

**COUNTY GOVERNMENT OF WAJIR**



**LANDS, PHYSICAL PLANNING, PUBLIC WORKS & HOUSING DEPT**

**PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR**

**WCG/EU/LT/01/2019-2020**

**County Open Tender**

**DEPARTMENT OF AGRICULTURE, LIVESTOCK, FISHERIES AND ALTERNATIVE  
LIVELIHOODS**

**WAJIR COUNTY GOVERNMENT**

**P O BOX 9 – 70200**

**WAJIR**

**ISSUED BY:**

**COUNTY WORKS  
OFFICER, PUBLIC  
WORKS & HOUSING  
DEPT.  
P.O. BOX 120  
WAJIR**

**MARCH, 2020**

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## SECTION I - INVITATION FOR TENDERS

Tender Name: WCG/EU/LT/01/2019-2020

**TENDER NAME: PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR FOR WAJIR MILK TRADERS**

- 1.1. The County Government of Wajir, here and in subsequent sections referred to as the Procuring Entity, has obtained a grant from the European Union through the Ministry of Devolution and ASALs under the EU-IDEAS programme for the improvement of Camel Milk Value Chain in Wajir County, and now invites interested and eligible bidders to tender for the Proposed Construction of milk sheds for milk traders in Wajir County;
- 1.2. Interested eligible candidates may obtain further information and or inspect the Tender Documents for free at the procurement office, Wajir County Government headquarters – Wajir town during normal working hours. The documents may also be downloaded from the county government web-portal <https://www.wajir.go.ke> or the national government procurement information portal [www.tenders.go.ke](http://www.tenders.go.ke) free of charge. Eligible tenderers **MUST** be in County Government of Wajir database of registered contractors;
- 1.3. Prices quoted should be net inclusive of all taxes and duties, must be in Kenya shillings and shall remain valid for 120 days from the closing date of quotation;
- 1.4. The tender is divided into four lots and the tender security shall be provided per lot. The tender security shall be of KSh80,000( Kenya Shillings Eighty Thousands) for any of the lots and shall be in the form of (1) Bankers Cheque, or, (2) Letter of Credit, (3)Bank/Insurance Guarantee from a reputable bank/insurance approved by PPRA (<http://ppra.go.ke/tender-security-providers/>) and valid 150 days from the date of opening date of the tender;
- 1.5. Completed tender documents are to be enclosed in plain sealed envelopes marked with tender name and reference number and be deposited in the Tender Box at Department of Agriculture, livestock and fisheries office in SHALETI Ground or be addressed to

The chief officer, department of Agriculture, livestock and fisheries  
P o box 9 WAJIR- WAJIR TOWN

So as to be received on or before 18<sup>th</sup> March 2020. Quotation will be opened immediately thereafter in the presence of the candidates or their representatives who choose to attend at Wajir Agriculture boardroom, SHALETI Wajir County.

**Signed:**

**For the chief officer, department of Agriculture, livestock and fisheries**

## SECTION II - INSTRUCTIONS TO TENDERERS

### 1. General

- 1.1 The Employer as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The successful Tenderer will be expected to complete the Works by the Intended Completion Date specified in the said Appendix.
- 1.2 Tenderers shall include the following information and documents with their tenders, unless otherwise stated:
  - (a) copies of certificates of registration, and principal place of business;
  - (b) total monetary value of construction work performed for each of the last five years;
  - (c) experience in works of a similar nature and size for each of the last five years, and clients who may be contacted for further information on these contracts;
  - (d) major items of construction equipment owned;
  - (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
  - (f) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the last five years;
  - (g) authority to seek references from the Tenderer's bankers.
- 1.3 The Tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.
- 1.4 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
- 1.5 The procurement entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 1.6 The price to be charged for the tender document shall not exceed Kshs.5,000/=
- 1.7 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

### 2. Tender Documents

- 2.1. The complete set of tender documents comprises the documents listed here below and any addenda issued in accordance with clause 2.4 here below:-
  - (a) These instructions to Tenderers
  - (b) Form of Tender
  - (c) Conditions of Contract and Appendix to Conditions of Contract
  - (d) Specifications
  - (e) Drawings
  - (f) Bills of Quantities/Schedule of Rates (whichever is applicable)
  - (g) Other materials required to be filled and submitted in accordance with these Instructions and Conditions

- 2.2. The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.
- 2.3. A prospective Tenderer making inquiries of the tendering documents may notify the Employer in writing or by cable, telex or facsimile at the address indicated in the letter of invitation to tender. The Employer will respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.
- 2.4. Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing or by cable, telex or facsimile to all Tenderers. Prospective Tenderers shall acknowledge receipt of each addendum in writing to the Employer.
- 2.5. To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend, as necessary, the deadline for submission of tenders in accordance with clause 4.2 here below.

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

- 3.1. All documents relating to the tender and any correspondence shall be in English Language.
- 3.2. The tender submitted by the Tenderer shall comprise the following:-
  - (a) The Tender;
  - (b) Tender Security;
  - (c) Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts
  - (d) Any other materials required to be completed and submitted by Tenderers.
- 3.3. The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. Items for which no rate or price is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities/Schedule of Rates. All duties, taxes and other levies payable by the Contractor under the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the Tenderer.
- 3.4. The rates and prices quoted by the Tenderer shall not be subject to any adjustment during the performance of the Contract.
- 3.5. The unit rates and prices shall be in Kenya Shillings.
- 3.6. Tenders shall remain valid for a period of sixty (60) days from the date of submission. However in exceptional circumstances, the Employer may request that the Tenderers

extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.

- 3.7. The Tenderer shall prepare one original of the documents comprising the tender documents as described in these Instructions to Tenderers.
- 3.8. The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.
- 3.9. Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 3.10. The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

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

- 4.1. The tender duly filled and sealed in an envelope shall;
  - (a) be addressed to the Employer at the address provided in the invitation to tender;
  - (b) bear the name and identification number of the Contract as defined in the invitation to tender; and
  - (c) provide a warning not to open before the specified time and date for tender opening.
- 4.2. Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to tender.
- 4.3. The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents.
- 4.4. Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.
- 4.5. Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.
- 4.6. The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with sub-clause 2.5 in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

#### **5. Tender Opening and Evaluation**

- 5.1. The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.

