationality indicated in his or her bid is that of a Member Country of the ADB.

(b) Corporations: A corporation is eligible if it satisfies the following criteria:

1. it is incorporated in a country that is a Member of the ADB;
2. it is a national of a country that is a Member of the ADB, as determined by the law of its place of incorporation;
3. it has its principal place of business in a country that is a Member of the ADB.

(c) Joint Ventures and Associations: An unincorporated joint venture, partnership, or association, shall be eligible if more than 50% of the value of its works and/or services is executed by its members satisfying the eligibility requirements for individuals or corporations.

Eligibility of the Goods, Works and Related Services

3. In order to be eligible, the goods to be procured must have been mined, grown, or produced, in the form in which they are purchased, in an Eligible Member Country.
4. For works contracts, which may include civil works, plant construction, or turnkey contracts, the contractor must satisfy the nationality criteria of eligibility, either as a natural person, or corporation, or joint venture and association. Labour, equipment, and materials needed for carrying out the works contract, shall be supplied from Eligible Member Countries.
5. For contracts, which have been awarded on the basis of Cost, Insurance and Freight (CIF), or Carriage and Insurance Paid (CIP), bidders shall be free to arrange for ocean and other transportation, and the related insurance, from any Eligible Member Country. On the other hand, where goods are shipped on FOB basis, and the Bank has agreed to finance transportation and insurance separately, which are arranged by the purchaser, under a separate contract, the Bank shall be satisfied that the services are supplied from Eligible Member Countries.

List of Eligible Countries

6. List of Eligible countries can be found in African Development Bank's website:

<https://www.afdb.org/en/about-us/corporate-information/members/>

Ineligible Countries in reference to ITB 4.8 and ITB 5.1

7. In reference to ITB 4.8 and ITB 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this Bidding process:

Under ITB 4.8(a) and ITB 5.1: *[insert a list of the countries following approval by the Bank to apply the restriction or state "none"]*.

Under ITB 4.8(b) and ITB 5.1: *[insert a list of the countries following approval by the Bank to apply the restriction or state "none"]*

Section VI - Fraud and Corruption

1. Purpose

1.1 The Bank's Integrity Framework and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption¹.

2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:
 - i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party²;
 - ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party³ to obtain financial or other benefit or to avoid an obligation;
 - iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its

¹ In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

² For the purpose of this sub-paragraph, "another party" refers to a public official acting in relation to the procurement process or contract execution, including Bank staff and employees of other organizations taking or reviewing procurement decisions.

³ For the purpose of this sub-paragraph, "party" refers to a public official, including Bank staff and employees of other organizations taking or reviewing procurement decisions.; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution."

knowledge of matters relevant to the investigation or from pursuing the investigation; or

- (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- d. Pursuant to the Banks Integrity Framework and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;⁴ (ii) to be a nominated⁵ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants), consultants, contractors, and suppliers; and their sub-contractors, sub-consultants, service providers, suppliers, agents, personnel, permit the Bank to inspect⁶ all accounts, records and other documents

⁴ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

⁵ A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

⁶ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant;

relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.



Part 2: Works' Requirements

Section VII - Works' Requirements

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Scope of Works

The Scope of Works for this Contract comprises construction to completion of 3rd and 4th floors of the existing structure, the entire third and fourth floors shall be fitted out internally with masonry and light weight dry partitions. Fit-Out of Nurse Stations and other Joinery Works shall also be done in Basement, Ground, 1st and 2nd floors. The works shall also include completion of the basement area, installation of mild steel security grill at the ground floor level, provision of door to the roof and fire door to the control room, completion of the Imaging Area and installation of earth-mount between the Building Complex and perimeter wall along Ngong' Road.

The corresponding Electrical and Mechanical Works shall equally be completed.

Out-door buildings include a Boiler House, a Waste Management House, and a cut-off screen.

External works include constructing to completion of 2No. Volleyball pitches together with associated storm water drainage, planting grass around volleyball pitch area.

There shall be Civil Works outside plot boundary. These works shall comprise; Driveway and Parking, Storm Water Drainage, Walkways and Footpaths all outside Plot Boundary. The contractor shall liaise with relevant Authorities when carrying out these and get necessary Permits, Licenses and pay all charges, Levies and Fees to the approving Authority.

Contractor shall search for, locate and protect all and any services within the works area. Any and all costs arising from damage of the existing services shall be met by the contractor.

Electrical Works

- a) General Electrical Installations;
- b) 30KW Solar Installations
- c) 1400 KVA Generator Installation;
- d) 1600 KVA AVR Installations
- e) UPS System Installations;
- f) Nurse Call System, Voice Evacuation/Piped Music System, Security System Installations, Conference Facilities Installations, Voice & Data (ICT) Installations;
- g) Building Management System Installation.

Mechanical Works

- a) Medical Gases Pipeline System;
- b) Sanitary Fittings, Plumbing, Drainage and Fire Fighting Installations;
- c) Bore Hole Drilling and Equipping;
- d) Heating Ventilation & Air Conditioning;

- e) Kitchen & Laundry Equipment and L.P. Gas Installations;
- f) Boiler and steam systems installations.
- g) Hospital waste management system

Specification

[In drafting of the Specification, care must be taken when drafting the Work's Requirements to ensure that the requirements are not restrictive. Recognized international standards should be used as much as possible for the description of goods, materials and workmanship. Where other particular standards are specified, whether national standards of the Borrower's country or other standards, it should be stated that goods, materials and workmanship meeting other authoritative standards and which promise to ensure equal or higher quality than the standards specified, will also be acceptable. Where a brand name of a product is specified it should always be qualified with the terms "or equivalent".]

[Any additional sustainable procurement technical requirements (beyond the ES requirements stated in the Environmental and Social (ES) Requirements section below) for the Works shall be clearly specified. Please refer to the Bank's Procurement Framework for further information. [\[insert url\]](#). The requirements to be specified shall be specific enough to not demand evaluation based on rated criteria/merit point system. The sustainable procurement requirements shall be specified to enable evaluation of such a requirement on a pass/fail basis. To encourage Bidders' innovation in addressing sustainable procurement requirements, as long as the Bid evaluation criteria specify the mechanism for monetary adjustments for the purpose of Bid comparisons, Bidders may be invited to offer Works that exceeds the specified minimum sustainable procurement requirements.]

[A number of the Sub-Clauses of the General/Particular Conditions make reference to the Specification. In drafting the Specification, the Borrower should include, as appropriate, information referred to in the Conditions of Contract. In some instances, a certain contractual provision may not apply if not stated in the Specification, in other cases the default contractual provision may apply if not specifically stated otherwise in the Specification etc.]

Environmental and Social (ES) requirements

[The Employer's team preparing the ES requirements should include a suitably qualified Environmental and Social specialist/s.

In preparing detailed specifications for ES requirements the Borrower should refer to and consider the applicable environmental and social standards in the Integrated Safeguards System (ISS) including specific requirements set out in the Operational Safeguards, ESIA/ESA/ESMP, EHSs and other GIIP as well as SEA and SH prevention and management obligations.

The ES requirements should be prepared in manner that does not conflict with the relevant General Conditions (and the corresponding Particular Conditions if any) and other parts of the specifications.

The following is a non-exhaustive list of Sub-Clauses of the Conditions of Contract that make reference to ES matters stated in the Specification.]

Sub-Clause/Clause No.	Sub-Clause/Clause		Remarks
4.1	Contractor's General Obligations		<i>If the Contract specifies that the Contractor shall design any part of the Permanent Works, state any applicable technical standards and requirements including to address:</i> <i>• climate change considerations,</i> <i>• universal access,</i> <i>• risks of the public's potential exposure to operational accidents or natural hazards, including extreme weather events, applicable certification or approval requirements</i>

Sub- Clause/Clause No.	Sub-Clause/Clause		Remarks
			<i>[Refer to ESS4 on requirements for design]</i>
4.6	<i>Co-operation</i>		<i>Indicate specific aspects (if any) that require contractor's cooperation such as to conduct environmental and social assessment.</i>
4.8	<i>Health and Safety Obligations</i>		<i>Indicate if there would be a health service provider.</i> <i>Indicate if access to or provision of services that accommodate physical, social and cultural needs of Contractor's Personnel is required.</i> <i>Indicate any additional requirements for the health and safety manual</i>
4.18	<i>Protection of the Environment</i>		<i>Specify any values for emissions, surface discharges, effluent and any other pollutants from the Contractor's activities that shall not be exceeded. The Contractor's MSIP/CESMP shall set out the measures the Contractor will take to ensure compliance with these limit values.</i>
4.21	<i>Security of the Site</i>		<i>State any additional requirements for the security arrangements.</i>

Sub-Clause/Clause No.	Sub-Clause/Clause		Remarks
4.23 (c)	<i>Archeological and Geological Findings</i>		<i>Specify other requirements if any in accordance with the ISS.</i>
6.2	<i>Rate of Wages and Conditions of Labour</i>		<i>State applicable requirements in accordance with the labour management procedure.</i>
6.5	<i>Working Hours</i>		<i>State applicable requirements in accordance with the labour management procedure.</i>
6.27	<i>Traning of Contractor's Personnel</i>		<i>Details of any training to relevant Contractor's Personnel to be provided by the Employer's Personnel on environmental and social aspects. (whom, what, when, where, how long etc.)</i>

In addition to provisions in the above table, the Employer shall specify the following as applicable.

Management and Safety of Hazardous Materials

As applicable, specify requirements for the management and safety of hazardous materials (see ISS and relevant guidance notes).

Resource Efficiency and Pollution Prevention and Management

As applicable specify Resource Efficiency and Pollution Prevention and Management measures (see ISS and relevant guidance notes).

- ***Resource efficiency***

The Employer shall specify, as applicable, measures for improving efficient consumption of energy, water and raw materials, as well as other resources.

- **Energy:** When the Works have been assessed to involve a potentially significant use of energy, specify any applicable measures to optimize energy usage.
- **Water:** When the Works have been assessed to involve a potentially significant use of water or will have potentially significant impacts on water quality, specify any applicable measures that avoid or minimize water usage so that the Works' water use does not have significant adverse impacts on communities, other users and the environment.
- **Raw material:** When the Works have been assessed to involve a potentially significant use of raw materials, specify any applicable measures to support efficient use of raw materials.
- **Pollution prevention and management**
 - **Management of air pollution:** specify any measure to avoid or minimize Works related air pollution. See also Sub-Clause 4.18 of the Special Provisions and the table above on Conditions of Contract that make reference to ES matters in the Specification.
 - **Management of hazardous and nonhazardous wastes:** specify any applicable measures to minimize the generation of waste, and reuse, recycle and recover waste in a manner that is safe for human health and the environment including storage, transportation and disposal of hazardous wastes. See also Sub-Clauses 4.8 and 4.18 of the Special Provisions and the table above on Conditions of Contract that make reference to ES matters in the Specification.
 - **Management of chemicals and hazardous materials:** specify any applicable measures to minimize and control the release and use of hazardous materials for Works activities including the production, transportation, handling, and storage of the materials. See also Sub-Clauses 4.8 and 4.18 of the Special Provisions and the table above on Conditions of Contract that make reference to ES matters in the Specification.
- **Biodiversity, renewable resources and ecosystem services**

The Employer shall specify, as applicable, Biodiversity, renewable resources and ecosystem services (see ISS and relevant guidance notes). This includes, as applicable:

- *invasive alien species: managing the risk of invasive alien species during the execution of the Works;*
- *sustainable management of living natural resources; and*
- *certification and verification requirements for the supply of natural resource materials where there is a risk of significant conversion or significant degradation of natural or critical habitats.*

See also Sub-Clause 4.18 of the Special Provisions and the table above on Conditions of Contract that make reference to ES matters in the Specification.

