VOLUME I

PUBLIC OPEN TENDER DOCUMENT FOR PROCUREMENT OF DESIGN, SUPPLY, INSTALLATION AND COMMISSIONING OF PRIMARY AND DISTRIBUTION SUBSTATIONS WITH ASSOCIATED LINES AT RONGAI (NAKURU COUNTY), KATHWANA (THARAKA NITHI COUNTY) AND KISERIAN (KAJIADO COUNTY)

(***E-Procurement System***)

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ABBREVIATIONS

AO	Accounting officer
FY	Fiscal year
ICT	Information, Communications Technology
ITT	Instructions to Tenderers
JV	Joint Venture
KPLC	Kenya Power and Lighting PLC
NCB	National Competitive Bidding
PE	Procuring Entity
PPADA	Public Procurement and Asset Disposal Act, 2015
PPRA	Public Procurement Regulatory Authority
R	Responsive
NR	Not-Responsive
RFQ	Request for Quotation
STD	Standard Tender Documents
TDS	Tender data Sheet
TEC	Tender Evaluation Committee
TOR	Terms of reference

NOTE:

ALL TENDERERS ARE ADVISED TO READ CAREFULLY THE TENDER DOCUMENT IN ITS ENTIRETY BEFORE MAKING ANY BID

DEFINITION OF TERMS

In this tender, unless the context or express provision otherwise requires: -

a) *Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made thereunder.*

b) *"Date of Tender Document" shall be the **start date** specified on the KPLC tendering portal.*

c) *"Day" means calendar day and "month" means calendar month.*

d) *"KEBS" wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.*

e) *"KENAS" wherever appearing means the Kenya National Accreditation Service or its successor(s) and assign(s) where the context so admits*

f) *"KPLC" Wherever appearing means The Kenya Power and Lighting PLC and shall have the same meaning with "Kenya Power" or "Kenya Power and Lighting Company Limited"*

g) *"PPRA" wherever appearing means The Public Procurement Regulatory Authority or its successor(s) and assign(s) where the context so admits.*

h) *Reference to "the tender" or the "Tender Document" includes its appendices and documents mentioned hereunder and any reference to this tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time.*

i) *"The Procuring Entity" means The Kenya Power and Lighting Company Limited or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as KPLC).*

j) *"The Tenderer" means the person(s) submitting its Tender for the works in response to the Invitation to Tender.*

k) *Where there are two or more persons included in the expression the "Tenderer", any act or default or omission by the Tenderer shall be deemed to be an act, default or omission by any one or more of such persons.*

l) *Words importing the masculine gender only, include the feminine gender*

m) *Words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the "Tenderer" the covenants, agreements and obligations expressed to be made or performed by the Tenderer shall be deemed to be made or performed by such persons jointly and severally.*

n) *KPLC's "authorized person" shall mean its MD & CEO who is designated by the PPAD Act 2015 to exercise such power, authority or discretion as is required under the tender and any contract arising therefrom, or such other KPLC staff delegated with such authority.*

o) *Citizen contractors-means a person/firm wholly owned and controlled by person(s) who are citizens of Kenya.*

p) *Local contractors- a firm shall be qualified as a local contractor if it is registered in Kenya.*

q) *"DDP" refers to Delivered Duty Paid*

INVITATION TO TENDER

1.1 Introduction

The Kenya Power & Lighting Company PLC hereinafter referred to as KPLC invites bids from eligible Tenderers for Design, Supply, Installation, and Commissioning of Primary distribution substations and associated lines

Interested eligible local contractors may obtain further information from the General Manager-Supply Chain and Logistics, The Kenya Power & Lighting Company Plc at Stima Plaza, 3rd Floor, Kolobot Road, P.O. Box 30099 – 00100 Nairobi, Kenya.

1.2 Obtaining tender documents.

1.2.1 Tender documents detailing the requirements may be obtained from the KPLC e-Procurement Portal. Kindly ensure you are registered in Central Office as a Region in order for you to participate in this tender.

1.2.2 Prospective bidders may also download the tender document from KPLC's website (www.kplc.co.ke) free of charge.

1.3 Submission of Tender documents

Completed Tenders are to be submitted in electronic format on the KPLC's E-procurement portal on the due date and time published on the portal. Tenderers are required to visit the portal from time to time for revised closing dates and addendums. The Tender is to be submitted **ONLINE** on or before the submission date and time indicated on the **KPLC tendering portal** ***under Rfx NO. 1000003332***

1.4 Tender Closing Date and Time

Tender closing date and time is as specified in the KPLC's tendering portal.

1.5 Bid Price

Offered Price should be inclusive of all taxes, duties, levies and delivery costs to the KPLC specified sites, shall be in ***Kenya Shillings and a Foreign Currency (USD)*** and shall remain valid for **One hundred and eighty (180) days** from the closing date of the tender.

Please note that prices indicated on the KPLC tendering portal should be exclusive of VAT.

1.6 Opening of submitted Tenders

Tenders will be opened promptly thereafter in the presence of the Tenderer's or their representatives who choose to attend in **KPLC Auditorium at Stima Plaza, Kolobot Road, Parklands, Nairobi.**

1.7 Pre-bid Meeting and Site Visit

There will be a pre-bid meeting to be held at KPLC's premises, Stima Plaza, Auditorium, Kolobot Road, Nairobi, Kenya at **10:00 Am** on **9th November, 2026** and a mandatory pre-bid site visit thereafter to the project sites as detailed in ITT: 1.7.