- 5.2. The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by the Employer. Minutes of the tender opening, including the information disclosed to those present will also be prepared by the Employer.
- 5.3. Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.
- 5.4. Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
- (a) where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
  - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer's representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
  - (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail.
  - (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the Corrected Builder's Work (i.e. corrected tender sum less P.C. and Provisional Sums).
  - (e) The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
  - (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and with concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security forfeited.
- 5.5. The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 5.6. Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

- 5.7. Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.
- 5.8. Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.
- 5.9. Preference where allowed in the evaluation of tenders shall not exceed 15%
- 5.10. To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may request [in writing] any Tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile but no change in the tender price or substance of the tender shall be sought, offered or permitted.
- 5.11. The Tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

## **6. Award of Contract**

- 6.1. The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.
- 6.2. Notwithstanding the provisions of clause 6.1 above, the Employer reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the action.
- 6.3. The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum [hereinafter and in all Contract documents called the "Contract Price" which the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.
- 6.4. The Contract Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be signed by the Employer and sent to the successful Tenderer, within 30 days following the notification of award. Within 21 days of receipt, the successful Tenderer will sign the Agreement and return it to the Employer.
- 6.5. Within 21 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Performance Security amount stipulated in the Appendix to Conditions of Contract.



- 6.6. The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 6.7. The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 6.8. The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

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

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

## APPENDIX TO SECTION II - INSTRUCTIONS TO TENDERERS

1.1. Section II – Appendix to Instructions to Tenderers has been changed as follows;

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
1.1	<p>The employer is the County Government of Wajir. Tenderers. The tender is open to tenderers already registered with the County Government of Wajir – Building Works Category. Joint Venture is allowed under which all partners <b>MUST</b> be in the County Government of Wajir works contractors database of registered suppliers/contractors. Interested tenderers are requested to verify their registration status before application.</p>
1.2	<p>Delete the whole section. The successful tender shall instead submit the following Mandatory Information/Documents;</p> <ol style="list-style-type: none"> <li>1. Certificate of Incorporation ( If Joint Venture, each partner <b>MUST</b> provide)</li> <li>2. NCA Category 8 - Building Works Registration Certificate together with Annual Practicing License. The annual practicing license <b>MUST</b> be valid as of the date of submission;</li> <li>3. A tax compliance certificate valid as of the deadline of submission of the tender ( If Joint Venture, each partner <b>MUST</b> provide)</li> <li>4. Single Business Permit License from County Government of Wajir</li> <li>5. Completed Form of Tender clearly indicating (1)Tender Sum and (2)Tender Validity;</li> <li>6. Completed BoQ/Schedule of Prices;</li> <li>7. Completed Code of Ethics ( If Joint Venture, each partner <b>MUST</b> sign)</li> <li>8. Participation as contractor, management contractor, or subcontractor, in at least three (3) contracts each with a value of at least Kenya Shillings 7million within the last ten (10) years (2009 to 2018), or combined related works (building works contracts) of KES30M over the same period. The works should have been successfully &amp; fully completed. Tender to List all projects – Name, Contracting Authority, project/contract budget, when completed, and contract amounts in monetary terms under <b>Section V - Standard Forms - Qualification Information Form. Tenderer <b>MUST</b> attach (1) Contract/LPOs, (2) Project completion certificates. Mere listing without proofs – (1)contract letters &amp; (2)completion and handover certificates will not be considered.</b></li> </ol> <p>This information shall form the preliminary &amp; mandatory evaluation criteria. To proceed to the next stage, tenderers <b>MUST</b> have provided all the items/requirements.</p> <p>If the tender is being submitted as a Joint Venture, the tenderer shall provide a Joint Venture agreement indicating the lead partner.</p>
1.6	<p>Tender Documents may be obtained from the employer’s website free of charge. An hardcopy document may also be obtained from the employer upon payment of non-refundable fee of KES5,000</p>

2.4	Any Addendum (s) shall instead be posted on the employer’s website. It is the duty of the interested tender to keep checking/obtain the information from the website
3.2	Tenderer shall instead submit the information/mandatory documents under 1.2 above.
3.6	Tenders shall remain valid as stipulated under Section I – Invitation to Tender
5.4	There shall be NO correction of errors and the amounts reflected in the Form of Tender shall be final. If the Form of Tender is not completed or does not indicate the tender amount, NO tender SUM will be read.

## 1.2. Evaluation Criteria & Award

1.2.1. Tenderers **MUST** submit mandatory documentation under Section II – Appendix to Instructions to Tenderers, 1.2 above – Mandatory Documents. The successful tenderer shall provide all the documents/information in order to proceed to the next level. A tenderer that doesn’t not provide any of the required information/document will be disqualified at this stage.

### 1.2.2. Bidder Capacity Evaluation

A tenderer capacity to do the works in question **MUST** have participated as contractor, management contractor, or subcontractor, in at least three (3) contracts each with a value of at least Kenya Shillings 7million within the last ten (10) years (2009 to 2018), or combined related works (building works contracts) of KES30M over the same period. The works should have been successfully & fully completed. Tender to List all projects – Name, Contracting Authority, project/contract budget, when completed, and contract amounts in monetary terms under **Section V - Standard Forms - Qualification Information Form. Tenderer MUST attach (1) Contract/LPOs, (2) Project completion certificates. Mere listing without proofs – (1)contract letters & (2)completion and handover certificates will not be considered.**

## 1.3. Award

The tenderer that shall have quoted the lowest price shall be awarded the tender subject to post qualification evaluation.

## SECTION III - SECTION III - CONDITIONS OF CONTRACT

### 1. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

**“Employer”** Includes Central or Local Government administration, Universities, Public Institutions and Corporations and is the party who employs the Contractor to carry out the Works.

**“Equipment”** is the Contractor’s machinery and vehicles brought temporarily to the Site for the execution of the Works.