- **Road Safety**
 - *State any specific traffic and road safety requirement, as applicable. See also Sub-Clause 4.15 of the Special Provisions. For details, refer to the Guidance Note on Road safety.*

Payment for ES Requirements

The Employer's ES and procurement specialists should consider how the Contractor will cost the delivery of the ES requirements. In the majority of cases, the payment for the delivery of ES requirements shall be a subsidiary obligation of the Contractor covered under the prices quoted for other Bill of Quantity items. For example, normally the cost of implementing work place safe systems of work, including the measures necessary for ensuring traffic and road safety, shall be covered by the Bidder's rates for the relevant works. Alternatively, provisional sums could be set aside for discrete activities for example for HIV counselling service, and, SEA and SH awareness and sensitization or to encourage the contractor to deliver additional ES outcomes beyond the requirement of the Contract.

Contractor's Representative and Key Personnel

[Note: Insert in the following table, the minimum key specialists required to execute the contract, taking into account the nature, scope, complexity and risks of the contract.

Where a Project SEA risks are assessed to be substantial or high, the Employer shall include a Sexual Exploitation, Abuse and Harassment expert(s).]

Contractor's Representative and Key Personnel

Item No.	Position/specialization	Relevant academic qualifications	Minimum years of relevant work experience
1	Contractor's Representative		
2	<i>[Environmental]</i>	<i>[e.g. degree in relevant environmental subject]</i>	<i>[e.g. [years] working on road contracts in similar work environments]</i>
3	<i>[Health and Safety]</i>		
4	<i>[Social]</i>		
5	Sexual Exploitation, Abuse and Harassment <i>[Where a Project SEA risks are assessed to be substantial or high, Key Personnel shall include an expert(s) with relevant experience in addressing sexual exploitation, sexual abuse and sexual harassment cases]</i>		<i>[e.g. 5 years of monitoring and managing risks related to gender-based violence, out of which 3 years of relevant experience in addressing issues related to sexual exploitation, sexual abuse and sexual harassment]</i>
6	<i>modify as appropriate</i>		

Drawings

Supplementary Information



Part 3: Conditions of Contract & Contract Forms

Section VIII - General Conditions of Contract (GC)

[Name of Employer]

[Name of Contract]

Red Book

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The Conditions of Contract are the "General Conditions" which form part of the "Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer ("Red book") Second edition 2017" published by the Federation Internationale Des Ingenieurs – Conseils (FIDIC) and the following "Particular Conditions" which comprise of the AfDB's COPA and the amendments and additions to such General Conditions.

An original copy of the above FIDIC publication i.e. "*Conditions of Contract for Building and Engineering Works Designed by the Employer*" must be obtained from FIDIC.

International Federation of Consulting Engineers (FIDIC)

FIDIC Bookshop – Box- 311 – CH – 1215 Geneva 15 Switzerland

Fax: +41 22 799 49 054

Telephone: +41 22 799 49 01

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Section IX - Particular Conditions

The following Particular Conditions shall supplement the GC. Whenever there is a conflict, the provisions herein shall prevail over those in the GC.

Particular Conditions

Part A – Contract Data

Conditions	Sub-Clause	Data
Where the Contract allows for Cost Plus Profit, percentage profit to be added to the Cost	1.1.20	<i>One-twentieth (5%)</i>
Employer's name and Address	1.1.31	The Principal Secretary, State Department for Medical Services Ministry of Health, Afya House. Cathedral Road P.O Box 30016-00100 Nairobi-Kenya Attn: Project Manager – EACE, ADB Prefabricated Block
Engineer's name and Address	1.1.35	
Bank's name	1.1.89	African Development Fund
Borrower's name	1.1.90	Republic of Kenya
Time for Completion	1.1.84	<u>400 days</u> <i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Defects Notification Period	1.1.27	365 days. (one year)

Conditions	Sub-Clause	Data
Sections	1.1.73	<i>If Sections are to be used, refer to Table: Summary of Sections below : Not Applicable</i>
Electronic transmission system	1.3 (a) (ii)	Not applicable
Address of Employer for communications:	1.3(d)	<i>THE PRINCIPAL SECRETARY, STATE DEPARTMENT FOR MEDICAL SERVICES MINISTRY OF HEALTH, AFYA HOUSE, CATHEDRAL ROAD P.O BOX 30016-00100 NAIROBI-KENYA Attn: PROJECT MANAGER- EACE ADB PREFABRICATED BLOCK</i>
Address of Engineer for communications:	1.3(d)	
Address of Contractor for communications:	1.3(d)	<i>To be Provided after Contract Signing</i>
Governing Law	1.4	<i>LAWS OF KENYA</i>
Ruling language	1.4	<i>English</i>
Language for communications	1.4	<i>English</i>
Time for the Parties to sign a Contract Agreement	1.6	35 days after receipt of the Letter of Acceptance
Number of additional paper copies of Contractor's Documents	1.8	<i>Four (4No.)</i>
Total liability of the Contractor to the Employer under or in connection with the Contract	1.15	<i>Contract Amount</i>

Conditions	Sub-Clause	Data
Site	1.1 74	<i>East Africa Centre Of Excellence Project Site Located At KNH Grounds along Ngong' Road</i>
Joint and Several Liability	1.14	<i>[Add the following sub-clause]</i> <i>(d) A minor member of the JV having participation in the JV of 20% of the value of the Contract [specify a percentage pursuant to provision made under BDS of ITB 4.1 (a)], is excluded from joint and several liability: Yes -----No-----</i> <i>If "Yes" specify the following:</i> <i>i) Name and Address of the minor member is----- ----- and</i> <i>ii) All other members shall remain jointly and severally liable for the fulfilment of all provisions of the entire Contract</i> <i>[Delete, entire text above if no such exception for a minor member was provided under BDS of ITB 4.1 (a)].</i> <i>[Add the following sub-clause]</i> <i>(e) Maximum numbers of members in the Joint Venture, Consortium or Association (JV) shall not exceed-----[specify a number pursuant to BDS of ITB 4.1 (c)].</i> <i>[Add the following sub-clause]</i> <i>(f) Minimum share of a member of Joint Venture, Consortium or Association (JV) in the contract shall not be less than-----% percent of the total value of the contract. [Specify a percent number pursuant to BDS of ITB 4.1 (d)]</i>
Time for access to the Site	2.1	<i>No later than the Commencement Date</i>
Engineer's Duties and Authority	3.2	Variations resulting in an increase of the Accepted Contract Amount in excess of 10% shall require written consent of the Employer.

Conditions	Sub-Clause	Data
Sustainable procurement	4.1	<i>[Delete if not applicable] [Add any sustainable procurement contractual provisions not covered by the GC, if applicable. Refer to the AfDB Procurement Framework.]</i>
Performance Security	4.2	The Performance Security will be in the form of a <i>demand guarantee</i> in the amount(s) of (5%) Five percent of the Accepted Contract Amount and in the same currency (ies) of the Accepted Contract Amount.
Environmental and Social (ES) Performance Security	4.2	The ES Performance Security will be in the form of a "demand guarantee" in the amount(s) of 1% of the Accepted Contract Amount and in the same currency (ies) of the Accepted Contract Amount.
Period for notification of errors in the items of reference	4.7.2 (a)	28 Days
Period of payment for temporary utilities	4.19	The Contractor shall, except as stated below, be responsible for the provision of all temporary utilities, including electricity, gas, telecommunications, water and any other services the Contractor may require for the execution of the Works
Number of additional paper copies of progress reports	4.20	Three
Maximum allowable accumulated value of work subcontracted (as a percentage of the Accepted Contract Amount or volume of work-as per provision made under BDS of ITB 34.2)	5.1(a)	30%
Parts of the Works for which subcontracting is not permitted	5.1(b)	Not Applicable
Normal working hours	6.5	8am - 5pm unless otherwise permitted

Conditions	Sub-Clause	Data
Number of additional paper copies of program	8.3	Three
Delay damages payable for each day of delay	8.8	0.005% of the Accepted Contract Amount, less provisional sum, for DAAB. <i>If Sections are to be used, refer to Table: Summary of Sections below-</i> Sections Not to be used.
Maximum amount of delay damages	8.8	10% of the Accepted Contract Amount less provisional sum for DAAB.
Method of measurement	12.2	<i>Standard Method of Measurement for Building Works; Year 2008 edition.</i>
Percentage profit	12.3	One-twentieth (5%)
Percentage rate to be applied to Provisional Sums for overhead charges and profit	13.4 (b)(ii)	5%
Adjustments for changes in cost	13.7	Adjustment for changes in cost shall apply.
Total advance payment	14.2	10% Percentage of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable.
Repayment of Advance payment	14.2.3	Deductions shall be made at the amortisation rate of one quarter (25%) of the amount of each IPC (excluding the advance payment and deductions and release of retention moneys) in the currencies and proportions of the advance payment, until such time as the advance payment has been repaid.
Period of payment	14.3	Monthly

Conditions	Sub-Clause	Data
Number of additional paper copies of Statements	14.3(b)	Six (6No)
Percentage of retention	14.3(iii)	10%
Limit of Retention Money (as a percentage of Accepted Contract Amount)	14.3(iii)	10%
Plant and Materials	14.5(b)(i)	If Sub-Clause 14.5 applies: Plant and Materials for payment when shipped Not Applicable.
	14.5(c)(i)	Plant and Materials for payment when delivered to the Site ; Specialized plant as may be agreed upon.
Minimum Amount of Interim Payment Certificates	14.6.2	Kshs 30,000,000.00.
Period of payment of Advance Payment to the Contractor	14.7(a)	28 days.
Period for the Employer to make interim payments to the Contractor under Sub-Clause 14.6 (interim Payment)	14.7b(i)	56 days.
Period for the Employer to make interim payments to the Contractor under Sub-Clause 14.13 (Final Payment)	14.7b(ii)	28 days
Period for the Employer to make final payment to the Contractor	14.7(c)	56 days

Conditions	Sub-Clause	Data
financing charges for delayed payment (percentage points above the average bank short-term lending rate as referred to under subparagraph (a))	14.8	3%
Number of additional paper copies of draft Final Statement	14.11.1(b)	<i>Six (6No)</i>
Forces of nature, the risks of which are allocated to the Contractor	17.2(d)	<i>None</i>
Permitted deductible limits	19.1	insurance required for the Works: _____ insurance required for Goods: _____ insurance required for liability for breach of professional duty: _____ insurance required against liability for fitness for purpose (if any is required): _____ insurance required for injury to persons and damage to property: _____ insurance required for injury to employees: ____ other insurances required by Laws and by local practice: _____ _____ _____
Additional amount to be insured (as a percentage of the replacement value, if less or more than 15%)	19.2.1(b)	15%

Conditions	Sub-Clause	Data
List of Exceptional Risks which shall not be excluded from the insurance cover for the Works	19.2.1(iv)	NONE
Extent of insurance required for Goods	19.2.2	The Contractor shall maintain this insurance from the time the Goods are delivered to the Site until they are no longer required for the Works.
Amount of insurance required for Goods		Full replacement value including delivery to Site)
amount of insurance required for liability for breach of professional duty	19.2.3(a)	The amount agreed with the Employer
Insurance required against liability for fitness for purpose	19.2.3(b)	Yes
Period of insurance required for liability for breach of professional duty	19.2.3	27 months
Amount of insurance required for injury to persons and damage to property	19.2.4	Kshs 10,000,000.00
Other insurances required by Laws and by local practice (give details)		None
Time for appointment of DAAB	21.1	42 days after signature by both parties of the Contract Agreement