TENDER SUBMISSION CHECKLIST

1.8 Tender Submission Check List

Tenderers shall submit in their bid the documents listed in the table below. This order and arrangement shall be considered as the Tender Submission Format. Tenderers are advised to clearly label their documents while uploading on the e-procurement portal and shall tick against each item indicating that they have provided it.

Bidders are advised to clearly label their documents while uploading on the portal.

No.	Item	Tick where provided
1	Tender Security – Bank Guarantee issued by local Banks (tier I or II) licensed by the Central Bank of Kenya	
2	Duly completed Declaration Form on deviations	
3	Duly completed Tender Form	
4	Copy of Company or Firm's Registration Certificate	
5	Copy of PIN Certificate	
6	Copy of Valid Tax Compliance Certificate	
7	Confidential Business Questionnaire (CBQ)	
8	National Construction Authorities (NCA 1) registration Certificate and a valid Tenderer's Practicing License for Electrical, Building, Roads, Water and other Civil works	
9	Copy of bidder's relevant EPRA Class of registration as Electrical contractor from Energy & Petroleum Regulatory Authority (EPRA -A1)	
12	Valid and current ISO 9001:2015 Certificates for the manufacturer of materials or for locally manufactured materials a valid Mark of Quality Certificate or Standardization Mark Certificates from the Kenya Bureau of Standards (KEBS).	
13	Type Test report and Certificates for major materials	
14	Statement on conformity to referenced standards by Manufacturer	
15	Catalogues and Manufacturer's drawings of all major materials	
16	Manufacturer's Authorisation form	
17	Duly completed performance qualification information Forms	
18	Proposed Work program Project implementation Schedule	
19	Work methodology	
20	Quality management plan	
21	Duly completed Guaranteed Technical Particulars for all major items	
22	ESHS work site management plan	
23	Duly completed Site Visit Form (mandatory)	
24	Certificate of Confirmation of Directors and Shareholding (C.R.12)	
25	Duly completed, signed and stamped Price schedules	
26	Financial Statements. Audited Financial Statements for the last (3) three years. The latest financial statements audited must be those that are reported within twelve (12) Calendar months from the date of the tender document. *(For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original).*	
27	Three (3) similar previous EPC signed completed or ongoing contracts with full contacts as well as physical addresses, and reference letters from at least three (3) of the clients	
29	Any other document or item required by the Tender Document. (The Tenderer shall specify such other documents or items it has submitted)	

***NOTES TO TENDERERS**

1. *Valid Tax Compliance Certificate shall be one issued by the relevant tax authorities and valid for at least up to the tender closing date. All Kenyan Registered Tenderers must provide a valid Tax Compliance Certificate.*
2. *All Kenyan Registered Tenderers must provide the Personal Identification Number Certificate (PIN Certificate).*
3. *Valid Registration Certificate shall be one issued by the relevant National Construction Authority (NCA) and Energy and Petroleum Regulatory Authority (EPRA).*

PART 1 - TENDERING PROCEDURES

SECTION I: INSTRUCTIONS TO TENDERERS

A. GENERAL PROVISIONS

Definitions

In this tender, unless the context or express provision otherwise requires: -

a) Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.

*b) "Date of Tender Document" shall be the **start date** specified on the KPLC tendering portal.*

c) "Day" means calendar day and "month" means calendar month.

d) "KEBS" wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.

e) "KENAS" wherever appearing means the Kenya National Accreditation Service or its successor(s) and assign(s) where the context so admits

f) "NCA" wherever appearing means the National Construction Authority or its successor(s) and assign(s) where the context so admits

g) "PPRA" wherever appearing means The Public Procurement Regulatory Authority or its successor(s) and assign(s) where the context so admits.

h) Reference to "the tender" or the "Tender Document" includes its appendices and documents mentioned hereunder and any reference to this tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time.

i) "The Procuring Entity" means The Kenya Power and Lighting Company Limited or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as KPLC).

j) "The Tenderer" means the person(s) submitting its Tender for the performance of Works in response to the Invitation to Tender. This may include a business name, joint venture, private or public company, government owned institution or any combination of one or more of them.

k) Where there are two or more persons included in the expression the "Tenderer", any act or default or omission by the Tenderer shall be deemed to be an act, default or omission by any one or more of such persons.

l) *Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.*

m) Words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the "Tenderer" the covenants, agreements and obligations expressed to be made or performed by the Tenderer shall be deemed to be made or performed by such persons jointly and severally.

n) "Works" means the construction, repair, renovation or demolition of buildings, roads or other structures and includes the design, supply, installation, testing and commissioning of equipment and materials, site preparation and other incidental services where applicable.

m) KPLC's "authorised person" shall mean its MD & CEO who is designated by the PPAD Act 2015 to exercise such power, authority or discretion as is required under the tender and any contract arising therefrom, or such other KPLC staff delegated with such authority.

n) Citizen contractors-a firm shall be qualified as a citizen contractor if its owners and shareholders are Kenyan citizens

o) Local contractors- a firm shall be qualified as a local contractor if it is registered in Kenya.

2.0 Scope of the tender

Kenya Power as defined in the definition of terms invites tenders for Works Contract as described in the tender documents. The name, identification, and number of lots (contracts) of this Tender Document are specified in the TDS.