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

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

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

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

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

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

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

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

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

## **2. Contract Documents**

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

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

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

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

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

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

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

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

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

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

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

## **7 The site**

- 7.1 The Employer shall give possession of all parts of the Site to the Contractor.
- 7.2 The Contractor shall allow the Employer's Representative and any other person authorised by the Employer's Representative ,access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

## **8 Instructions**

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

## **9 Extension of Completion Date**

- 9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.
- 9.2 For the purposes of this clause, the following occurrences shall be valid for consideration;  
  
Delay by:-
  - (a) force majeure, or
  - (b) reason of any exceptionally adverse weather conditions, or
  - (c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or

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

## 10 Management Meetings

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

## 11 Defects

- 11.1 The Employer's Representative shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Employer's Representative may instruct the Contractor to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor. However if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.

- 11.2 The Employer's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.
- 11.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Contractor has not corrected a defect within the time specified in the Employer's Representative's notice, the Employer's Representative will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

## 12 Bills of Quantities/Schedule of Rates

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

## 13 Variations

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

## 14 Payment Certificates and Final Account

- 14.1 The Contractor shall be paid after each of the following stages of Work listed herebelow (subject to re-measurement by the Employer's Representative of the Work done in each stage before payment is made). In case of lump-sum Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.
- (i) Advance payment \_\_\_\_\_ (*percent of Contract Price,*  
[after Contract execution] *to be inserted by the Employer*).



- (ii) First stage (*define stage*) \_\_\_\_\_
- (iii) Second stage (*define stage*) \_\_\_\_\_
- (iv) Third stage (*define stage*) \_\_\_\_\_
- (v) After defects liability period .

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

14.3 The Contractor shall supply the Employer's Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Employer's Representative shall issue within 21 days a schedule that states the scope of the corrections or additions that are necessary. If the final account is still unsatisfactory after it has been resubmitted, the Employer's Representative shall decide on the amount payable to the Contractor and issue a Final Payment Certificate. The Employer shall pay the Contractor the amount so certified within 60 days of the issue of the Final Payment Certificate.

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

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

## 15. Insurance

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

## 16. Liquidated Damages

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

## 17. Completion and Taking Over

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

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

## **18. Termination**

18.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following;

- (a) the Contractor stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;
- (b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (c) a payment certified by the Employer's Representative is not paid by the Employer to the Contractor within 30 days after the expiry of the payment periods stated in sub clauses 14.2 and 14.3 hereinabove.
- (d) the Employer's Representative gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time.

18.2 If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

## **19. Payment Upon Termination**

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

19.2 The Contractor shall, during the execution or after the completion of the Works under this clause, remove from the Site as and when required within such reasonable time as the Employer's Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.

19.3 Until after completion of the Works under this clause, the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefor the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with

this Contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

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

20.1 The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gifts or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract with the Employer.
- (b) Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the Laws of Kenya.

## **21. Settlement of Disputes**

21.1 Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.

## APPENDIX TO CONDITIONS OF CONTRACT

- 1.1. Where there is a contradiction between Section III – Conditions of Contract and Appendix to Conditions of Contract, the latter Appendix to Conditions of Contract shall be the reference.
- 1.2. **The Employer Is:**  
*Name: **\_WAJIR COUNTY GOVERNMENT - DEPARTMENT OF AGRICULTURE, LIVESTOCK & FISHERIES***  
*Address: **P.O BOX 9, WAJIR***  
*Name of Employer's Representative: **County Chief Officer (LIVESTOCK& VETERINARY SERVICES)***
- 1.3. *The name of the Contract is CONSTRUCTION OF MILK SHED IN WAJIR TOWN. The works consists of Construction of Milk Sheds in a number of sites **located at** LOLKUTA, HADADO, SHANTACABAQ,HUBSOY, BURDEER AND AGTALEHEL and 6 in Wajir Town ( 3 Wajir Township Ward and 3 Waberi Ward). This contract is divided into **FOUR LOTS**, see note 1.7 below, with each lot with more than one site. Each site is similar in design and the only difference is location. A tenderer may tender for one, more than one lots or all lots. The award criteria shall be based on the lowest tendered price per lot. Where a tenderer has quoted for all lots but another tenderer has offered a lower price in any of the lots, preference will be given to the tenderer offering the lowest price in any of the lots. By tendering the tenderer has accepted that he may not be awarded all the lots and consideration will be given to the tenderer that has quoted the lowest price for any of the lots.*
- 1.4. **The Start Date shall be \_AS PER CONTRACT DOCUMENT**
- 1.5. **The Intended Completion Date** for the whole of the Works shall be **8 WEEKS AFTER SIGNING OF CONTRACT**
- 1.6. **The Site Possession Date shall be AS SIGNED IN THE CONTRACT**
- 1.7. **The lots are distributed into sites as follows;**
  - 1.7.1. Lot 1 – HUBSOY, BURDEER and AGTALEHEL
  - 1.7.2. Lot 2 – LOLKUTA, HADADO and SHANTACABAQ
  - 1.7.3. Lot 3 - 3 sites located in Wajir Town – Waberi Ward
  - 1.7.4. Lot 4 – 3 Sites located in Wajir Town – Town Ship Ward
- 1.8. **The Defects Liability Period is: 90 days (3months).** During this period the employer shall retain 10% of the total tender sum. The contractor shall be required to make good any defects that arise due to poor workmanship of the contractor or manufacturers defect. The employer shall reserve the right to remedy the defects and charge the contractor.
- 1.9. **Payments for Works Done: Clause 6.14.1** of the Conditions of Contract shall be omitted in its entirety and the following inserted in it's place:-
  - There shall be no Advance Payment
  - 90% of the Contract Sum will be paid to the Contractor after completion of works.
  - After defects liability period-the remaining 10% of the Contract Sum will be released to the Contractor

1.10. The name and Address of the Employer for the purposes of submission of tenders is as defined in Section I – Invitation to Tenders.

1.11. The tender opening date and time is as defined in Section I – Invitation to Tenders

**1.12. Labour:**

Unskilled labor shall be sourced from the locality of the project.

At least 30% of the labor force shall comprise of youth, 30% women and at least one (1) person with disability

**1.13. Materials;**

The contractor is encouraged to use as much local available material as possible without compromising quality. All materials delivered to site will be deemed to be the property of the employer and permission will be required from the employer before their removal from site.