Conditions	Sub-Clause	Data
The DAAB shall be comprised of	21.1	One sole Member
List of proposed members of DAAB	21.1	Proposed by Employer <i>[Attach CVs to the bidding document and the Contract]</i> 1. _____ 2. _____ 3. _____ Proposed by Contractor <i>[Attach CVs to the Contract]</i> 1. _____ 2. _____ 3. _____
Appointment (if not agreed) to be made by	21.2	<i>Chartered Institute of Arbitrators (CI Arb)</i>
Rules of arbitration	21.6(a)	Sub-Clause 21.6(a) of PART B – Specific Provisions <i>shall</i> apply. <i>International Chamber of Commerce.</i> <i>Sub-Clause 21.6 (a) shall be retained in the case of a Contract with a foreign Contractor or Sub-Clause 21.6 (b) shall be retained in the case of a Contract with a domestic Contractor.</i>
	21.6 (b)	Sub-Clause 21.6(b) of PART B – Specific Provisions <i>shall</i> apply.
Place of arbitration	21.6(a)	<i>Arusha , Tanzania</i>

Table: Summary of Sections (if any)

Description of parts of the Works that shall be designated a Section for the purposes of the Contract (Sub-Clause 1.1.73)	Value: Percentage* of Accepted Contract Amount (Sub-Clause 14.9)	Time for Completion (Sub-Clause 1.1.84)	Delay Damages (Sub-Clause 8.8)

*These percentages shall also be applied to each half of the Retention Money under Sub-Clause 14.9

Part B - Specific Provisions

Sub-Clause 1.1.10 Contract	"the Contractor's Proposal" is deleted.
Sub-Clause 1.1.49 Laws	The Sub-Clause is replaced with: " Laws " means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority."
Sub-Clause 1.1.74 Site	The Sub-Clause is replaced with: " Site " means the places where the Permanent Works are to be executed, including storage and working area, and to which Plant and Materials are to be delivered, and any other places specified in the Contract as forming part of the Site."
Sub-Clause 1.1.77 Statement	On the second line after "Payment Certificate under...", add "Sub-Clause 14.2.1 [Advance Payment Guarantee] (if applicable),".
Sub-Clause 1.1.81 Tender	"the Contractor's Proposal" is deleted.
Sub-Clause 1.1.89 to 1.1.91 are added after Sub-Clause 1.1.88	
Sub-Clause 1.1.89 Bank	" Bank " means the financing institution (if any) named in the Contract Data.
Sub-Clause 1.1.90 Borrower	" Borrower " means the person (if any) named as the borrower in the Contract Data.
Sub-Clause 1.1.91 ES	" ES " means Environmental and Social (including Sexual Exploitation and Assault (SEA)).

**Sub-Clause 1.1.92
Sexual Exploitation and
Abuse (SEA), and Sexual
Harassment (SH)**

"Sexual Exploitation and Abuse" "(SEA)" and Sexual Harassment (HS) mean the following:

Sexual Exploitation is defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

Sexual Abuse is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions; and

"Sexual Harassment" "(SH)" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by the Contractor's Personnel with other Contractor's or Employer's Personnel.

**Sub-Clause 1.2
Interpretation**

Sub-paragraph (a) is replaced with the following:

(a) "Words indicating one gender include all genders;

"he/she" is replaced with: "it";

"him/her" is replaced with "it";

"his" and "his/her" are replaced with: "its";

"himself/herself" are replaced with: "itself".

Further, "and" is deleted from the end of sub-paragraph (i) and added at the end of sub-paragraph (j).

sub-paragraph (k) is added:

(k) "The word "tender" is synonymous with "bid" or "proposal", the word tenderer with "bidder" or "proposer" and the words "tender documents" with "request for bids documents" or "request for proposal documents", as applicable."

**Sub-Clause 1.5
Priority of Documents**

The following documents are added in the list of Priority Documents after (e):

"(f) the Particular Conditions Part C- Fraud and Corruption;

(g) the Particular Conditions Part D- Environmental and Social (ES) Metrics for Progress Reports;"

and the list renumbered accordingly.

**Sub-Clause 1.6
Contract Agreement**

The last paragraph is replaced with:

"If the Contractor comprises a JV, *the authorised representative of the JV shall sign* the Contract Agreement in accordance with sub –clauses 1.14 (Joint and Several Liability)."

**Sub-Clause 1.12
Confidentiality**

The following is added at the end of the second paragraph:
"The Contractor shall be permitted to disclose information required to establish its qualifications to compete for other projects."

"or" at the end of (b) is deleted.

"or" at the end of (c) is added.

The following is then added as (d): "is being provided to the Bank ."

**Sub-Clause 1.17
Inspections & Audit by the
Bank**

The following Sub-Clause is added after Sub-Clause 1.16:

"Pursuant to paragraph 2.2 e. of Particular Conditions - Part C- Fraud and Corruption, the Contractor shall permit and shall cause its agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and personnel, to permit, the Bank and/or persons appointed by the Bank to inspect the site and/or the accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have such accounts, records and other documents audited by auditors appointed by the Bank. The Contractor's and its Subcontractors' and subconsultants' attention is drawn to Sub-Clause 15.8 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract

termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures)."

**Sub-Clause 2.4
Employer's Financial
Arrangements**

The first paragraph is replaced with:

"The Employer shall submit, before the Commencement Date, reasonable evidence that financial arrangements have been made for financing the Employer's obligations under the Contract."

The following sub-paragraph is added at the end of Sub-Clause 2.4:

"In addition, if the Bank has notified to the Borrower that the Bank has suspended disbursements under its loan, which finances in whole or in part the execution of the Works, the Employer shall give notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the Engineer, within 7 days of the Borrower having received the suspension notification from the Bank. If alternative funds will be available in appropriate currencies to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of Bank notification of the suspension, the Employer shall provide reasonable evidence in its notice of the extent to which such funds will be available."

**Sub-Clause 2.6
Employer-Supplied
Materials and Employer's
Equipment**

[If Employer- Supplied Materials are listed in the Employer's Requirements for the Contractor's use in the execution of Works, the following provisions may be added]:

The following is added after the last paragraph of Sub-Clause 2.6:

"The Employer shall supply to the Contractor the Employer-Supplied Materials listed in the Specification, at the time(s) stated in the Specification (if not stated, within the times that shall be required to enable the Contractor to proceed with execution of the Works in accordance with the Programme).

When made available by the Employer, the Contractor shall visually inspect the Employer-Supplied Materials and shall promptly give a Notice to the Engineer of any shortage, defect or default in them. Thereafter, the Contractor shall rectify such shortage, defect or default to the extent instructed by the

Engineer. Such instruction shall be deemed to have been given under Sub-Clause 13.3.1 [*Variation by Instruction*].

After this visual inspection, the Employer-Supplied Materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody, and control shall not relieve the Employer of liability of any shortage, defect or default not apparent from a visual inspection."

[If Employer's Equipment are listed in the Specification for the Contractor's use in the execution of Works, the following provisions may be added]:

The following is added after the last paragraph of Sub-Clause 2.6:

"The Employer shall make the Employer's Equipment listed in the Specification available to the Contractor at the time(s) stated in the Specification (if not stated, within the times that shall be required to enable the Contractor to proceed with execution of the Works in accordance with the Programme).

Unless expressly stated otherwise in the Specification, the Employer's Equipment shall be provided for the exclusive use of the Contractor.

When made available by the Employer, the Contractor shall visually inspect the Employer's Equipment and shall promptly give a Notice to the Engineer of any shortage, defect or default in them. Thereafter, the Contractor shall rectify such shortage, defect or default to the extent instructed by the Engineer. Such instruction shall be deemed to have been given under Sub-Clause 13.3.1 [*Variation by Instruction*].

The Contractor shall be responsible for the Employer's Equipment while it is under the Contractor's control and/or any of the Contractor's Personnel is operating it, driving it, directing it, using it, or in control of it.

The Contractor shall not remove from the Site any items of the Employer's Equipment without the consent of the Employer. However, consent shall not be required for vehicles

transporting Goods or Contractor's personnel to or from the Site."

**Sub-Clause 3.1
The Engineer**

The following is added at the end of the first sub-paragraph:
"The Engineer's staff shall include suitably qualified engineers and other professionals who are competent to carry out these duties."

**Sub-Clause 3.2
Engineer's Duties and
Authority**

The Engineer shall obtain the consent in writing of the Employer before taking action under the following Sub-Clauses of these Conditions:

- (a) Sub-Clause 13.1: Right to vary - instructing a variation, except;
 - (i) in an emergency situation as determined by the Engineer; or
 - (ii) (if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the Contract Data.
- (b) Sub-Clause 13.2 (Value Engineering): stating consent or otherwise to a value engineering proposal submitted by the Contractor in accordance with Sub-Clause 13.2.

Notwithstanding the obligation, as set out above, to obtain consent in writing, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, it may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of consent of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, and EOT if any, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer.

**Sub-Clause 3.3
Engineer's Representative**

The following is added at the end of Sub-Clause 3.3:

"The Engineer shall obtain the consent of the Employer before appointing or replacing an Engineer's Representative."

**Sub-Clause 3.4
Delegation by the Engineer**

The following is added at the end of the second paragraph:

"If any assistants are not fluent in this language, the Engineer shall make competent interpreters available during all working hours, in a number sufficient for those assistants to properly perform their assigned duties and/or exercise their delegated authority."

**Sub-Clause 3.6
Replacement of the
Engineer**

In the first paragraph, "42 days" is replaced with: "21 days";
In the third para, "shall" is replaced with: "should".

**Sub-Clause 4.1
Contractor's General
Obligations**

The following is inserted after the paragraph "The Contractor shall provide the Plant (and spare parts, if any) ...":

"All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country as defined by the Bank."

The following is inserted after the paragraph "The Contractor shall, whenever required by the Engineer...":

The Contractor shall not carry out mobilization to Site (e.g. limited clearance for haul roads, site accesses and work site establishment, geotechnical investigations or investigations to select ancillary features such as quarries and borrow pits) unless the Engineer gives consent, a consent that shall not be unreasonably delayed, that appropriate measures are in place to address environmental and social risks and impacts, which at a minimum shall include applying the Management Strategies and Implementation Plans (MSIPs) and Code of Conduct for Contractor's Personnel submitted as part of the Bid and agreed as part of the Contract.

The Contractor shall submit, to the Engineer for Review any additional MSIPs as are necessary to manage the ES risks and impacts of ongoing Works (e.g. excavation, earth works, bridge and structure works, stream and road diversions,

quarrying or extraction of materials, concrete batching and asphalt manufacture). These MSIPs collectively comprise the Contractor's Environmental and Social Management Plan (C-ESMP). The Contractor shall review the C-ESMP, periodically (but not less than every six (6) months), and update it as required to ensure that it contains measures appropriate to the Works. The updated C-ESMP shall be submitted to the Engineer for Review

The C-ESMP shall be part of the Contractor's Documents. The procedures for Review of the C-ESMP and its updates shall be as described in Sub-Clause 4.4.1 [*Preparation and Review*].

The following is added as (g); (g) and (h) of the Sub-Clause are then renumbered as (h) and (i) respectively.