2.1 Fraud and Corruption

2.1.1 Kenya Power requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

2.1.2 Kenya Power requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

2.1.3 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, Kenya Power shall indicate in the **Data Sheet** and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

2.1.4 Unfair Competitive Advantage -Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender being tendered for. Kenya Power shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. Kenya Power shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. Kenya Power shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

3. Eligible Tenderers

3.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.7 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. Public employees and their close relatives *(spouses, children, brothers, sisters and uncles and aunts)* are not eligible to participate in the tender. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS.**

3.2 Public Officers of Kenya Power, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

3.3 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:

a) Directly or indirectly controls, is controlled by or is under common control with another tenderer; or
b) Receives or has received any direct or indirect subsidy from another tenderer; or
c) Has the same legal representative as another tenderer; or
d) Has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of Kenya Power regarding this tendering process; or
e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender; or
f) any of its affiliates has been hired (or is proposed to be hired) by Kenya Power as Engineer for the Contract implementation; or
g) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contract specified in this Tender Document or
h) Has a close business or family relationship with a professional staff of Kenya Power who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to Kenya Power throughout the tendering process and execution of the Contract

3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved any of these practices shall be automatically disqualified.

3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.

3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT3.1. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.

3.7 Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.

3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are accredited by PPRA to be (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.

3.9 A Firms and individuals may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to Kenya Power, as Kenya Power shall reasonably request.

3.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable Kenya Power determine if this condition is met shall be provided in for this purpose is be provided in *"SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9".*

3.11 Pursuant to the eligibility requirements of ITT 3.1, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan Citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than 51 percent ownership by Kenyan citizens. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

3.12 The National Construction Authority Act of Kenya requires that all local and foreign contractors be registered with the National Construction Authority and be issued with a Registration Certificate before they can undertake any construction works in Kenya. Registration shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before such award and signature of contract. Application for registration with National Construction Authority may be accessed from the website www.nca.go.ke.

3.13 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke

3.14 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

4. Eligible Goods, Equipment, and Services

4.1 Goods, equipment and services to be supplied under the Contract may have their origin in any country that is not eligible under ITT 3.9. At Kenya Power 's request, Tenderers may be required to provide evidence of the origin of Goods, equipment and services.

4.2 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5. Tenderer's Responsibilities

5.1 The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and Kenya Power will in no case be responsible or liable for those costs.

5.2 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.

5.3 The Tenderer and any of its personnel or agents will be granted permission by Kenya Power to enter upon its premises and lands for the purpose of such visit. The Tenderer shall indemnify Kenya Power against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the inspection.

5.4 The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

B. SECTIONS OF TENDER DOCUMENTS

6. Sections of Tender Documents

The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addendum issued in accordance with ITT 8.

PART 1: TENDERING PROCEDURES

Section I - Instructions to Tenderers (ITT)
Section II - Tender Data Sheet (TDS)
Section III - Evaluation and Qualification Criteria
Section IV - Tendering Forms

PART 2: SECTION V- WORKS REQUIREMENTS AND SPECIFICATIONS

i) Volume II- Works requirements and particular technical specifications
ii) Guaranteed Technical Specifications
iii) Attachments- Drawings and KPLC Material Specifications
iv) Volume II Forms

PART 3 CONDITIONS OF CONTRACT AND CONTRACT FORMS

i) Section VIII - General Conditions of Contract (GCC)
ii) Section IX - Special Conditions of Contract (SCC)
iii) Section X - Contract Forms

6.1 The Invitation to Tender Document (ITT) issued by Kenya Power is not part of the Contract documents.

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

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

7. Site Visit

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

8. Pre-Tender Meeting

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

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

8.3 Minutes of the pre-Tender meeting and the pre-arranged pretender site visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses

given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

8.4 Kenya Power shall also promptly publish anonym zed (*no names*) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made by Kenya Power exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting.
Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9. Clarification and amendments of Tender Documents

9.1 A Tenderer requiring any clarification of the Tender Document shall contact Kenya Power in writing at Kenya Power's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting and the pre- arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. Kenya Power will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. Kenya Power shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If specified in the **TDS**, Kenya Power shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, Kenya Power shall amend the Tender Documents appropriately following the procedure under ITT 8.4.

10. Amendment of Tendering Document

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

10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from Kenya Power in accordance with ITT 6.3. Kenya Power shall also promptly publish the addendum on Kenya Power's web page in accordance with ITT 8.4.

10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, Kenya Power shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 25.2 below**.**

C. PREPARATION OF TENDERS

11. Cost of Tendering

11.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and Kenya Power shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

12. Language of Tender

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

13. Documents Comprising the Tender

13.1 The Tender shall comprise the following:

a) Form of Tender prepared in accordance with ITT 14;
b) Schedules including priced Bill of Quantities, completed in accordance with ITT 14 and ITT 16;
c) Tender Security or Tender-Securing Declaration, in accordance with ITT 21.1;
d) Alternative Tender, if permissible, in accordance with ITT 15;
e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
f) Qualifications: documentary evidence in accordance with ITT 19establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
g) Conformity: a technical proposal in accordance with ITT 18;
h) Any other document required in the **TDS**.

13.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.

13.3 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender**.**

14. Form of Tender and Schedules

14.1 The Form of Tender and Schedules, including the Bill of Quantities*,* shall be prepared using the relevant form*s* furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested.

15. Alternative Tenders

15.1 Unless otherwise specified in the **TDS**, alternative Tenders shall not be considered.

15.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **TDS**, and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.

15.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price Kenya Power 's design as

described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by Kenya Power, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by Kenya Power. When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**, as will the method for their evaluating, and described in Section VII, Works' Requirements.

16. Tender Prices and Discounts

16.1 The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Bill of Quantities shall conform to the requirements specified below.

16.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Tenderer shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by Kenya Power. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Tender, and provided that the Tender is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive Tenderers will be added to the Tender price and the equivalent total cost of the Tender so determined will be used for price comparison.