**1.14. Security;**

Security of the materials on site will remain the responsibility of the contractor until the project is completed, tested, commissioned and handed over. . All insurance costs shall be borne by the contractor and any loss of materials shall be replaced by the contractor.

**1.15. Insurance;**

The tenderer shall ensure a workman compensation insurance policy is in place before commencement of work and any other mandatory insurance. In addition and before commencement of works the contractor should provide insurance policy that covers works and materials.

**1.16. Supply and Install.**

It shall be assumed that all materials supplied shall be installed and used to construct the specified infrastructure to working condition. The contractor shall be deemed to have completed the contract works when they provide a “Working System”.

**Where Sub-contract agreements exist**, they shall be declared and shall form part of the contract. The County Government shall be the arbitrator in the event of any disputes between the Contractor and the Sub-Contractor and the decision of the arbitrator shall be final. The arbitrator can direct payments be made directly to sub-contractors, if need be.

**The site shall be handed over** to the contractor within one week of signing the Contract Agreement.

The Contractor shall complete the project within the contract period. Any delay in completion shall attract the employer to charge for **Liquidated Damages**. **The penalties shall** be charged at Kes.10,000 per day (contracts up to Kes.5 Million), Kes.20,000 Per day (contracts 5M-10M) Kes.30,000 Per day (Contracts above 10M)

Upon Completion of work the contractor shall prepare “as built” drawings that indicate the layout of the final installation.

Before commencement of work the contractor shall **submit programme of works** for the project to be approved by the department before taking over the site in line with article 6 of Conditions to Contract

## SECTION IV (A) – SPECIFICATIONS, DRAWINGS AND BILLS OF QUANTITIES/SCHEDULE OF RATES

- 1.1. The Bills of Quantities provided under SECTION IV (B)– SPECIFICATIONS, DRAWINGS AND BILLS OF QUANTITIES/SCHEDULE OF RATES relates to one site. The tenderer shall complete BoQs for each of the sites (meaning that there shall be as many completed BoQs as there are sites in a Lot) and transfer the cost summary of each site to Lot Grand Summary. The amounts transferred to the Form of Tender shall be a summation of all sites under Lot Grand Summary.
- 1.2. Similarly, the drawings and designs relate to one site. The sites are similar in designs.
- 1.3. A tenderer **MUST** quote for all sites in a lot otherwise the tenderer **WILL** be disqualified;
- 1.4. A tenderer **MAY** quote for all LOTs but under different envelopes e.i. each LOT must submitted separately **BUT** not in one tenderer’s bid.

SECTION IV (B)– SPECIFICATIONS, DRAWINGS AND BILLS OF QUANTITIES/SCHEDULE OF RATES

1.1. *Bill of Quantities/Schedule of Prices*

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	<b><u>MILKSHED</u></b>				
	<b><u>SUBSTRUCTURES</u></b>				
	<b><u>(ALL PROVISIONAL)</u></b>				
	<b><u>Site Clearance</u></b>				
A	Excavate oversite average 250mm deep to remove vegetable soil, load up, wheel and cart away.	35	Sm		
	<b><u>Trench Excavation</u></b>				
B	Excavate for strip foundation trenches occurring not exceeding 1.5 metres deep commencing from stripped level.	14	Cm		
	<b><u>Excavation in rock</u></b>				
C	Extra over for excavation in rock	5	Cm		
	<b><u>Disposal</u></b>				
D	Load surplus excavated material and cart away from site.	16	Cm		
	<b><u>Filling</u></b>				
E	Return, fill and ram selected excavated material around foundations.	-2	Cm		
	<b><u>Hardcore</u></b>				
F	200mm thick layer of hardcore filling including levelling, consolidating and/or hand packing.	35	Sm		
	<b><u>Blinding</u></b>				
G	50mm thick layer of murrum or other equal and approved blinding to the surface of hardcore; rolled smooth to receive slab.	35	Sm		
	<b><u>Insecticide treatment</u></b>				
H	"TERMIDOR 25 EC" or other equal and approved chemical insecticide treatment prepared and applied according to the manufacturer's printed instructions.	35	Sm		
	<b><u>Mass concrete (1:3:6 /20-20mm aggregate) as described in:</u></b>				
I	Strip foundations	3	Cm		
J	100mm thick slab	35	Sm		
<b>CARRIED TO SUMMARY</b>					

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	<b><u>Substructures cont'd</u></b>				
	<b><u>Mesh reinforcement</u></b>				
A	Fabric mesh reinforcement to B.S.4483 ref:A142 including tying wire and spacer blocks complete (measured nett-allow for laps)	35	Sm		
	<b><u>Sawn formwork as described to:</u></b>				
B	Edges of slab exceeding 75mm not exceeding 150mm width	33	Lm		
	<b><u>Foundation walling</u></b>				
C	200mm Thick rough chisel dressed natural stone walling bedded and jointed in cement/sand (1:3) mortar and reinforced with and including 20swg x 25mm wide hoop iron in every alternate course.	14	Sm		
	<b><u>Damp proofing</u></b>				
D	500 Gauge polythene or other equal approved plastic sheet damp proof membrane laid over blinding (m.s.) measured nett-allow for laps.	35	Sm		
<b>CARRIED TO SUMMARY</b>					



PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	<b><u>WALLING &amp; OPENINGS</u></b>				
	<b><u>Walling in natural coursed stone obtained from an approved quarry; jointed and bedded in gauged mortar (1:3)</u></b>				
<b>B</b>	200 mm thick gable	8	SM		
<b>C</b>	Ditto dwarf wall; 1.2M high	18	SM		
	<b><u>Steel grilles</u></b>				
<b>D</b>	Steel grilles consisting of 25 x 25 x 3mm SHS welded together at 150mm centres and welded to steel tubes (measured separately)	36	SM		
<b>E</b>	Extra over ditto for Steel grille door size 800 x1500mm to match pattern of grill, including all ironmongery and locking accessories	2	NO		
<b>CARRIED TO SUMMARY</b>					