(g) if so stated in the Specification, the Contractor shall:

- (i) design structural elements of the Works taking into account climate change considerations;
- (ii) apply the concept of universal access (the concept of universal access means unimpeded access for people of all ages and abilities in different situations and under various circumstances;
- (iii) consider the incremental risks of the public's potential exposure to operational accidents or natural hazards, including extreme weather events; and
- (iv) any other requirement stated in the Specification."

The following is added at the end of the Sub-Clause:

"The Contractor shall provide relevant contract- related information, as the Employer and/or Engineer may reasonably request to conduct Stakeholder engagements. "Stakeholder" refers to individuals or groups who:

- (i) are affected or likely to be affected by the Contract; and
- (ii) may have an interest in the Contract.

The Contractor may also directly participate in Stakeholder engagements, as the Employer and/or Engineer may reasonably request."

**Sub-Clause 4.2
Performance Security and
ES Performance Security**

The first paragraph is replaced with:

"The Contractor shall obtain (at its cost) a Performance Security for proper performance and, if applicable, an Environmental and Social (ES) Performance Security for compliance with the Contractor's ES obligations, in the amounts stated in the Contract Data and denominated in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer. If amounts are not stated in the Contract Data, this Sub-Clause shall not apply."

In the following Sub-Clauses of the General Conditions, the term "Performance Security" is replaced with: "Performance Security and, if applicable, an Environmental and Social (ES) Performance Security":

2.1- Right of Access to the Site;

14.2- Advance Payment;

14.6- Issue of IPC;

14.12- Discharge;

14.13- Issue of FPC;

14.14 Cessation of Employer's Liability;

15.2- Termination for Contractor's Default;

15.5- Termination for Employer's Convenience.

**Sub-Clause 4.2.1
Contractor's
obligations**

The first paragraph is replaced with:

"The Contractor shall deliver the Performance Security and, if applicable, an ES Performance Security to the Employer within 28 days after receiving the Letter of Acceptance and shall send a copy to the Engineer. The Performance Security shall be issued by a reputable bank or financial institution selected by

the Contractor and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer. The ES Performance Security shall be issued by a reputable bank selected by the Contractor and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Contract Data, or in another form approved by the Employer."

Thereafter, throughout Sub-Clause 4.2 "Performance Security" is replaced with: "Performance Security and, if applicable, ES Performance Security."

**Sub-Clause 4.2.2
Claims under the
Performance Security**

The first paragraph is replaced in its entirety with: "The Employer shall not make a claim under the Performance Security, except for amounts for which the Employer is entitled under the Contract."

**Sub-Clause 4.2.3
Return of Performance
Security**

In sub-paragraph (a) "21 days" is replaced with: "28 days".

**Sub-Clause 4.3
Contractor's
Representative**

The following is added at the end of the last paragraph: "If any of these persons is not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer."

**Sub-Clause 4.6
Co-operation**

On the second-last line of the first paragraph before "Contractor's", add "of the".

The following is added after the first paragraph:

"The Contractor shall also, as stated in the Specification or as instructed by the Engineer, cooperate with and allow appropriate opportunities for the Employer's Personnel to conduct any environmental and social assessment.

**Sub-Clause 4.7
Setting out**

In the second bullet-point of sub-paragraph (b) of Sub-Clause 4.7.3:

- before "if the items of reference", add: "when examining the items of reference within the period stated in sub-paragraph (a) of Sub-Clause 4.7.2"

- On the second and third lines, the following is deleted
"and the contractor's Notice is given after the period
stated in sub-paragraph (a) of Sub-Clause 4.7.2".

Sub-Clause 4.8 Health and Safety Obligations

The following are included after deleting "and" at the end of
(f) and replacing "." with ";" at the end of (g):
"

(h) provide health and safety training of Contractor's
Personnel as appropriate and maintain training
records;

(i) actively engage the Contractor's Personnel in
promoting understanding, and methods for,
implementation of health and safety requirements, as
well as in providing information to Contractor's
Personnel, training on occupational safety and health,
and provision of personal protective equipment
without expense to the Contractor's Personnel;

(j) put in place workplace processes for Contractor's
Personnel to report work situations that they believe
are not safe or healthy, and to remove themselves
from a work situation which they have reasonable
justification to believe presents an imminent and
serious danger to their life or health.

(k) Contractor's Personnel who remove themselves
from such work situations shall not be required to
return to work until necessary remedial action to
correct the situation has been taken. Contractor's
Personnel shall not be retaliated against or otherwise
subject to reprisal or negative action for such
reporting or removal;

(l) subject to Sub-Clause 4.6, collaborate with the
entities and Personnel under paragraph (a) , (b) and
(c) of Sub-Clause 4.6, in applying the health and safety
requirements. This is without prejudice to the
responsibility of the relevant entities for the health
and safety of their own personnel; and

(m) establish and implement a system for regular (not
less than six-monthly) review of health and safety
performance and the working environment."

The second and third paragraphs are replaced with the
following:

"Subject to Sub-Clause 4.1, the Contractor shall submit to the Engineer for Review a health and safety manual which has been specifically prepared for the Works, the Site and other places (if any) where the Contractor intends to execute the Works. The procedures for Review of the health and safety manual and its updates shall be as described in Sub-Clause 4.4.1 *[Preparation and Review]*.

The health and safety manual shall be in addition to any other similar document required under applicable health and safety regulations and Laws.

The health and safety manual shall set out all the health and safety requirements under the Contract,

(a) which shall include at a minimum:

- (i) the procedures to establish and maintain a safe working environment without risk to health at all workplaces, machinery, equipment and processes under the control of the Contractor, including control measures for chemical, physical and biological substances and agents;
- (ii) details of the training to be provided, records to be kept;
- (iii) the procedures for prevention, preparedness and response activities to be implemented in the case of an emergency event (i.e. an unanticipated incident, arising from both natural and man-made hazards, typically in the form of fire, explosions, leaks or spills, which may occur for a variety of different reasons including failure to implement operating procedures that are designed to prevent their occurrence, extreme weather or lack of early warning);
- (iv) the measures to be taken to avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases,
- (v) the measures to be implemented to avoid or minimize the spread of communicable diseases (including transfer of Sexually

Transmitted Diseases or Infections (STDs), such as HIV virus) and non-communicable diseases associated with the execution of the Works, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. This includes taking measures to avoid or minimize the transmission of communicable diseases that may be associated with the influx of temporary or permanent Contract-related labour;

- (vi) the policies and procedures on the management and quality of accommodation and welfare facilities if such accommodation and welfare facilities are provided by the Contractor in accordance with Sub-Clause 6.6; and

- (b) any other requirements stated in the Specification.

The paragraph starting with: "In addition to the reporting requirement of..." is deleted and replaced with the addition to GC Sub-Clause 4.20 in Sub-Clause 4.20 of the Special Provisions.

Sub-Clause 4.15 Access Route

The following is added at the end of Sub-Clause 4.15:

"The Contractor shall take all necessary safety measures to avoid the occurrence of incidents and injuries to any third party associated with the use of Contractor's Equipment on public roads or other public infrastructure.

The Contractor shall monitor road safety incidents and accidents to identify negative safety issues, and establish and implement necessary measures to resolve them."

Sub-Clause 4.18 Protection of the Environment

Sub-Clause 4.18 Protection of the Environment is replaced with:

"The Contractor shall take all necessary measures to:

- (a) protect the environment (both on and off the Site); and
- (b) limit damage and nuisance to people and property resulting from pollution, noise and other results of the Contractor's operations and/ or activities.

The Contractor shall ensure that emissions, surface discharges, effluent and any other pollutants from the Contractor's

activities shall exceed neither the values indicated in the Specification, nor those prescribed by applicable Laws.

In the event of damage to the environment, property and/or nuisance to people, on or off Site as a result of the Contractor's operations, the Contractor shall agree with the Engineer the appropriate actions and time scale to remedy, as practicable, the damaged environment to its former condition. The Contractor shall implement such remedies at its cost to the satisfaction of the Engineer."

**Sub-Clause 4.20
Progress Reports**

Replace "4.20 (g) with: "the Environmental and Social (ES) metrics set out in Particular Conditions - Part D"

The following is added at the end of the Sub-Clause:

"In addition to the reporting requirement of this subparagraph (g) of Sub-Clause 4.20 [*Progress Reports*] the Contractor shall inform the Engineer immediately of any allegation, incident or accident, which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's Personnel. This includes, but is not limited to, any incident or accident causing fatality or serious injury; significant adverse effects or damage to private property; or any allegation of SEA and/or SH. In case of SEA and/or SH, while maintaining confidentiality as appropriate, the type of allegation (sexual exploitation, sexual abuse or sexual harassment), gender and age of the person who experienced the alleged incident should be included in the information.

The Contractor, upon becoming aware of the allegation, incident or accident, shall also immediately inform the Engineer of any such incident or accident on the Subcontractors' or suppliers' premises relating to the Works which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's, its Subcontractors' and suppliers' personnel. The notification shall provide sufficient detail regarding such incidents or accidents. The Contractor shall provide full details of such incidents or accidents to the Engineer within the timeframe agreed with the Engineer.

The Contractor shall require its Subcontractors and suppliers (other than Subcontractors) to immediately notify the Contractor of any incidents or accidents referred to in this Subclause."

**Sub-Clause 4.21
Security of the Site**

Sub-Clause 4.21 Security of the Site is replaced with:

"Sub-Clause 4.21 Security of the Site

The Contractor shall be responsible for the security of the Site, and:

- (a) for keeping unauthorised persons off the Site;
- (b) authorised persons shall be limited to the Contractor's Personnel, the Employer's Personnel, and to any other personnel identified as authorised personnel (including the Employer's other contractors on the Site), by a Notice from the Employer or the Engineer to the Contractor.

Subject to Sub-Clause 4.1, the Contractor shall submit for the Engineer's No-objection a security management plan that sets out the security arrangements for the Site.

The Contractor shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct towards Contractor's Personnel, Employer's Personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Specification.

The Contractor shall not permit any use of force by security personnel in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.

In making security arrangements, the Contractor shall also comply with any additional requirements stated in the Specification."

**Sub-Clause 4.22
Contractor's Operations
on Site**

On the third line of the second paragraph before "4.17", "Sub-Clause" is added.

**Sub-Clause 4.23
Archaeological and
Geological Findings**

The first paragraph is replaced with the following:

"All fossils, coins, articles of value or antiquity, structures, groups of structures, and other remains or items of geological, archaeological, paleontological, historical, architectural or religious interest found on the Site shall be placed under the care and custody of the Employer. The Contractor shall:

- (a) take all reasonable precautions, including fencing-off the area or site of the finding, to avoid further disturbance and prevent Contractor's Personnel or other persons from removing or damaging any of these findings;
- (b) train relevant Contractor's Personnel on appropriate actions to be taken in the event of such findings; and
- (c) implement any other action consistent with the requirements of the Specification and relevant Laws."

**Sub-Clause 4.24
Suppliers (other than
Subcontractors)**

4.24.1 Forced Labour

The Contractor shall take measures to require its suppliers (other than Subcontractors) not to employ or engage forced labour including trafficked persons as described in Sub-Clause 6.21. If forced labour/trafficking cases are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.

4.24.2 Child labour

The Contractor shall take measures to require its suppliers (other than Subcontractors) not to employ or engage child labour as described in Sub-Clause 6.22. If child labour cases are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.

4.24.3 Serious Safety Issues

The Contractor, including its Subcontractors, shall comply with all applicable safety obligations, including as stated in Sub-Clauses 4.8, 5.1 and 6.7. The Contractor shall also take measures to require its suppliers (other than Subcontractors) to adopt procedures and mitigation measures adequate to

address safety issues related to their personnel. If serious safety issues are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.