16.3 The price to be quoted in the Form of Tender, in accordance with ITT 14.1, shall be the total price of the Tender, including any discounts offered.

16.4 The Tenderer shall quote any discounts and the methodology for their application in the Form of Tender, in accordance with ITT 14.1.

16.5 It will be specified in the **TDS** if the rates and prices quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, except in cases where the contract is subject to fluctuations and adjustments, not fixed price. In such a case, the Tenderer shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and Kenya Power may require the Tenderer to justify its proposed indices and weightings.

16.6 Where tenders are being invited for individual lots (contracts)or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 16.4, provided the Tenders for all lots (contracts) are opened at the same time.

16.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

17. Currencies of Tender and Payment

17.1 Tenderers shall quote in Kenya Shillings and a foreign currency. The unit rates and the prices shall be quoted by the Tenderer in the Bill of Quantities, in Kenya shillings and a foreign currency. A Tenderer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside Kenya shall device own ways of getting foreign currency to meet those expenditures.

18. Documents Comprising the Technical Proposal

18.1 The Tenderer shall furnish a technical proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Tender Forms, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work's requirements and the completion time.

19. Documents Establishing the Eligibility and Qualifications of the Tenderer

19.1 Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility in accordance with ITT 3.

19.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tender Forms.

19.3 A margin of preference will not be allowed. Preference and reservations will be allowed, individually or in joint ventures. Applying for eligibility for Preference and reservations shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 33.1.

19.4 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by Kenya Power, a contractor or group of contractors qualifies for a margin of preference. Further the information will enable Kenya Power identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.

19.5 The purpose of the information described in ITT 19.4 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by Kenya Power as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

19.6 The Tenderer shall provide further documentary proof, information or authorizations that Kenya Power may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

19.7 All information provided by the tendered pursuant to these requirements must be complete, current and accurate as at the date of provision to Kenya Power. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to Kenya Power.

19.8 If a tenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if Kenya Power is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tendered pursuant to these requirements, then the tender will be rejected.

19.9 If information submitted by a tenderer pursuant to these requirements, or obtained by Kenya Power (whether through its own enquiries, through notification by the public or

otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
ii) if the contract has been awarded to that tenderer, the contract award will be set aside,
iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

19.10 If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out of date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of Kenya Power that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

20. Period of Validity of Tenders

20.1 Tenders shall remain valid for the Tender Validity period specified in the **TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by Kenya Power in accordance with ITT 24). A Tender valid for a shorter period shall be rejected by Kenya Power as non-responsive.

20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, Kenya Power may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21.1, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 20.3.

20.3 If the award is delayed by a period exceeding the number of days to be specified in the **TDS** days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows**:**

a) in the case of **fixed price** contracts, the Contract price shall be the tender price adjusted by the factor specified in the **TDS**;

b) in the case of **adjustable price** contracts, no adjustment shall be made; or in any case, tender evaluation shall be based on the tender price without taking into consideration the applicable correction from those indicated above.

21. Tender Security

21.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified in the **TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified in the **TDS**. A Tender-Securing Declaration shall use the form included in Section IV, Tender Forms**.**

21.2 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:

a) an unconditional Bank Guarantee issued by reputable commercial bank); or

b) an irrevocable letter of credit; or

c) a Banker's cheque issued by a reputable commercial bank; or

d) another security specified **in the TDS**,

21.3 If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 20.2.

21.4 If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by Kenya Power as non-responsive.

21.5 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security and any other documents required in the **TDS**. Kenya Power shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined nonresponsive or a bidder declines to extend tender validity period.

21.6 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the **TDS**.

21.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:

e) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension thereto provided by the Tenderer; or

f) if the successful Tenderer fails to:

i) sign the Contract in accordance with ITT 50; or

ii) furnish a Performance Security and if required in the **TDS**, and any other documents required in the **TDS**.

21.8 Where tender securing declaration is executed, Kenya Power shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.

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

21.10 A tenderer shall not issue a tender security to guarantee itself.

22. Format and Signing of Tender

22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 15, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

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

22.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.

22.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.

22.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

23. Sealing and Marking of Tenders

23.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to Kenya Power and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and

b) in an envelope or package or container marked "COPIES", all required copies of the Tender; and

c) if alternative Tenders are permitted in accordance with ITT 15, and if relevant:

i) in an envelope or package or container marked "ORIGINAL –ALTERNATIVE TENDER", the alternative Tender; and

ii) in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

a) bear the name and address of Kenya Power.

b) bear the name and address of the Tenderer; and

c) bear the name and Reference number of the Tender.

23.2 If an envelope or package or container is not sealed and marked as required, Kenya Power will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

24. Deadline for Submission of Tenders

24.1 Tenders must be received by Kenya Power at the address specified in the **TDS** and no later than the date and time also specified in the **TDS**. When so specified in the **TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the **TDS**.

24.2 Kenya Power may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of Kenya Power and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

25. Late Tenders

25.1 Kenya Power shall not consider any Tender that arrives after the deadline for submission of tenders, in accordance with ITT 24. Any Tender received by Kenya Power after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

26. Withdrawal, Substitution, and Modification of Tenders

26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 22.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

a) prepared and submitted in accordance with ITT 22 and ITT 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and

b) Received by Kenya Power prior to the deadline prescribed for submission of Tenders, in accordance with ITT 24.