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	<b>ROOFING</b>				
	<b>All timber to be sawn cypress of G.S. grade well seasoned and to the requirement of K.S. 02 771 Of 1991 and treated with approved wood preservative.</b>				
A	150x50mm thick wall plate secured onto mild steel clips(m.s) with 2no. 12mm steel anchor bolts or as approved	24	Lm		
B	75 x 50mm purlins	42	Lm		
	<b>The following in 5no nailed timber trusses average height 3000mm high including hoisting and placing 3600mm above floor slab level.</b>				
C	150x50mm truss rafter	32	Lm		
D	Ditto tie beam	29	Lm		
E	Ditto ridge piece	7	Lm		
F	100x50mm strut/tie	23	Lm		
	<b>Covering</b>				
H	Prepainted 30 gauge galvanised corrugated iron sheets of approved profile nailed to purlins (m.s) with 150mm end laps and 1 <sup>1</sup> / <sub>2</sub> corrugations side laps.	42	Sm		
I	Close fitting half round ridge cover.	7	Lm		
J	25mm thick timber boarding nailed to ends of trusses as gable	12	SM		
<b>CARRIED TO SUMMARY</b>					

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	<b><u>FINISHES</u></b>				
	<b><u>FLOOR FINISHES</u></b>				
	<b><u>8mm thick non-slip ceramic tiles laid on cement/sand screed finished to:-</u></b>				
A	Floors	35	Sm		
	<b><u>WALL FINISHES</u></b>				
B	12mm thick gauged lime plaster to wall surfaces internally	26	SM		
C	Ditto Externally	26	SM		
	<b><u>PAINTING AND DECORATION</u></b>				
D	Prepare and apply 3 coats silk vinyl paint to wall surfaces internally	26	SM		
E	Ditto externally	26	SM		
F	Prepare and apply 3 gloss oil paint to timber surfaces girth 200-300mm	24	LM		
	<b><u>WORKTOPS AND CUBICLES</u></b>				
G	75mm thick reinforced concrete (1:2:4) worktop built into wall	12	SM		
H	Sawn formwork to soffites of slab	12	SM		
I	BRC fabric mesh reinforcement No. 65	12	SM		
J	100mm thick solid concrete block walling in cement/sand mortar 1:3	24	SM		
K	12mm thick plaster (1:4) steel trowel finished to walling surfaces	48	SM		
L	6mm thick non-slip ceramic tiles laid on cement/sand screed finished worktop surfaces	14	SM		
<b>CARRIED TO SUMMARY</b>					

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	<b><u>SUMMARY</u></b>				
	<i>From MS/01</i>				
	<i>From MS/02</i>				
	<i>From MS/03</i>				
	<i>From MS/04</i>				
	<i>From MS/05</i>				
	<i>Total for Milkshed Carried to Grand Summary</i>				

ITEM	DESCRIPTION	QTY	UNIT		
	<b><u>WATER STORAGE AND RETICULATION</u></b>				
	<b><u>1. TANK BASE</u></b>				
	<b><u>SUBSTRUCTURES</u></b> (ALL PROVISIONAL)				
	<b>Site clearance</b>				
<b>A</b>	Clear site of works of shrubs, bush and small trees, grub up roots and burn debris	22	SM		
<b>B</b>	Destroy termite nests within site of works, take out and destroy queens, impregnate holes and tunnels with insecticide and fill voids with approved material		ITEM		
<b>C</b>	Excavate to remove top soil and load, wheel and deposit where directed, average depth 200mm	22	SM		
	<b><u>Earthworks</u></b>				
<b>D</b>	Excavate for foundations commencing at reduced level n.e. 1.5m deep	7	CM		
<b>E</b>	Extra over for excavating in soft rock	10	CM		
	<b>Disposal</b>				
<b>F</b>	Backfilling around foundations	15	CM		
	<b>Total Carried to Collection</b>				

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT		
A	Load and cart away surplus spoil to approved dump site	2	CM		
	<b>Imported filling</b>				
B	Approved hardcore filling to make up levels	24	CM		
C	Compact surface of existing hardcore and blind with murrum to receive concrete	20	SM		
	<b>Damp proof membrane</b>				
D	500 gauge polythene laid under surface beds	20	SM		
	<b>Anti-termite treatment</b>				
E	Chemical anti-termite treatment executed by an approved specialist under a ten year guarantee to surfaces of hardcore, etc.	20	SM		
	<b>Plain concrete 1:4:8</b>				
F	Blinding under foundations and bases, thickness 50mm.	4	SM		
	<b>Vibrated reinforced concrete class 20</b>				
G	Foundation	1	CM		
H	Beds, thickness 150mm	20	SM		
<b>Total Carried to Collection</b>					

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT		
	<b>Reinforcement (all provisional)</b>				
	<b>High yield deformed steel bar reinforcement to BS4461</b>				
A	12mm diameter	24	Kg		
B	10mm diameter	32	Kg		
	<b>Steel mesh fabric reinforcement to BS 4483</b>				
C	Layer of mesh fabric reinforcement laid in slab or bed with 200mm side and end laps (measured net- no allowance made for laps) Ref: A142 weighing 2.22kg per square metre	20	SM		
	<b>Formwork</b>				
D	Curved edges of ground slab girth 75-150mm	6	LM		
	<b>Total Carried to Collection</b>				

ITEM	DESCRIPTION	QTY	UNIT		
	<b>Load bearing natural stone rough dressed Stone walling in cement and sand mortar (1:3)</b>				
A	Walling thickness 200mm	9	SM		
B	20 gauge hoop iron ties 25mm wide and 450mm girth cast into concrete one end and built into mortar joint of walling	100	No.		
	<b>Bituminous felt damp proof courses laid on and including levelling screed of cement mortar</b>				
C	In walling, width 200mm	6	LM		
	<b>Cement and sand (1:4) rendering</b>				
D	Rendering to concrete surfaces finished with a steel float, thickness 20mm	4	SM		
E	25mm thick cement/sand screed steel trowel finished smooth	20	SM		
	<b>Prepare and apply three coats bituminous paint</b>				
E	Rendered surfaces externally	4	SM		
	<b>Total Carried to Collection Below</b>				
	<b>Collection</b>				
	<b>Brought forward from page WS/1</b>				
	<b>Brought forward from page WS/2</b>				
	<b>Brought forward from page WS/3</b>				
	<b>Brought down from above</b>				
	<b>Total of TANK BASE Carried to Summary</b>				