4.24.4 Obtaining natural resource materials in relation to supplier

The Contractor shall obtain natural resource materials from suppliers that can demonstrate, through compliance with the applicable verification and/ or certification requirements, that obtaining such materials is not contributing to the risk of significant conversion or significant degradation of natural or critical habitats such as unsustainably harvested wood products, gravel or sand extraction from river beds or beaches.

If a supplier cannot continue to demonstrate that obtaining such materials is not contributing to the risk of significant conversion or significant degradation of natural or critical habitats, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to demonstrate that they are not significantly adversely impacting the habitats.

Sub-Clause 4.25 Code of Conduct

The Contractor shall have a Code of Conduct for the Contractor's Personnel.

The Contractor shall take all necessary measures to ensure that each Contractor's Personnel is made aware of the Code of Conduct including specific behaviors that are prohibited, and understands the consequences of engaging in such prohibited behaviors.

These measures include providing instructions and documentation that can be understood by the Contractor's Personnel and seeking to obtain that person's signature acknowledging receipt of such instructions and/or documentation, as appropriate.

The Contractor shall also ensure that the Code of Conduct is visibly displayed in multiple locations on the Site and any other place where the Works will be carried out, as well as in areas

outside the Site accessible to the local community and project affected people. The posted Code of Conduct shall be provided in languages comprehensible to Contractor's Personnel, Employer's Personnel and the local community.

The Contractor's Management Strategy and Implementation Plans shall include appropriate processes for the Contractor to verify compliance with these obligations.

Sub-Clause 5.1 Subcontractors

The following is added at the beginning of the second paragraph.

"The Contractor shall require that its Subcontractors execute the Works in accordance with the Contract, including complying with the relevant ES requirements and the obligations set out in Sub-Clause 4.25 above."

The following is added at the end of the last paragraph of Sub-Clause 5.1:

"All subcontracts relating to the Works shall include provisions which entitle the Employer to require the subcontract to be assigned to the Employer under sub-paragraph (a) of Sub-Clause 15.2.3 [*After Termination*]. Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors."

Sub-Clause 5.2.2 Objection to Nomination

In sub-paragraph (a), on the first line before "Subcontractor", "nominated" is added.

In sub-paragraph (c):

"and" is deleted from the end of (i);

"." at the end of (ii) is replaced with: ", and".

The following is then added as (iii):

"(iii) be paid only if and when the Contractor has received from the Employer payments for sums due under the Subcontract referred to under Sub-Clause 5.2.3 [*Payment to nominated Subcontractors*]."

**Sub-Clause 6.1
Engagement of Staff and
Labour**

The following paragraphs are added at the end of the Sub-Clause:

The Contractor shall provide the Contractor's Personnel information and documentation that are clear and understandable regarding their terms and conditions of employment. The information and documentation shall set out their rights under relevant labour Laws applicable to the Contractor's Personnel (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from any requirements in the Specification. The Contractor's Personnel shall be informed when any material changes to their terms or conditions of employment occur.

"The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within the Country."

**Sub-Clause 6.2
Rates of Wages and
Conditions of Labour**

The following paragraphs are added at the end of the Sub-Clause:

"The Contractor shall inform the Contractor's Personnel about:

- (a) any deduction to their payment and the conditions of such deductions in accordance with the applicable Laws or as stated in the Specification; and
- (b) their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of the Country for the time being in force.

The Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

Where required by applicable Laws or as stated in the Specification, the Contractor shall provide the Contractor's Personnel written notice of termination of employment and details of severance payments in a timely manner. The Contractor shall have paid the Contractor's Personnel (either directly or where appropriate for their benefit) all due wages and entitlements including, as applicable, social security

benefits and pension contributions, on or before the end of their engagement/ employment."

Sub-Clause 6.5 Working Hours

The following is inserted at the end of the Sub-Clause:

"The Contractor shall provide the Contractor's Personnel annual holiday and sick, maternity and family leave, as required by applicable Laws or as stated in the Specification."

Sub-Clause 6.6 Facilities for Staff and Labour

The following is added as the last paragraph:

"If stated in the Specification, the Contractor shall give access to or provide services that accommodate the physical, social and cultural needs of the Contractor's Personnel. The Contractor shall also provide similar facilities for the Employer's Personnel as stated in the Specification."

Sub-Clause 6.7 Health and Safety of Personnel

In the second paragraph, "The Contractor" is replaced with:

"Except as otherwise stated in the Specification, the Contractor..."

Sub-Clause 6.9 Contractor's Personnel

The Sub-Clause is replaced with:

"The Contractor's Personnel (including Key Personnel, if any) shall be appropriately qualified, skilled, experienced and competent in their respective trades or occupations.

The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative and Key Personnel (if any), who:

- (a) persists in any misconduct or lack of care;
- (b) carries out duties incompetently or negligently;
- (c) fails to comply with any provision of the Contract;
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment;
- (e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works;
- (f) has been recruited from the Employer's Personnel in breach of Sub-Clause 6.3 [Recruitment of Persons];

- (g) undertakes behavior which breaches the Code of Conduct for Contractor's Personnel (ES).

If appropriate, the Contractor shall then promptly appoint (or cause to be appointed) a suitable replacement with equivalent skills and experience. In the case of replacement of the Contractor's Representative, Sub-Clause 4.3 [*Contractor's Representative*] shall apply. In the case of replacement of Key Personnel (if any), Sub-Clause 6.12 [*Key Personnel*] shall apply.

Subject to the requirements in Sub-Clause 4.3 [*Contractor's Representative*] and 6.12 [*Key Personnel*], and notwithstanding any requirement from the Engineer to remove or cause to remove any person, the Contractor shall take immediate action as appropriate in response to any violation of (a) through (g) above. Such immediate action shall include removing (or causing to be removed) from the Site or other places where the Works are being carried out, any Contractor's Personnel who engages in (a), (b), (c), (d), (e) or (g) above or has been recruited as stated in (f) above."

**Sub-Clause 6.12
Key Personnel**

The following is inserted at the end of the last paragraph:

"If any of the Key Personnel are not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer."

The following Sub-Clauses 6.13 to 6.27 are added after sub-clause 6.12

**Sub-Clause 6.13
Foreign Personnel**

The Contractor may bring into the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor's personnel.

The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor

shall similarly be responsible for making the appropriate arrangements for their return or burial.

**Sub-Clause 6.14
Supply of Foodstuffs**

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

**Sub-Clause 6.15
Supply of Water**

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

**Sub-Clause 6.16
Measures against Insect
and Pest Nuisance**

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

**Sub-Clause 6.17
Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereto by Contractor's Personnel.

**Sub-Clause 6.18
Arms and Ammunition**

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

**Sub-Clause 6.19
Festivals and Religious
Customs**

The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.

**Sub-Clause 6.20
Funeral Arrangements**

The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of its local employees who may die while engaged upon the Works.

**Sub-Clause 6.21
Forced Labour**

The Contractor, including its Subcontractors, shall not employ or engage forced labour. Forced labour consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements.

No persons shall be employed or engaged who have been subject to trafficking. Trafficking in persons is defined as the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.

**Sub-Clause 6.22
Child Labour**

The Contractor, including its Subcontractors, shall not employ or engage a child under the age of 14 unless the national law specifies a higher age (the minimum age).

The Contractor, including its Subcontractors, shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

The Contractor including its Subcontractors, shall only employ or engage children between the minimum age and the age of 18 after an appropriate risk assessment has been conducted by the Contractor with the Engineer's consent. The Contractor shall be subject to regular monitoring by the Engineer that includes monitoring of health, working conditions and hours of work.

Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work:

- (a) with exposure to physical, psychological or sexual abuse;

- (b) underground, underwater, working at heights or in confined spaces;
- (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads;
- (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or
- (e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

**Sub-Clause 6.23
Employment Records of
Workers**

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked, and wages paid to all workers. These records shall be summarised on a monthly basis and submitted to the Engineer. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

**Sub-Clause 6.24
Workers' Organisations**

In countries where the relevant labour laws recognise workers' rights to form and to join workers' organisations of their choosing and to bargain collectively without interference, the Contractor shall comply with such laws. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner. Where the relevant labour laws substantially restrict workers' organisations, the Contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect their rights regarding working conditions and terms of employment. The Contractor shall not seek to influence or control these alternative means. The Contractor shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organisations and collective bargaining or alternative mechanisms. Workers' organisations are expected to fairly represent the workers in the workforce.

**Sub-Clause 6.25
Non-Discrimination and
Equal Opportunity**

The Contractor shall not make decisions relating to the employment or treatment of Contractor's Personnel on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment of

Contractor's Personnel on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.

Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination. The Contractor shall provide protection and assistance as necessary to ensure non-discrimination and equal opportunity, including for specific groups such as women, people with disabilities, migrant workers and children (of working age in accordance with Sub-Clause 6.22).

Sub-Clause 6.26
Contractor's Personnel
Grievance Mechanism

The Contractor shall have a grievance mechanism for Contractor's Personnel, and where relevant the workers' organizations stated in Sub-Clause 6.24, to raise workplace concerns. The grievance mechanism shall be proportionate to the nature, scale, risks and impacts of the Contract. The mechanism shall address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any retribution, and shall operate in an independent and objective manner.

The Contractor's Personnel shall be informed of the grievance mechanism at the time of engagement for the Contract, and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all Contractor's Personnel.

The grievance mechanism shall not impede access to other judicial or administrative remedies that might be available, or substitute for grievance mechanisms provided through collective agreements.

The grievance mechanism may utilize existing grievance mechanisms, providing that they are properly designed and implemented, address concerns promptly, and are readily accessible to such project workers. Existing grievance

mechanisms may be supplemented as needed with Contract-specific arrangements.

**Sub-Clause 6.27
Training of Contractor's
Personnel**

The Contractor shall provide appropriate training to relevant Contractor's Personnel on ES aspects of the Contract, including appropriate sensitization on prohibition of SEA, and health and safety training referred to in Sub-Clause 4.8

As stated in the Specification or as instructed by the Engineer, the Contractor shall also allow appropriate opportunities for the relevant Contractor's Personnel to be trained on ES aspects of the Contract by the Employer's Personnel.

The Contractor shall provide training on SEA, including its prevention, to any of its personnel who has a role to supervise other Contractor's Personnel.

**Sub-Clause 7.3
Inspection**

The following is added in the first paragraph after "Employer's Personnel" "(including the Bank staff or consultants acting on the Bank's behalf, stakeholders and third parties, such as independent experts, local communities, or non-governmental organizations)"

The following is added as (b) (iv):

"(iv) carryout environmental and social audit, and"

**Sub-Clause 7.7
Ownership of Plant and
Materials**

The following is added before the first paragraph:

"Except as otherwise provided in the Contract,"

**Sub-Clause 8.1
Commencement of Work**

The Sub- Clause is replaced in its entirety with the following:

"The Engineer shall give a Notice to the Contractor stating the Commencement Date, not less than 14 days before the Commencement Date.

The Notice shall be issued promptly after the Engineer determines the fulfilment of the following conditions:

- (a) signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of the Country;

- (b) delivery to the Contractor of reasonable evidence of the Employer's financial arrangements (under Sub-Clause 2.4 [Employer's Financial Arrangements]);
- (c) except if otherwise specified in the Contract Data, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works;
- (d) receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor;
- (e) constitution of the DAAB in accordance with Sub-Clause 21.1 and Sub-Clause 21.2 as applicable.