26.2 Tenders requested to be withdrawn in accordance with ITT 26.1 shall be returned unopened to the Tenderers.

26.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

27. Tender Opening

27.1 Except in the cases specified in ITT 23 and ITT 26.2, Kenya Power shall publicly open and read out all Tenders received by the deadline, at the date, time and place specified in the **TDS**, in the presence of Tenderers' designated representatives who chooses to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 24.1, shall be as specified in the **TDS**.

27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelopes with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

27.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening. 27.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.

27.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender Securing Declaration, if required; and any other details as Kenya Power may consider appropriate.

27.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of Kenya Power to sign shall be specified in the **TDS**.

27.7 At the Tender Opening, Kenya Power shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 25.1).

27.8 Kenya Power **shall prepare minutes of the Tender Opening that shall include, as a minimum:**

a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;

b) the Tender Price, per lot (contract) if applicable, including any discounts;

c) any alternative Tenders;

d) The presence or absence of a Tender Security, if one was required.

e) Number of pages of each tender document submitted.

27.9 The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening register shall be distributed to all Tenderers upon request.

E. Evaluation and Comparison of Tenders

28. Confidentiality

28.1 Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with the Tender process until information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 46.

28.2 Any effort by a Tenderer to influence Kenya Power in the evaluation of the Tenders or Contract award decisions may result in the rejection of its tender.

28.3 Notwithstanding ITT 28.2, from the time of tender opening to the time of contract award, if a tenderer wishes to contact Kenya Power on any **matter related to the tendering process, it shall do so in writing.**

29. Clarification of Tenders

29.1 To assist in the examination, evaluation, and comparison of the tenders, and qualification of the tenderers, Kenya Power may, at its discretion, ask any tenderer for a clarification of its tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by Kenya Power shall not be considered. Kenya Power's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by Kenya Power in the evaluation of the tenders, in accordance with ITT 33.

29.2 If a tenderer does not provide clarifications of its tender by the date and time set in Kenya Power's request for clarification, its Tender may be rejected.

30. Deviations, Reservations, and Omissions

30.1 During the evaluation of tenders, the following definitions apply:

a) "Deviation" is a departure from the requirements specified in the tender document;

b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document; and

c) "Omission" is the failure to submit part or all of the information or documentation required in the Tender document.

31. Determination of Responsiveness

31.1 Kenya Power's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 13.

31.2 A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation**, reservation, or omission. A material deviation, reservation, or omission is one that, if accepted, would:**

a) affect in any substantial way the scope, quality, or performance of the Works specified in the
Contract; or

b) limit in any substantial way, inconsistent with the tender document, Kenya Power 's rights or the tenderer's obligations under the proposed contract; or

c) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.

31.3 Kenya Power shall examine the technical aspects of the tender submitted in accordance with ITT 18, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.

31.4 If a tender is not substantially responsive to the requirements of the tender document, it shall be rejected by Kenya Power and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

32. Non-material non-conformities

32.1 Provided that a tender is substantially responsive, Kenya Power may waive any non-conformities in the tender.

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

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

33. Arithmetical Errors

33.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

33.2 Provided that the Tender is substantially responsive, Kenya Power shall handle errors on the following basis:

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, and subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive and
c) if there is a discrepancy between words and figures, the amount in words shall prevail

33.3 Tenderers shall be notified of any error detected in their bid during the notification of a ward.

34. Currency provisions

34.1 Tenders will priced be in Kenya Shillings and USD for Price schedule No. 1.

35. Margin of Preference and Reservations

35.1 No margin of preference shall be allowed on contracts for small works.

35.2 Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and/or persons living with disability, who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only

businesses/firms belonging to those specified groups are the only ones eligible to tender. Otherwise, if not so stated, the invitation will be open to all tenderers.

36. Nominated Subcontractors

36.1 Unless otherwise stated in the **TDS**, Kenya Power does not intend to execute any specific elements of the Works by subcontractors selected in advance by Kenya Power.

36.2 Tenderers may propose subcontracting up to the percentage of total value of contracts or the volume of works as specified in the **TDS**. Subcontractors proposed by the Tenderer shall be fully qualified for their parts of the Works.

36.3 The subcontractor's qualifications shall not be used by the Tenderer to qualify for the Works unless their specialized parts of the Works were previously designated by Kenya Power in the TDS as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Subcontractors proposed by the Tenderer may be added to the qualifications of the Tenderer.

37. Evaluation of Tenders

37.1 Kenya Power shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies Kenya Power shall determine the Best Evaluated Tender in accordance with ITT 40.

37.2 To evaluate a Tender, Kenya Power shall consider the following:

a) price adjustment due to discounts offered in accordance with ITT 16;
b) converting the amount resulting from applying (a) above, if relevant, to a single currency in accordance with ITT 39;
c) price adjustment due to quantifiable non-material non-conformities in accordance with ITT 30.3; and
d) Any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

37.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.

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

38. Comparison of Tenders

38.1 Kenya Power shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 38.2 to determine the Tender that has the lowest evaluated cost.

39. Abnormally Low Tenders

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

39.2 In the event of identification of a potentially Abnormally Low Tender, Kenya Power shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology,

schedule, allocation of risks and responsibilities and any other requirements of the Tender document.

39.3 After evaluation of the price analyses, in the event that Kenya Power determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, Kenya Power shall reject the Tender.

40. Abnormally High Tenders

40.1 An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that Kenya Power is concerned that it (Kenya Power) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.

40.2 In case of an abnormally high tender price, Kenya Power shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. Kenya Power may also seek written clarification from the tenderer on the reason for the high tender price. Kenya Power shall proceed as follows:

i) If the tender price is abnormally high based on wrong estimated cost of the contract, Kenya Power may accept or not accept the tender depending on Kenya Power's budget considerations.

ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, Kenya Power shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

40.3 If Kenya Power determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), Kenya Power shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering**.**

41. Unbalanced and/or Front-Loaded Tenders

41.1 If in Kenya Power's opinion, the Tender that is evaluated as the lowest evaluated price is seriously unbalanced and/or front loaded, Kenya Power may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with the scope of works, proposed methodology, schedule and any other requirements of the Tender document.

41.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, Kenya Power may as appropriate:

a) accept the Tender; or

b) require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or

c) agree on a payment mode that eliminates the inherent risk of Kenya Power paying too much for undelivered works; or

d) reject the Tender,

42. Qualifications of the Tenderer

42.1 Kenya Power shall determine to its satisfaction whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

42.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 19. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.

42.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event Kenya Power shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similar determination of that Tenderer's qualifications to perform satisfactorily.

42.4 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.

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

42.6 After evaluation of the price analyses, if Kenya Power determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, Kenya Power shall reject the Tender.

43. Best Evaluated Tender

43.1 Having compared the evaluated prices of Tenders; Kenya Power shall determine the Best Evaluated Tender. The Best Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:

a) Most responsive to the Tender document; and
b) the lowest evaluated price.

44. Procuring Entity has Right to Accept Any Tender, and to reject any or All Tenders.

44.1 Kenya Power reserves the right to accept or reject any Tender and to annul the Tender process and reject all Tenders at any time prior to Contract Award, without thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

45. Award Criteria

45.1 Kenya Power shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender.

46. Notice of Intention to enter into a Contract

46.1 Upon award of the contract and prior to the expiry of the Tender Validity Period Kenya Power shall issue a Notification of Intention to Enter into a Contract / Notification of award to all tenderers which shall contain, at a minimum, the following information:

a) the name and address of the Tenderer submitting the successful tender;
b) the Contract price of the successful tender;

c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
d) the expiry date of the Standstill Period; and
e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

47. Standstill Period

47.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.

47.2 Where a Standstill Period applies, it shall commence when Kenya Power has transmitted to each Tenderer the Notification of Intention to Enter **into a Contract with the successful Tenderer.**

48. Debriefing by Kenya Power

48.1 On receipt of Kenya Power 's Notification of Intention to Enter into a Contract referred to in ITT 46, an unsuccessful tenderer may make a written request to Kenya Power for a debriefing on specific issues or concerns regarding their tender. Kenya Power shall provide the debriefing within five days of receipt of the request.

48.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending **such a debriefing meeting.**

49. Letter of Award

49.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, Kenya Power shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21days of the date of the letter.

50. Signing of Contract

50.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, Kenya Power shall send the successful Tenderer the Contract Agreement.
50.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to Kenya Power.
50.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period

51. Appointment of Adjudicator

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

52. Performance Security

52.1 Within fourteen days (14) days of the receipt of the Letter of Acceptance from Kenya Power, the successful Tenderer shall furnish the Performance Security and, any other documents required in the **TDS**, in accordance with the General Conditions of Contract, subject to ITT 40.2 (b), using the Performance Security and other Forms included in

Section IX, Contract Forms, or another form acceptable to Kenya Power. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless Kenya Power has agreed in writing that a correspondent bank is not required.

52.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the **TDS**, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event Kenya Power may award the Contract to the Tenderer offering the next Best Evaluated Tender.

52.3 Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million shillings**.**

53. Publication of Procurement Contract

53.1 Within fourteen days after signing the contract, Kenya Power shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:

a) name and address of Kenya Power;
b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;
c) the name of the successful Tenderer, the final total contract price, the contract duration.
d) dates of signature, commencement and completion of contract;
e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

54. Procurement Related Complaints and Administrative Review

54.1 The procedures for making Procurement-related Complaints are as specified in the **TDS**.

54.2 A request for administrative review shall be made in the form provided under contract forms.

SECTION II - TENDER DATA SHEET (TDS)

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

Ref. ITT	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
A	**General**
ITT 1.1	The name of the tender: **Procurement of Design, Supply, Installation and Commissioning of Primary Substations & Associated Lines at Ronagi, Kathwana and Kiserian sites** The identification number of the tender **NCB NO: KP1/6A.1/OT/9/26/C09** **Rfx. NO. 100000332** The number and identification of LOTs (Contracts) comprising this NCB are: **NCB NO: KP1/6A.1/OT/9/26/C09 LOT 1:** Procurement of Design, Supply, Installation and commissioning of 2x23MVA 132/33 kV Substation and associated Lines at **Rongai Substation** in Nakuru County. **NCB NO: KP1/6A.1/OT/9/26/C09 LOT 2:** Procurement of Design, Supply, Installation and commissioning of 2x23 MVA 132/33 kV Substations and associated Lines at **Kathwana substation** in Tharaka Nithi County **NCB NO: KP1/6A.1/OT/9/26/C09 LOT 3:** Procurement of Design, Supply, Installation and commissioning of 2x23 MVA 66/11 kV Substations and associated Lines at **Kiserian substation** in Kajiado County ***Bidders may bid for any one Lot or any number of Lots. However, the maximum number of lots a bidder may be awarded shall be One (1) Lot. The criteria to be used in arriving at the One (1) Lot, for any bidder evaluated as the lowest in more than one Lot 1 shall be the lot that gives employer lowest total cost across the Lots.*** ***Bidders should note that each Lot shall constitute one Contract.*** ***Note:*** *The general geographical locations of the lots are detailed under Section VI of Volume II bidding document (Work Requirements) complete with details relating to the scope, specifications and Bill of quantities.*
ITT 1.2	Tender document shall be obtained from KPLC's website (www.kplc.co.ke) free of charge.
ITT 1.3	Bids to be submitted ONLINE via KPLC online tender portal.
ITT 1.5	The prices quoted by the Bidder shall be: **Fixed** and terms shall be strictly on **Delivered Duty Paid (DDP).** ***Bidders are advised that prices quoted on the KPLC online tendering portal should be exclusive of VAT taxes.***
ITT 1.6	The deadline for bid submission is: Date: **3rd December, 2026** Time: **10:00a.m.** Bidders ***shall not*** have the option of submitting their bids in hardcopies.
	The bid opening shall take place at: Address: **Kenya Power & Lighting Co. PLC** Street Address: **Stima Plaza, Kolobot Road, Parklands** Floor/Room number**: Auditorium** Date: **3rd December, 2026** Time: **10:30 Am** East Africa Time
ITT 1.7	A Pre-Bid meeting shall take place at the following date, time and place. **Date**: **9th November,2026** **Time: 10.00 Am** East Africa Time