ITEM	DESCRIPTION	QTY	UNIT		
	<b><u>WATER STORAGE TANKS &amp; RETICULATION</u></b>				
	<b>Supply and fix UPVC CYLINDRICAL VERTICAL heavy gauge Storage tank as "Roto Moulders Ltd" or equal and approved:-</b>				
<b>A</b>	10,000 litres size 2000 X 2800 mm	1	NO		
	<b><u>Piping and Accessories</u></b>				
<b>B</b>	Excavate trenches for pipes not exceeding 750mm deep, lay pipes,part return in fill and surplus cart away.	65	LM		
<b>C</b>	20mm diameter PPR pipe.	65	LM		
	<u>Gate Valve</u>				
<b>D</b>	20mm diamter	2	NO		
<b>E</b>	Pillar Tap as Peglar or equal and approved	1	NO		
<b>F</b>	Stand Pipe	1	NO		
	<b>Total of Storage Tanks Carried to Summary</b>				

PROPOSED CONSTRUCTION OF MILK SHED IN WAJIR

ITEM	DESCRIPTION	QTY	UNIT		
	<b><u>SUMMARY</u></b>				
1	Tank Bases				
2	Storage Tank and Water Reticulation				
	<b>TOTAL WATER STORAGE &amp; RETICULATION CARRIED TO GRAND SUMMARY</b>				

1.2. *Site GRAND SUMMARY ( Insert name of the Site)*

ITEM	DESCRIPTION	TENDERERS AMOUNT Kshs	OFFICIAL USE ONLY Kshs
1	MILSHED FROM PAGE MS/6		
2	WATER STORAGE & RETICULATION PAGE WS/6		
3	Allow a provisional sum of Kenya Shillings One Hundred Thousand (Ksh. 100,000.00) only for Contigencies		
TOTAL CARRIED TO LOT GRAND SUMMARY ( see 1.3 below)			

Amount in words .....

.....

Tenderers signature and stamp

.....

.....

.....

Address.....

.....

Date.....

Witness  
Name.....

Signature.....

Address.....

Date.....

1.3. LOT GRAND SUMMARY ( All Sites)

ITEM	DESCRIPTION	TENDERERS AMOUNT Kshs	OFFICIAL USE ONLY Kshs
1	Site 1 ( Insert Name of the Site)		
2	Site 2 ( Insert Name of the Site)		
3	Site 3 ( Insert Name of the Site)		
4	Site 4 ( Insert Name of the Site)		
TOTAL CARRIED TO FORM OF TENDER			

Amount in words

.....

.....

.....

Tenderers signature and stamp

.....

.....

Address.....

.....

Date.....

.....

Witness

Name.....

.....

Signature.....

.....

Address.....

.....

Date.....

.....

#### 1.4. *Drawings & Designs*

## SECTION V - STANDARD FORMS

### List of Standard Forms

- 1.1. Form of Invitation for Tenders
- 1.2. Form of Tender
- 1.3. Letter of Acceptance
- 1.4. Form of Agreement
- 1.5. Form of Tender Security
- 1.6. Performance Bank Guarantee
- 1.7. Performance Bond
- 1.8. Bank Guarantee for Advance Payment
- 1.9. Qualification Information
- 1.10. Tender Questionnaire
- 1.11. Confidential Business Questionnaire
- 1.12. Details of Sub-Contractors
- 1.13. Request for Review Form

1.1. FORM OF INVITATION FOR TENDERS

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

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

Dear Sirs:

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

You have been prequalified to tender for the above project.

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

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

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

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

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

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

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

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

Yours faithfully,

\_\_\_\_\_ Authorised Signature

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

**1.2. FORM OF TENDER**

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

Dear Sir,

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

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

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

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

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

(Amend accordingly if provided by Insurance Company)



**1.3. LETTER OF ACCEPTANCE**

[letterhead paper of the Employer]

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

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

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

Dear Sir,

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

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

Authorized Signature .....

Name and Title of Signatory .....

Attachment : Agreement

#### 1.4. FORM OF AGREEMENT

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

WHEREAS THE Employer is desirous that the Contractor executes

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

NOW THIS AGREEMENT WITNESSETH as follows:

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

Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

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

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

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

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

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

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

**1.5. FORM OF TENDER SECURITY**

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

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

THE CONDITIONS of this obligation are:

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

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

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

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

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

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

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

**1.6. PERFORMANCE BANK GUARANTEE**

To: \_\_\_\_\_ (Name of Employer) \_\_\_\_\_ (Date)  
\_\_\_\_\_ (Address of Employer)

Dear Sir,

WHEREAS \_\_\_\_\_ (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. \_\_\_\_\_ dated \_\_\_\_\_ to execute \_\_\_\_\_ (hereinafter called "the Works");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognised bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

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

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

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

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

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

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

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

Address \_\_\_\_\_

Date \_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*

## 1.7. PERFORMANCE BOND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Address \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**1.8. BANK GUARANTEE FOR ADVANCE PAYMENT**

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

Gentlemen,

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

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

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

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

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

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

Yours faithfully,



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

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

Address \_\_\_\_\_

Date \_\_\_\_\_

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

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

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

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

## 1.9. QUALIFICATION INFORMATION

(To complete parts 1, 2 and 3 where/as appropriate)

### 1. Individual Tenderers or Individual Members of Joint Ventures

- 1.1 Constitution or legal status of tenderer (attach copy or Incorporation Certificate);

Place of registration:

---

Principal place of business

---

–

Power of attorney of signatory of tender

---

–

- 1.2 Total annual volume of construction work performed in the last ten years

YEAR	CURRENCY	Value

- 1.3 Work performed as Main Contractor on works of a similar nature and volume over the last ten years. Also list details of work under way or committed, including expected completion date – attach contracts, letters of completion & handover certificates.

Project Name	Name of client and contact person	Type of work performed and year of completion/Expected year of completion	Value of contract	Level of Completion (%)	Expected cash outlay to complete the remaining part

- 1.4 Major items of Contractor's Equipment proposed for carrying out the Works. List all information requested below.

Item of Equipment	Description, Make and age (years)	Condition(new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)

--

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract in line with **Section III (A) – Appendix to Instructions to Tenderers – Requirements**. Also attach biographical data.