Subject to Sub-Clause 4.1 on the Management Strategies and Implementation Plans and the C-ESMP and Sub-Clause 4.8 on the health and safety manual, the Contractor, shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay."

**Sub-Clause 11.7
Right of Access after
Taking Over**

In the second paragraph, "Whenever the Contractor intends to access any part of the Works during the relevant DNP:" is replaced with:

"Whenever, until the date 28 days after issue of the Performance Certificate, the Contractor intends to access any part of the Works:"

**Sub-Clause 13.3.1
Variation by Instruction**

Subparagraph 13.3.1 (a) is replaced with: "a description of the varied work performed or to be performed, including details of the resources and methods adopted or to be adopted by the Contractor, and sufficient ES information to enable an evaluation of ES risks and impacts;"

**Sub-Clause 13.4
Provisional Sums**

The following is inserted as the penultimate paragraph:

"The Provisional Sum shall be used to cover the Employer's share of the DAAB members' fees and expenses, in accordance with Clause 21. No prior instruction of the Engineer shall be required with respect to the work of the DAAB. The Contractor shall submit the DAAB members' invoices and satisfactory

evidence of having paid 100% of such invoices as part of the substantiation of those Statements submitted under Sub-Clause 14.3.

**Sub-Clause 13.6
Adjustments for Changes
in Laws**

The following paragraph is added at the end of the Sub-Clause:

"Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the Table of Adjustment Data in accordance with the provisions of Sub-Clause 13.7 [Adjustments for Changes in Cost]."

**Sub-Clause 13.7
Adjustments for changes
in Cost**

Add the following paragraph at the end only if Contract Data specifies adjustment shall apply. Otherwise, prices shall be fixed during the duration of the Contract:

Schedule of Cost Indexation: Formula for Adjustment for Change in Cost:

$P_n = a + b \frac{L_n}{L_o} + c \frac{E_n}{E_o} + d \frac{M_n}{M_o} + \dots$ where:

" P_n " is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period "n", this period being a month unless otherwise stated in the Contract Data;

"a" is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

"b", "c", "d", ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works, as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

" L_n ", " E_n ", " M_n ", ... are the current cost indices or reference prices for period "n", expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the

period (to which the particular Payment Certificate relates);
and

"Lo", "Eo", "Mo", ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Engineer. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table)

If the currency in which the Contract price is expressed is different from the currency of the country of origin of the indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be: Z_0 / Z_1 , where,

Z_0 = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price on the Base date, and

Z_1 = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price on the Date of Adjustment.

[Note to the Employer: include one of the following two alternative texts as applicable]

The following is added at the end of the Sub-Clause:

[Alternative 1]

"Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts therefor, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of import duties and taxes upon importation."

[Alternative 2]

**Sub-Clause 14.1
The Contract Price**

"Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts therefore, imported by the Contractor for the sole purpose of executing the Contract shall be temporarily exempt from the payment of import duties and taxes upon initial importation, provided the Contractor shall post with the customs authorities at the port of entry an approved export bond or bank guarantee, valid until the Time for Completion plus six months, in an amount equal to the full import duties and taxes which would be payable on the assessed imported value of such Contractor's Equipment and spare parts, and callable in the event the Contractor's Equipment is not exported from the Country on completion of the Contract. A copy of the bond or bank guarantee endorsed by the customs authorities shall be provided by the Contractor to the Employer upon the importation of individual items of Contractor's Equipment and spare parts. Upon export of individual items of Contractor's Equipment or spare parts, or upon the completion of the Contract, the Contractor shall prepare, for approval by the customs authorities, an assessment of the residual value of the Contractor's Equipment and spare part to be exported, based on the depreciation scale (s and other criteria used by the customs authorities for such purposes under the provisions of the applicable Laws. Import duties and taxes shall be due and payable to the customs authorities by the Contractor on (a) the difference between the initial imported value and the residual value of the Contractor's Equipment and spare parts to exported; and (b) on the initial imported value of the Contractor's Equipment and spare parts remaining in the Country after completion of the Contract. Upon payment of such dues within 28 days of being invoiced, the bond or bank guarantee shall be reduced or released accordingly; otherwise the security shall be called in the full amount remaining."

Sub-Clause 14.2.1
Advance Payment
Guarantee

The first paragraph is replaced with:

"The Contractor shall obtain (at the Contractor's cost) an Advance Payment Guarantee in amounts and currencies equal to the advance payment, and shall submit it to the Employer with a copy to the Engineer. This guarantee shall be issued by reputable bank or financial institution selected by the Contractor and shall be based on the sample form annexed to the Particular Conditions or in another form agreed by the

Employer (but such agreement shall not relieve the Contractor from any obligation under this Sub-Clause)."

**Sub-Clause 14.3
Application for Interim
Payment**

The following is inserted at the end of (vi) after: *[Agreement or Determination]*: "any reimbursement due to the Contractor under the Dispute Avoidance/ Adjudication Agreement. (Appendix General Conditions of Dispute Avoidance/ Adjudication Agreement)."

**Sub-Clause 14.6.2
Withholding (amounts in)
an IPC**

"and/or" from subparagraph (b) is deleted.

The following is then added as subparagraph (c) and subparagraph (c) of the Sub-Clause is renumbered as (d):

"(c) if the Contractor was, or is, failing to perform any ES obligations or work under the Contract, the value of this work or obligation, as determined by the Engineer, may be withheld until the work or obligation has been performed, and/or the cost of rectification or replacement, as determined by the Engineer, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following:

- (i) failure to comply with any ES obligations or work described in the Works' Requirements which may include: working outside site boundaries, excessive dust, damage to offsite vegetation, pollution of water courses from oils or sedimentation, contamination of land e.g. from oils, human waste, damage to archaeology or cultural heritage features, air pollution as a result of unauthorized and/or inefficient combustion;
- (ii) failure to regularly review C-ESMP and/or update it in a timely manner to address emerging ES issues, or anticipated risks or impacts;
- (iii) failure to implement the C-ESMP e.g. failure to provide required training or sensitization;
- (iv) failing to have appropriate consents/permits prior to undertaking Works or related activities;

- (v) failure to submit ES report/s (as described in Particular Conditions - Part D), or failure to submit such reports in a timely manner;
- (vi) failure to implement remediation as instructed by the Engineer within the specified timeframe (e.g. remediation addressing non-compliance/s)."

Sub-Clause 14.7 Payment

At the end of sub-paragraph (b): "and" is replaced with "or" and the following inserted as (iii):

"(iii) at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor within 14 days after such statement is submitted, any discrepancy being rectified in the next payment to the Contractor; and"

At the end of sub-paragraph (c): "." is replaced with ";" and the following inserted:

"or, at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended the undisputed amount shown in the Final Statement within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2 [Termination by Contractor]."

Sub-Clause 14.9 Release of Retention Money

The following is added at the end of Sub-Clause 14.9:

"Unless otherwise stated in the Contract, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a guarantee, in the form annexed to the Particular Conditions or in another form approved by the Employer and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security and, if applicable, an ES Performance Security in Sub-Clause 4.2. On receipt by the

Employer of the required guarantee, the Engineer shall certify and the Employer shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release after the latest of the expiry dates of the Defects Notification Periods. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the Performance Certificate.

If the Performance Security and, if applicable, an ES Performance Security required under Sub-Clause 4.2 is in the form of a demand guarantee, and the amount guaranteed under them when the Taking-Over Certificate is issued is more than half of the Retention Money, then the Retention Money guarantee will not be required. If the amount guaranteed under the Performance Security and, if applicable, an ES Performance Security, when the Taking-Over Certificate is issued is less than half of the Retention Money, the Retention Money guarantee will only be required for the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if applicable, an ES Performance Security."

**Sub-Clause 14.12
Discharge**

On the seventh line of the first paragraph, "Sub-Clause 21.6 [*Arbitration*]" is replaced with: "Clause 21 [*Disputes and Arbitration*]'.

**Sub-Clause 14.15
Currencies of Payment**

Throughout Sub-Clause 14.15, "Contract Data" is replaced with: "Schedule of Payment Currencies".

**Sub-Clause 15.1
Notice to Correct**

"and" is deleted from (b) and

"," is replaced by: "; and" in (c).

The following is then added as (d)

"(d) specify the time within which the Contractor shall respond to the Notice to Correct."

In the third para., "shall immediately respond" is replaced with: "shall respond within the time specified in (d)". Further, in the third para., "to comply with the time specified in the Notice to Correct." is replaced with: "to comply with the time specified in (c)."

**Sub-Clause 15.2.1
Notice**

Sub-paragraph (h) is replaced with: "based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 2.2 of the Particular Conditions - Part C- Fraud and Corruption, in competing for or in executing the Contract."

**Sub-Clause 15.8
Fraud and Corruption**

The following new Sub-Clause is added:

"

15.8.1 The Bank requires compliance with its Integrity Framework comprising the African Development Bank Group's Sanctions Procedures, the Bank's Whistleblowing and Complaints Policy, the Bank's Procurement Policy under the Procurement Framework and any other applicable Policies and Procedures including their updates , as set forth in Particular Conditions - Part C- Fraud and Corruption.

15.8.2 The Employer requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee."

**Sub-Clause 15.9
Eligibility**

The following new Sub-Clause is added:

"The Contractor and its Subcontractor or Suppliers shall have the nationality of an eligible country of the Bank in accordance with the Bank's Procurement Policy for the Bank Group Funded Operation described under the Bank's Procurement Framework, and as listed in Section V, Eligible Countries. The Contractor shall be deemed to have the nationality of a country if the Contractor is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or subconsultants for any part of the Contract including related Services. All

materials, equipment and services to be supplied under the Contract shall have their country of origin in an eligible country of the Bank in accordance with the Bank's Procurement Policy for Bank Group Funded Operations described under the Bank's Procurement Framework, and as set forth in Particular Conditions -Part E- Section V, Eligible Countries."

**Sub-Clause 16.1
Suspension by Contractor**

The following paragraph is inserted after the first paragraph:

"Notwithstanding the above, if the Bank has suspended disbursements under the loan or credit from which payments to the Contractor are being made, in whole or in part, for the execution of the Works, and no alternative funds are available as provided for in Sub-Clause 2.4 [Employer's Financial Arrangements], the Contractor may by notice suspend work or reduce the rate of work at any time, but not less than 7 days after the Borrower having received the suspension notification from the Bank."

**Sub-Clause 16.2.1
Notice**

Sub-paragraph (j) is deleted in its entirety.

At the end of sub-paragraph (i): "; or" is replaced with: "."

sub-paragraph (f) is replaced with:

"(f) the Contractor does not receive a Notice of the Commencement Date under Sub-Clause 8.1 [*Commencement of Works*] within 180 days after receiving the Letter of Acceptance, for reasons not attributable to the Contractor."

**Sub-Clause 16.2.2
Termination**

The following is added at the end of Sub-Clause 16.2.2:

"In the event the Bank suspends the loan or credit from which part or whole of the payments to the Contractor are being made, if the Contractor has not received the sums due to him upon expiration of the 14 days referred to in Sub-Clause 14.7 [Payment] for payments under Interim Payment Certificates, the Contractor may, without prejudice to the Contractor's entitlement to financing charges under Sub-Clause 14.8 [Delayed Payment], take one of the following actions, namely (i) suspend work or

reduce the rate of work under Sub-Clause 16.1 above, or
(ii) terminate the Contract by giving notice to the Employer, with a copy to the Engineer, such termination to take effect 14 days after the giving of the notice."