<table>
<tr><td></td><td>Place: The Auditorium, Stima Plaza, Kenya Power Kolobot Rd, Parklands, Nairobi</td></tr>
<tr><td></td><td>A mandatory Pre-bid site visits <u>will be</u> conducted by the employer concurrently at all the sites follows:
<table>
<tr><th>Date</th><th>Time</th><th>Site</th><th>Starting point</th></tr>
<tr><td>10th November, 2026</td><td>10.00AM</td><td>Kiserian (Kajiado County)</td><td>KPLC Matasia 66/11kV Substation</td></tr>
<tr><td>11th November, 2026</td><td>10.00AM</td><td>Kathwana (Tharaka Nithi County)</td><td>ENA Town in Tharaka Nithi County</td></tr>
<tr><td>12th November, 2026</td><td>10.00AM</td><td>Rongai (Nakuru County)</td><td>KPLC Rongai 33/11kV Substation (Salgaa Town</td></tr>
</table>

Pre-bid Site Visit is mandatory to all bidders and bidder’s representative shall include at least one technical staff member who shall sign site visit form.
Bidders will therefore require different team per site for the Lots they are bidding.
Bidders shall cater for their pre-bid costs
</td></tr>
<tr><td>ITT 3.0</td><td>Tender is open to Citizen Contractors only</td></tr>
<tr><td>ITT 3.1</td><td>Maximum number of members in a Joint Venture (JV) are two (2)</td></tr>
<tr><td>B</td><td>Contents of Tender Document</td></tr>
<tr><td>ITT 8.2</td><td>Any questions in writing, shall reach KPLC not later than seven (7) days prior to tender closing date and shall be requested through the e-mail addresses on the cover page of this tender document</td></tr>
<tr><td>ITT 8.4</td><td>Minutes of the pre-Tender meeting and site visit of the site of the works will be published at the website on the KPLC website www.kplc.co.ke and on our E Procurement portal.</td></tr>
<tr><td>ITT 9.1</td><td>KPLC shall publish its response at the website and on their E-Procurement Portal through an addendum for general queries or email for specific queries.

For <u>Clarification purposes,</u> the Employer’s address is:
Attention: Eng. Nicholas Kiminda
Chief Engineer, Turnkey Projects
The Kenya Power, Stima Plaza 2nd floor
Kolobot Road, Parklands
P.O Box 30099 – 00100 Nairobi, Kenya
Electronic mail address: NKiminda@kplc.co.ke
Telephone: +254-20-711051
and a copy to;

Tom Kimama
Engineer, Turnkey Projects
Electronic mail address TKimama@kplc.co.ke,
Pmkioko@kplc.co.ke
Aobaga@kplc.co.ke
Telephone: +254-20-711031828

M/S. Stella Mucheke
Chief Supply Chain Officer, Infrastructure development
Electronic mail address: Smucheke@kplc.co.ke
Telephone: +254-20-711031349

Mr. Michael Owuor
Supply Chain Officer, Infrastructure Development
Electronic mail address: MOchiengOwuor@kplc.co.ke
Telephone: +254-20-711031033</td></tr>
<tr><td>C</td><td>Preparation of Tenders</td></tr>
<tr><td>ITT 12</td><td>Language of the tender shall be English only</td></tr>
<tr><td>ITT 15.1</td><td>Alternative solution shall not be considered.</td></tr>
</table>