Position	Name	Years of experience (general)	Years of experience in proposed position
Project Manager			

1.6 Financial reports for the last five years: balance sheets, profit and loss statements, auditor’s reports, etc. List below and attach copies.

---

1.7 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of supportive documents.

---

1.8 Proposed Credit Period (In calendar days). This shall form part of the conditions of the contract.

---

1.9 Name, address and telephone, telex and facsimile numbers of banks that may provide reference if contacted by the Employer.

---

1.10 Statement of compliance with the requirements of Clause 1.2 of the Instructions to Tenderers.

*This has been deleted*

---

1.11 Proposed program (work method and schedule) for the whole of the Works in line with Section III (A) – Appendix to Instructions to Tenderers – Requirements. .

---

1.6 Litigation History

Name of Firm or Partner of a joint venture  
 Firms, including each of the partners of a joint venture, should provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution. A separate sheet should be used for each partner of a joint venture

Year	Award FOR or AGAINST Firm	Name of client, cause of litigation and matter in dispute	Disputed amount (current value, Kshs.)

## 2. Joint Ventures

- 2.1 The information listed in 1.1 –1.10 above shall be provided for each partner of the joint venture.
- 2.2 The information required in 1.11 above shall be provided for the joint venture.
- 2.3 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture
- 2.4 Attach the Agreement among all partners of the joint venture ( and which is legally binding on all partners), which shows that:
  - a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
  - b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
  - c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

**1.10. TENDER QUESTIONNAIRE**

Please fill in block letters.

1. Full names of tenderer;

.....

2. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below);

.....

3. Telephone number (s) of tenderer;

.....

4. Telex of tenderer;

.....

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

.....

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

.....

.....

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

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

1.11. CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

*Part 1 – General*

Business Name .....

Location of business premises; Country/Town.....

Plot No..... Street/Road .....

Postal Address..... Tel No.....

Nature of Business.....

Current Trade Licence No..... Expiring date.....

Maximum value of business which you can handle at any time: K.  
pound.....

Name of your bankers.....

Branch.....

*Part 2 (a) – Sole Proprietor*

Your name in full..... Age.....

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

Citizenship details .....

*Part 2 (b) – Partnership*

*Give details of partners as follows:*

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

## 1.12. DETAILS OF SUB-CONTRACTORS

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

Failure to comply with this requirement may invalidate the tender.

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

[i] Full name of Sub-contractor  
and address of head office: .....

.....

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

.....

.....

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

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

.....

.....

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

.....

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

\_\_\_\_\_  
Date



**1.13. LETTER OF NOTIFICATION OF AWARD**

Address of Procuring Entity

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

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

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

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

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

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

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

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

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

\_\_\_\_\_

SIGNED FOR ACCOUNTING OFFICER

## 1.14. CODE OF ETHICS

### PART I - Title - DECLARATION FOR CODE OF ETHICS

This code may be cited as the Code of Ethics for Suppliers in Public Procurement & Disposal

#### 1. Interpretation

In this codes, unless the context otherwise requires-

“The Act” MEANS The Public Procurement and Disposal Act, 2005 or any amendment or modification thereof

“Candidate” means a person who has obtained the tender documents from a public entity pursuant to an invitation notice by a procuring entity

“Code of Ethics” means a statement encompassing the set of rules based on values and the standards of conduct to which suppliers are expected to conform

“Consultant” is a person who provides services of predominantly intellectual, technical or advisory nature

“Contractor” means a person who enters into a procurement contract with a procuring entity to supply goods, works or services, and includes the main contractor

“Ethics” means values, customs, rules or principles, which govern right conduct

“Gift” has meaning assigned to it in the Leadership and Integrity Regulations, 2015

“Integrity” means the quality of being honest and having strong moral and ethical principles

“Persons” has meaning assigned to it in Article 260 of the Constitution and includes sole proprietorship

“Procuring Entity” means a public entity making a procurement to which the Public Procurement and Disposal Act, 2005 or any amendment or modification thereof applies

“Public Officer” has the meaning assigned to it in Article 260 of the Constitution

“Regulations” means regulations made under the Public Procurement and Disposal Act, 2005 or any amendment or modification thereof

“State Officer” has the meaning assigned to it in Article 260 of the Constitution.

“Supplier” means a candidate, bidder, and tenderer, Contractor, service provider or a consultant.

“Tenderer” means a person who submitted a tender pursuant to an invitation by a public entity

For purposes of this Code, all terms used, unless expressly defined herein, have the meaning assigned to them in the Act.

#### 2. Application of the Code

- (i) This Code of Ethics is applicable to suppliers participating in public procurement or disposal of public assets.
- (ii) The objective of the Code is to set minimum standards of ethical behavior for Suppliers to ensure compliance with the Act and the Regulations and the adoption of good business practices.

### PART II – REQUIREMENTS/OBLIGATIONS OF THE SUPPLIERS

#### 3. Laws and Regulations

- (i) All public procurement & disposal shall be undertaken in accordance with the values and principles of the Constitution of Kenya, 2010 (Article 10)
- (ii) All Suppliers shall comply with the rule of Law.
- (iii) Suppliers shall observe other laws, regulations, rules and practices relating to taxation, labour, health and safety standards as well as environmental protection.

#### **4. Professionalism**

- (i) Suppliers are required to comply with professional standards of their industry or of any professional body of which they are members. Where a supplier is a member of a professional body, the Supplier shall uphold the code of ethics of the respective profession and be of good standing.
- (ii) Suppliers shall maintain the highest standards of integrity and professionalism in their operations.
- (iii) Suppliers in public procurement shall accord mutual respect and courtesy to the public officer(s) and other suppliers without compromising their independent and distinct roles.
- (iv) Public procurement & disposal activities shall be undertaken with the objective of meeting the closest public scrutiny.

#### **5. Impartiality**

A supplier shall not engage in acts aimed at encouraging patronage, tribalism, cronyism and nepotism.