**Sub-Clause 16.3
Contractor's Obligations
After Termination**

[If the Employer has made available any Employer- Supplied Materials and/or Employer's Equipment in accordance with Sub-Clause 2.6, include the following:]

"and" is deleted from the end of sub-paragraph (b), sub-paragraph (c) deleted and the following added:

- (c) deliver to the Engineer all Employer- Supplied Materials and/or Employer's Equipment made available to the Contractor in accordance with Sub-Clause 2.6 *[Employer-Supplied materials and Employer's Equipment]*; and
- (d) remove all other Goods from the Site, except as necessary for safety, and leave the Site."

**Sub-Clause 17.1
Responsibility for Care of
the Works**

On the fourth and fifth lines of the first paragraph, replace "Date of Completion of the Works" with "issue of the Taking-Over Certificate for the Works".

[If Employer- Supplied Materials are listed in the Specification for the Contractor's use in the execution of Works, include the following provision. See also Sub-Clause 2.6 [Employer-Supplied Materials and Employer's Equipment]]

After the two instances of "Goods" in the last paragraph, the following is added: "Employer- Supplied Materials".

[If Employer's Equipment are listed in the Employer's Requirements for the Contractor's use in the execution of Works, include the following provision. See also Sub-Clause 2.6 [Employer-Supplied Materials and Employer's Equipment]]

After the two instances of "Goods" in the last paragraph, the following is added: ", Employer's Equipment,".

Sub-Clause 17.3

On the first line of the second paragraph, replace "notice" is replaced with "a Notice".

Intellectual and Industrial Property Rights

Sub-Clause 17.7 Use of Employer's Accommodation/Facilities

The following Sub-Clause is added as 17.7:

"The Contractor shall take full responsibility for the care of the Employer-provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works)

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at its own cost, rectify the loss or damage to the satisfaction of the Engineer."

Sub-Clause 18.1 Exceptional Events

Sub-paragraph (c) is substituted with:

"(c) riot, commotion, disorder or sabotage by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors;"

Sub-Clause 18.4 Consequences of an Exceptional Event

The following is added at the end of sub-paragraph (b) after deleting the ".":

", including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Exceptional Events, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 19.2 [Insurance to be provided by the Contractor]."

Sub-Clause 18.5 Optional Termination

In sub-paragraph (c), "and necessarily" is inserted after "'was reasonably".

Sub-Clause 19.1 General Requirements

The following paragraphs are added after the first:

"Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with terms (if any)

agreed by both Parties before the date of the Letter of Acceptance.

This agreement of terms shall take precedence over the provisions of this Clause."

**Sub-Clause 19.2
insurance to be provided
by the Contractor**

The following is inserted as the first sentence in Sub-Clause 19.2:

"The Contractor shall be entitled to place all insurances relating to the Contract (including, but not limited to the insurance referred to Clause 19) with insurers from any eligible source country."

**Sub-Clause 19.2.1
The Works**

On the last line of the second paragraph, "Clause 12 [*Tests after completion*]" is deleted.

**Sub-Clause 19.2.5
Injury to employees**

The second paragraph is replaced with:

"The Employer and the Engineer shall also be indemnified under the policy of insurance, against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel."

**Sub-Clause 20.1
Claims**

In a): "any additional payment" is replaced with "payment".

**Sub-Clause 20.2
Claims for Payment and/or
EOT**

The first paragraph is replaced with:

"If either Party considers that it is entitled to claim under 20.1 (a) or (b), the following claim procedure shall apply:"

**Sub-Clause 21.1
Constitution of the
DAAB**

In the second paragraph, at the end of the first sentence after deleting: ".", the following is added: ", each of whom shall meet the criteria set forth in Sub-Clause 3.3 of Appendix- General Conditions of Dispute Avoidance/ Adjudication Agreement."

After the second paragraph insert the following paragraph: "If the Contract is with a foreign Contractor, the DAAB members

shall not have the same nationality as the Employer or the Contractor."

**Sub-Clause 21.2
Failure to Appoint DAAB
Member (s)**

For both (a) and (b): "by the date stated in the first paragraph of Sub-Clause 21.1 [*Constitution of the DAAB*]" is replaced with: "within 42 days from the date the Contract is signed by both Parties"

**Sub-Clause 21.6
Arbitration**

In the first paragraph, delete starting from: "international arbitration" up to the end of (c), and replace with the following:
" arbitration. Arbitration shall be conducted as follows:

- (a) if the contract is with foreign contractors, unless otherwise specified in the Contract Data; the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce; by one or three arbitrators appointed in accordance with these Rules. The place of arbitration shall be the neutral location specified in the Contract Data; and the arbitration shall be conducted in the ruling language defined in Sub-Clause 1.4 [Law and Language].
- (b) If the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the laws of the Employer's country."

Appendix- General Conditions of Dispute Avoidance / Adjudication Agreement

Title "General Conditions of Dispute Avoidance/Adjudication Agreement" is replaced with "General Conditions of DAAB Agreement".

1. Definitions

Sub-Clause 1.2: In both the first and third lines, "DAA Agreement" is replaced with "DAAB Agreement".

Sub-Clause 1.3:

- In the first line, "Dispute Avoidance/Adjudication Agreement" or "DAA Agreement" means" is replaced with:
- "DAAB Agreement" is as defined under the Contract and is".
- In the first line of sub-paragraph (c), "DAA Agreement" is replaced with "DAAB Agreement".
- In sub-paragraph (c)(ii), "chairman" is replaced with "chairperson".

Sub-Clause 1.3 "DAAB Activities" is replaced with Sub-Clause 1.4 "DAAB Activities" and the subsequent Sub- Clauses under Clause 1 "Definitions" renumbered:

Sub-Clause 1.7 to 12: Replace all instances of "DAA Agreement" with "DAAB Agreement".

In Sub-Clause 1.8 a(i):" authorised representative of the contractor or of the Employer" is replaced with: "Contractor's Representative or authorised representative of the Employer".

2. General provisions

Sub-Clause 2.2 is deleted in its entirety.

3. Warranties

Sub-Clause 3.3 is deleted and replaced with the following:

"When appointing the DAAB Member, each Party relies on the DAAB Member's representations, that he/she;

- a) has at least a bachelor's degree in relevant disciplines such as law, engineering, construction management or contract management;
- b) has at least ten years of experience in contract administration/management and dispute resolution, out of which at least five years of experience as an arbitrator or adjudicator in construction-related disputes;
- c) has received formal training as an adjudicator from an internationally recognized organization;
- d) has experience and/or is knowledgeable in the type of work which the Contractor is to carry out under the Contract;
- e) has experience in the interpretation of construction and/or engineering contract documents;
- f) has familiarity with the forms of contract published by FIDIC since 1999, and an understanding of the dispute resolution procedures contained therein; and
- g) is fluent in the language for communications stated in the Contract Data (or the language as agreed between the Parties and the DAAB)."

7. Confidentiality

In Sub-Clause 7.3: "or" is deleted after sub-paragraph (b), and the following added:

"or (d) is being provided to the Bank."

9. Fees and Expenses

In Sub-Clause 9.1 (c): "business class or equivalent" is replaced with: "in less than first class".

In Sub-Clause 9.4: "and air fares" and "other" are deleted from the first and second sentences respectively.

10. Resignation & Termination

In Sub-Clause 10.3: "the DAA Agreement" is replaced with: "a DAAB member's DAAB Agreement".

Annex- DAAB Procedural Rules

Rule 4.2 On the fourth line, "chairman" is replaced with "chairperson".

Rule 8.3 On the sixth line, "chairman" is replaced with "chairperson".

Form of Dispute Avoidance/Adjudication Agreement

All instances of "DAA Agreement" are replaced with: "DAAB Agreement".
In C (b): "chairman" is replaced with "chairperson".

Particular Conditions

Part C- Fraud and Corruption

(Text in this Particular Conditions - Part C shall not be modified)

1. Purpose

- 1.1 The Bank's Integrity Framework and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

- 2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption¹.

- 2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:

- i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party²;
- ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party³ to obtain financial or other benefit or to avoid an obligation;
- iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v. "obstructive practice" is:

- (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators

¹ In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

² For the purpose of this sub-paragraph, "another party" refers to a public official acting in relation to the procurement process or contract execution, including Bank staff and employees of other organizations taking or reviewing procurement decisions.

³ For the purpose of this sub-paragraph, "party" refers to a public official, including Bank staff and employees of other organizations taking or reviewing procurement decisions.; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution."

in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harass or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

- (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- d. Pursuant to the Bank's Integrity Framework, and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner⁴; (ii) to be a nominated ⁵ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect ⁶ all

⁴ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

⁵ A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

⁶ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is

accounts, records and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank.

not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

Particular Conditions

Part D- Environmental and Social (ES)

Metrics for Progress Reports

[Note to Employer: the following metrics may be amended to reflect the specifics of the Contract. The Employer shall ensure that the metrics provided are appropriate for the Works and impacts/key issues identified in the environmental and social assessment.]

Metrics for regular reporting:

- a. environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;
- b. health and safety incidents, accidents, injuries that require treatment and all fatalities;
- c. interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);
- d. status of all permits and agreements:
 - i. work permits: number required, number received, actions taken for those not received;
 - ii. status of permits and consents:
 - list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);
 - list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);
 - identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);
 - for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period).
- e. health and safety supervision:
 - i. safety officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;

- ii. number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);
- f. worker accommodations:
 - i. number of expats housed in accommodations, number of locals;
 - ii. date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, etc.;
 - iii. actions taken to recommend/require improved conditions, or to improve conditions.
- g. Health services: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);
- h. gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);
- i. training:
 - i. number of new workers, number receiving induction training, dates of induction training;
 - ii. number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;
 - iii. number and dates of communicable diseases (including STDs) sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.
 - iv. number and date of SEA prevention sensitization and/or training events, including number of workers receiving training on Code of Conduct for Contractor's Personnel (in the reporting period and in the past), etc.
- j. environmental and social supervision:
 - i. environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;
 - ii. sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental

and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and

- iii. community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.
- k. Grievances: list new grievances (e.g. number of allegations of SEA) received in the reporting period and number of unresolved past grievances by date received, complainant's age and sex, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed):
 - i. Worker grievances;
 - ii. Community grievances
- l. Traffic, road safety and vehicles/equipment:
 - i. traffic and road safety incidents and accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;
 - ii. traffic and road safety incidents and accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;
 - iii. overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).
- m. Environmental mitigations and issues (what has been done):
 - i. dust: number of working bowlers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/ spoil lorries with covers, actions taken for uncovered vehicles;
 - ii. erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
 - iii. quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;

- iv. blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);
- v. spill clean-ups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
- vi. waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;
- vii. details of tree plantings and other mitigations required undertaken in the reporting period;
- viii. details of water and swamp protection mitigations required undertaken in the reporting period.
- n. compliance:
 - i. compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
 - ii. compliance status of C-ESMP/ESIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - iii. compliance status of SEA prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - iv. compliance status of Health and Safety Management Plan re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - v. other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.

Particular Conditions

Part E-Section V - Eligible Countries

Eligibility for the Provision of Goods, Works and Non-Consulting Services in Bank Group Financed Procurement

A. Provisions under Section 5 “Eligibility” of the Procurement Policy for Bank Group Funded Operations and Chapter A2 of the Operations Procurement Manual under Procurement Framework of the African Development Bank

1. The African Development Fund (ADF) permits firms and individuals from all countries to offer goods, works and services for ADF funded projects.