#### **6. Gifts, Favors and Corrupt practices**

- (i) A supplier shall not offer or give gifts of any kind to public entities and/or the employees.
- (ii) No supplier shall contact, unduly influence or exert pressure on any member of a committee or any other employee of a procuring entity to take a particular action which favours or tends to favour them.
- (iii) A supplier shall not engage in fraudulent, collusive, or corrupt practices, or inappropriate influences.
- (iv) A supplier shall not act inappropriately by attempting to interfere with the procurement process

#### **7. Conflict of Interest**

- (i) A supplier shall not accept contracts which would constitute a conflict of interest with any prior or current contract. Suppliers shall disclose to all concerned parties those conflicts of interest that cannot be reasonably avoided.
- (ii) A supplier shall not enter into a contract with a procuring entity if the supplier is:
  - o An employee of the procuring entity or a member of a board or committee of the procuring entity;
  - o A State Officer, public Officer or a member of a board or committee of the Government or any department of the Government or a person appointed to any position by the President or a Cabinet Secretary;
  - o A person, including a corporation, who is related to a person described in paragraph (i) or (ii). A relative has meaning assigned to it in section 33(2) of the Public Procurement and Asset Disposal Act, 2015 or any amendment or modification thereof applies;
  - o Debarred from participating in procurement proceedings.

#### **8. Performance of Duties**

8.1. A supplier shall:

- (i) Duly sign this code of ethics and include it in a tender, proposal or quotation submitted.
- (ii) Obtain and submit bid documents in the manner prescribed in the tender notice and tender documents

- (iii) Supply the right quantity and quality of the contracted item and deliver at the stipulated time(s) and shall not abandon the work that they have been contracted to do.
- (iv) Perform the obligations of the contracts efficiently and effectively
- 8.2. Suppliers shall not participate in procurement proceedings without invitation to tender and understanding the instructions to tenderers.
- 8.3. While responding to tenders, quotations or request for proposals, bidders should not include unfair, discriminatory or unreasonable conditions in their bids.
- 8.4. Suppliers should
  - (i) Ensure that their deliverables provide value for money in terms of cost, quality, quantity and timeliness of the delivered works, goods or services.
  - (ii) Ensure that competent persons carry out the contractual obligations of the supplier.
  - (iii) Accept full responsibility for all works, services or supplies provided
- 8.5. A supplier shall not
  - (i) Obstruct or hinder an officer of the Authority or any other authorized person from carrying out a duty or function or exercising a power relating to procurement and disposal.
  - (ii) Knowingly or in collusion with others lie to or mislead a person carrying out a duty or function or exercising a power relating to procurement and disposal.

**9. Communication and Accuracy of Information**

A supplier shall:

- (i) Observe strict communication limitations during the bidding process and as provided for in the Act
- (ii) Respond promptly and courteously to all proper requests for information, clarifications, complaints or enquiries from procuring entities, the Authority or any law enforcement agency.
- (iii) Ensure that all information provided to procuring entities is given in writing by Authorized Officers.
- (iv) Ensure that certified copies of all mandatory certificates are availed
- (v) Ensure that information given while participating in public procurement or disposal is true, accurate and fair, and not designed to mislead.

**10. Confidentiality**

Information obtained in the course of performance of a procurement contract shall not be disclosed to unauthorized persons and shall not be used for the Supplier's advantage or material gain or for furtherance of private interest. The obligation to preserve the confidential information continues even after the business/contractual relationship with the Procuring Entity ends.

**11. Duty to report impropriety/corruption**

A supplier shall reject and report to the PPOA and/or the relevant agency any procurement practice which might be deemed improper.

**PART III - OVERSIGHT BY THE PPOA**

- 12. PPOA shall assist in undertaking continuous training of the suppliers to eliminate malpractices which might arise due to ignorance of the public procurement system.
- 13. PPOA will exercise oversight in the enforcement of this Code of Ethics, including taking remedial measures where the Code of Ethics is breached
- 14. PPOA shall revise the code of ethics as appropriate in consultation with the relevant stakeholders

**PART IV - COMPLIANCE & MONITORING**

- 15. A Procuring Entity may conduct due diligence, on-site evaluations and inspections of suppliers’ facilities and/or project site, including those of their subcontractors and Joint Venture partners to review their compliance to this Code during execution of the Contract.
- 16. PPOA shall, on its own motion or upon receipt of a complaint, inquire into the allegation of the violation of the Code of Ethics and institute debarment proceedings in line with Regulation 90 of the Public Procurement And Disposal Regulations, 2006
- 17. PPOA shall establish a complaints management system for reporting and receipt of complaints on alleged violations of the Code of Ethics
- 18. PPOA may collaborate and partner with other agencies, organizations and professional bodies in enforcement of this Code of Ethics.
- 19. All Procuring Entities shall submit a report to PPOA, annually or upon request, of any breaches by suppliers, and any action taken against the breach, in such format as is provided by PPOA.

**PART V - ENFORCEMENT OF THE CODE**

- 20. Any person may lodge a complaint alleging a breach of this code by a supplier to the Authority or a Procuring entity.
- 21. Upon receipt of the complaint, the Authority or the Procuring entity shall register and carry out investigations into the complaint, and may take action against the supplier in accordance with the Act and any Regulations
- 22. A breach of this Code shall be subject to a debarment process as stipulated in the Act which may attract a debarment for a period not less than five years. The breach may further be subjected to a Court process that may lead to the imposition of other penalties as stipulated in the Act and other Laws.
- 23. A Procuring Entity may disqualify a supplier from further participation in a procurement or disposal proceeding or terminate a contract if it establishes a breach of this Code
- 24. A breach of this Code shall lead to termination of registration of a supplier
- 25. A supplier who violate the law or engage in unethical business dealings may be subject to disciplinary proceedings.

26. Declaration and Signature

26.1. I ..... (Supplier)  
 Confirm that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act 2015 and the Code of Ethics for Suppliers and my responsibilities under the Code.

26.2. I also certify that I am duly authorized to sign this Code on my own behalf and on behalf of my organization, and agree to comply with the Code of Ethics.

Name.....Sign.....

Position.....

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

E-mail.....

Name of the Firm.....



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

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

BETWEEN

.....APPLICANT

AND

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

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

**REQUEST FOR REVIEW**

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED .....(Applicant)

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

**FOR OFFICIAL USE ONLY**

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

SIGNED  
Board Secretary