However, the proceeds of any Financing undertaken in the operations of the African Development Bank (ADB) and the Nigeria Trust Fund (NTF) shall be used for procurement of goods and works, including the related services, provided by bidders from Eligible⁷ Countries.⁸ Any conditions for participation shall be limited to those that are essential to ensure the firm’s capability to fulfill the contract in question. In the case of ADB and NTF, bidders from non-Member Countries offering goods, works and related services (including transportation and insurance) are not eligible even if they offer these from Eligible Member Countries. Any waiver to this rule will be in accordance with the Articles 17(1) (d) of the Agreement Establishing the African Development Bank and 4.1 of the Agreement Establishing the Nigeria Trust Fund.

B. Rules and Procedures for Procurement of Goods and Works

Overview

1. The eligibility criteria for participation in the supply of goods, works and related services, to be procured through the ADB and NTF Financing, derive from the requirements of the Agreement Establishing the African Development Bank, Article 17.1.d, and the Agreement Establishing the Nigeria Trust Fund, Article 4.1. The foregoing requirements basically prescribe two types of eligibility criteria:
 - (i) The eligibility of the bidder; and
 - (ii) The eligibility of the goods, works and related services.

⁷ Refer to Bank Procurement Framework for additional information on Eligibility.

⁸ “Eligible Countries” shall mean: (a) in the case of the African Development Bank (ADB) and the Nigeria Trust Fund (NTF), the Member Countries of the ADB; and (b) in the case of the African Development Fund, any country.

Eligibility of the Bidder under the ADB & NTF

2. The eligibility of the bidder shall be based on nationality, in accordance with the following rules:
 - (a) Natural Persons: A natural person is eligible if he or she is a national of a Member Country of the ADB. Where a person has more than one nationality, such a person shall be eligible if the nationality indicated in his or her bid is that of a Member Country of the ADB.
 - (b) Corporations: A corporation is eligible if it satisfies the following criteria:
 1. it is incorporated in a country that is a Member of the Bank, or State Participant of the Fund;
 2. it is a national of a country that is a Member of the ADB, as determined by the law of its place of incorporation; and
 3. it has its principal place of business in a country that is a Member of the ADB.
 - (c) Joint Ventures and Associations: An unincorporated joint venture, partnership, or association, shall be eligible if more than 50% of the value of its works and/or services is executed by its members satisfying the eligibility requirements for individuals or corporations.

Eligibility of the Goods, Works and Related Services

3. In order to be eligible, the goods to be procured must have been mined, grown, or produced, in the form in which they are purchased, in an Eligible Member Country.
4. For works contracts, which may include civil works, plant construction, or turnkey contracts, the contractor must satisfy the nationality criteria of eligibility, either as a natural person, or corporation, or joint venture and association. Labour, equipment, and materials needed for carrying out the works contract, shall be supplied from Eligible Member Countries.
5. For contracts, which have been awarded on the basis of Cost, Insurance and Freight (CIF), or Carriage and Insurance Paid (CIP), bidders shall be free to arrange for ocean and other transportation, and the related insurance, from any Eligible Member Country. On the other hand, where goods are shipped on FOB basis, and the Bank has agreed to finance transportation and insurance separately, which are arranged by the purchaser, under a separate contract, the Bank shall be satisfied that the services are supplied from Eligible Member Countries.

List of Eligible Countries

6. List of Eligible countries can be found in African Development Bank's website:

<https://www.afdb.org/en/about-us/corporate-information/members/>

Ineligible Countries in reference to ITB 4.8 and ITB 5.1

7. In reference to ITB 4.8 and ITB 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this Bidding process:

Under ITB 4.8(a) and ITB 5.1: *[insert a list of the countries following approval by the Bank to apply the restriction or state "none"]*.

Under ITB 4.8(b) and ITB 5.1: *[insert a list of the countries following approval by the Bank to apply the restriction or state "none"]*

Section X - Contract Forms

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Notification of Intention to Award

[This Notification of Intention to Award shall be sent to each Bidder that submitted a Bid.]
[Send this Notification to the Bidder's Authorized Representative named in the Bidder Information Form]

For the attention of Bidder's Authorized Representative

Name: *[insert Authorized Representative's name]*

Address: *[insert Authorized Representative's Address]*

Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]*

Email Address: *[insert Authorized Representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to Bidders. The Notification must be sent to all Bidders simultaneously. This means on the same date and as close to the same time as possible.]

DATE OF TRANSMISSION: This Notification is sent by: *[email/fax]* on *[date]* (local time)

Notification of Intention to Award

Employer: *[insert the name of the Employer]*

Project: *[insert name of project]*

Contract title: *[insert the name of the contract]*

Country: *[insert country where RFB is issued]*

Loan No. /Credit No. / Grant No.: *[insert reference number for loan/credit/grant]*

RFB No: *[insert RFB reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) request a debriefing in relation to the evaluation of your Bid, and/or
- b) submit a Procurement-related Complaint in relation to the decision to award the contract.

1. The successful Bidder

Name:	<i>[insert name of successful Bidder]</i>
Address:	<i>[insert address of the successful Bidder]</i>
Contract price:	<i>[insert contract price of the successful Bid]</i>

2. Other Bidders *[INSTRUCTIONS: insert names of all Bidders that submitted a Bid. If the Bid's price was evaluated include the evaluated price as well as the Bid price as read out.]*

Name of Bidder	Bid price	Evaluated Bid price (if applicable)
<i>[insert name]</i>	<i>[insert Bid price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Bid price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Bid price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Bid price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Bid price]</i>	<i>[insert evaluated price]</i>

3. Reason/s why your Bid was unsuccessful

[INSTRUCTIONS: State the reason/s why this Bidder's Bid was unsuccessful. Do NOT include: (a) a point by point comparison with another Bidder's Bid or (b) information that is marked confidential by the Bidder in its Bid.]

4. How to request a debriefing

DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date]* (local time).

You may request a debriefing in relation to the results of the evaluation of your Bid. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Bidder, contact details; and address the request for debriefing as follows:

Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Agency: *[insert name of Employer]*

Email address: *[insert email address]*

Fax number: *[insert fax number]* ***delete if not used***

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

5. How to make a complaint

Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, *[insert date]* (local time).

Provide the contract name, reference number, name of the Bidder, contact details; and address the Procurement-related Complaint as follows:

Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Agency: *[insert name of Employer]*

Email address: *[insert email address]*

Fax number: *[insert fax number]* ***delete if not used***

At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

Further information:

For more information see Part B of the Operations Procurement Manual. In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Bidder who submitted a Bid in this bidding process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the period stated above.
4. You must include, in your complaint, all necessary information

6. Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended as stated in Section 4 above.

If you have any questions regarding this Notification, please do not hesitate to contact us.

On behalf of the Employer:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

Beneficial Ownership Disclosure Form

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful Bidder. In case of joint venture, the Bidder must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Bidder is any natural person who ultimately owns or controls the Bidder by meeting one or more of the following conditions:

- directly or indirectly holding 25% or more of the shares*
- directly or indirectly holding 25% or more of the voting rights*
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder*

RFB No.: *[insert number of RFB process]*

Request for Bid No.: *[insert identification]*

To: *[insert complete name of Employer]*

In response to your request in the Letter of Acceptance dated *[insert date of letter of Acceptance]* to furnish additional information on beneficial ownership: *[select one option as applicable and delete the options that are not applicable]*

(i) we hereby provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Bidder (Yes / No)
<i>[include full name (last, middle, first), nationality, country of residence]</i>			

OR

(ii) *We declare that there is no Beneficial Owner meeting one or more of the following conditions:*

- directly or indirectly holding 25% or more of the shares
- directly or indirectly holding 25% or more of the voting rights
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder

OR

(iii) *We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Bidder shall provide explanation on why it is unable to identify any Beneficial Owner]*

- directly or indirectly holding 25% or more of the shares
- directly or indirectly holding 25% or more of the voting rights
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Bidder]"

Name of the Bidder: **[insert complete name of the Bidder]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder: ***[insert complete name of person duly authorized to sign the Bid]*

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

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

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

* In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder. In the event that the Bidder is a joint venture, each reference to "Bidder" in the Beneficial Ownership Disclosure Form (including this Introduction thereto) shall be read to refer to the joint venture member.

** Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules.

Letter of Acceptance

[letterhead paper of the Employer]

[date]

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

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Bidders, is hereby accepted by our Agency.

You are requested to furnish (i) the Performance Security and an Environmental and Social Performance Security ***[Delete ES Performance Security if it is not required under the contract]*** within 28 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms and the ES Performance Security Form, ***[Delete reference to the ES Performance Security Form if it is not required under the contract]*** and (ii) the additional information on beneficial ownership in accordance with BDS ITB 47.1, within eight (8) Business days using the Beneficial Ownership Disclosure Form, included in Section X, Contract Forms, of the bidding document.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made the _____ day of _____, _____, between _____ of _____ (hereinafter "the Employer"), of the one part, and _____ of _____ (hereinafter "the Contractor"), of the other part:

WHEREAS the Employer desires that the Works known as _____ should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (a) the Letter of Acceptance;
 - (b) the Letter of Bid;
 - (c) the addenda Nos _____ (if any);
 - (d) the Particular Conditions;
 - (e) the General Conditions;
 - (f) the Specification;
 - (g) the Drawings; and
 - (h) the completed Schedules and any other documents forming part of the contract, including, but not limited to:
 - i. the ES Management Strategies and Implementation Plans; and
 - ii. Code of Conduct for Contractor's Personnel (ES);
3. In consideration of the payments to be made by the Employer to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of _____ on the day, month and year specified above.

Signed by _____ (for the Employer)

Signed by _____ (for the Contractor)

Performance Security: Option 1: Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Employer]*

Date: _____ *[Insert date of issue]*

Performance Guarantee No.: _____

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract"). Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant to issue this guarantee, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

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

¹ The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Performance Security: Option 2: Performance Bond

By this Bond _____ as Principal (hereinafter called "the Contractor") and _____] as Surety (hereinafter called "the Surety"), are held and firmly bound unto _____] as Oblige (hereinafter called "the Employer") in the amount of _____, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the _____ day of _____, 20__, for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a Bid or Bids from qualified Bidders for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
- (3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

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

Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate.

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

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

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

Environmental and Social (ES) Performance Security

ES Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Employer]*

Date: *[Insert date of issue]*

ES PERFORMANCE GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract"). Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant to issue this guarantee, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its Environmental and/or Social (ES) obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2... 2, and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

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

¹ The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency (cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Advance Payment Security

Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[Insert name and Address of Employer]*

Date: _____ *[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ (hereinafter called "the Applicant") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ (_____) is to be made against an advance payment guarantee.

At the request of the Applicant to issue this guarantee, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____) ¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- a) has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
- b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number _____ at _____.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the ___ day of ___, 2___² whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

¹ The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

² Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

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

In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Retention Money Security

Demand Guarantee

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[Insert name and Address of Employer]*

Date: _____ *[Insert date of issue]*

RETENTION MONEY GUARANTEE No.: _____ *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that _____ *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. _____ *[insert reference number of the contract]* dated _____ with the Beneficiary, for the execution of _____ *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of *[insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if required, the ES Performance Security]* is to be made against a Retention Money guarantee.

At the request of the Applicant to issue this guarantee, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ *[insert amount in figures]* (_____) *[amount in words]*¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Applicant on its account number _____ at _____ *[insert name and address of Applicant's bank]*.

¹ The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

This guarantee shall expire no later than the Day of, 2...², and any demand for payment under it must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

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

² Insert the same expiry date as set forth in the performance security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."