<table>
<tr><td>ITT 15.2</td><td>Alternative times for completion shall not be considered</td></tr>
<tr><td>ITT 15.3</td><td>Alternative technical solutions shall not be permitted</td></tr>
<tr><td>ITT 18</td><td>
In addition to requirements in clause 3.1(a) to (h) bidders shall submit with the bids:
a) At least three (3) previous similar EPC successfully completed with full contacts including telephone, email and physical addresses of previous clients where similar contracts have been implemented successfully in the last 8 years.
b) Three (3) Reference Letters from the previous clients of similar EPC contracts confirming satisfactory completion of the contracts
c) Duly filled signed and stamped Schedule of Prices
d) Project implementation schedule in Gantt chart, work methodology, Quality management plan and ESHS work site plan.
e) Documentary evidence to demonstrate manufacturer’s qualification for major items tabulated below:
Major Materials/Equipment in this Project are:
A) LOT 1 and LOT 2: Rongai and Kathwana 2 x 23 MVA 132/33 kV
<table>
<tr><th>NO</th><th>Equipment/Materials</th></tr>
<tr><td>1</td><td>Power transformer (23MVA 132/33KV)</td></tr>
<tr><td>2</td><td>Lattice Towers, Gantries and substation equipment support Steel structures</td></tr>
<tr><td>3</td><td>132 kV Outdoor Switchgears Circuit breaker</td></tr>
<tr><td>4</td><td>33 kV Outdoor Switchgears Circuit breaker</td></tr>
<tr><td>5</td><td>132 kV Outdoor Switchgears Isolators</td></tr>
<tr><td>6</td><td>33 kV Outdoor Switchgears Isolators</td></tr>
<tr><td>7</td><td>132kV Instrument transformers (CTs and VTs)</td></tr>
<tr><td>8</td><td>33kV Instrument transformers (CTs and VTs)</td></tr>
<tr><td>9</td><td>132 and 33 kV Insulators</td></tr>
<tr><td>10</td><td>132 and 33kV Surge arrestors</td></tr>
<tr><td>11</td><td>Protection and Control system</td></tr>
<tr><td>12</td><td>SAS system</td></tr>
<tr><td>13</td><td>Telecommunication system</td></tr>
<tr><td>14</td><td>110V and 48V Battery and Charger</td></tr>
<tr><td>15</td><td>Phase Conductor (150mm^2, 175mm^2 and 300 mm^2 ACSR)</td></tr>
<tr><td>16</td><td>OPGW cable</td></tr>
<tr><td>17</td><td>Concrete poles</td></tr>
</table>
B) LOT 3: Kiserian 2 x 23 MVA 66/11 kV
<table>
<tr><th>NO</th><th>Equipment/Materials</th></tr>
<tr><td>1</td><td>Power transformer (23MVA 66/11KV)</td></tr>
<tr><td>2</td><td>Substation equipment support steel structures</td></tr>
<tr><td>3</td><td>66 kV Outdoor Switchgears Circuit breaker</td></tr>
<tr><td>4</td><td>11 kV Indoor Switchgears Board</td></tr>
<tr><td>5</td><td>66 kV Outdoor Switchgears Isolators</td></tr>
<tr><td>6</td><td>66 kV Instrument transformers (CTs and VTs)</td></tr>
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<tr><td>10</td><td>Telecommunication system</td></tr>
<tr><td>11</td><td>110V and 48V Battery and Charger</td></tr>
<tr><td>12</td><td>Phase Conductor (150mm^2 and 300mm^2 ACSR)</td></tr>
<tr><td>13</td><td>Concrete poles</td></tr>
<tr><td>14</td><td>11 kV Power Cables</td></tr>
</table>
• Manufacturer’s authorizations and warranty in case the bidder is not a manufacturer
• Manufacturer’s ISO 9001:2015
• Guaranteed Technical Particulars (GTPs) duly completed and signed by the bidder/manufacturer as required in technical specifications.
• Type tests report and certificate from accredited testing laboratory as required in the technical specifications
• The accreditation certificate for the testing laboratory to ISO/IEC 17025
</td></tr>
</table>

<table>
<tr><td></td><td>

Bidders shall provide additional information such as brochures/catalogues and drawings (technical data sheet) describing in detail the technical particulars of proposed equipment.
The Manufacturer's declaration of Conformity to reference standards

f) Bidder's Audited Financial statements for the last three (3) years, the latest audited financial statements must be those that are reported within 12 calendar months of date of tender document.
g) List of manufacturer's customer sales records outside country of origin/manufacturer to support the offer, and details of the supply contracts as follows:
i) The Client's name, address and contact person as well as its location.
ii) Four (4) Copies of signed contracts, award letters, and Purchase Orders indicating quantity of similar equipment supplied under the contract and the contract amount outside the country of origin
h) Four (4) copies of reference letter from clients confirming satisfactory performance of the similar equipment.
</td></tr>
<tr><td>ITT 20.1</td><td>The Tender validity period shall be One hundred and eighty (180) days</td></tr>
<tr><td>ITT 20.3</td><td>Price variation on the basis of extending tender validity period is Not applicable</td></tr>
<tr><td>ITT 21.1</td><td>Tender Security valid for 210 days shall be required in form of Bank guarantee from a locally registered Bank (Tier 1 and 2). The amount of the Tender Security shall be as follows:
<table>
<tr><th>NO</th><th>LOT NO.</th><th>Tender Security in Ksh.</th></tr>
<tr><td>1</td><td>LOT 1</td><td>20 M</td></tr>
<tr><td>2</td><td>LOT 2</td><td>28 M</td></tr>
<tr><td>3</td><td>LOT 3</td><td>17M</td></tr>
</table>
The Original Tender Security should be kept in an envelope clearly labelled with the Tender number & name and shall be deposited in the Tender Security Box on 3rd Floor Supply Chain at Stima Plaza, Kolobot Road, before the tender opening time.
</td></tr>
</table>

Ref. ITT	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 21.2 (d)	Not applicable
D	**Submission and Opening of Tenders**
ITT 24.1	All tenders shall be submitted through the KPLC SAP online tendering portal in PDF format.
ITT 27.1	Public opening will be done through the KPLC tendering portal at Stima Plaza, Auditorium as specified in the KPLC Tendering Portal.
ITT 27.6	There shall be tender opening minutes, and electronic report generated electronically from KPLC ONLINE TENDERING PORTAL and the minimum number of representatives of KPLC to sign is Three (3).
ITT 34	Currency shall be **United States Dollar (USD)** (for Schedule 1 Only) **and Kenya Shillings (KES)** (for Other Schedules)
ITT 35	Not applicable
ITT 36.1	KPLC *does not intend* to execute certain specific parts of the Works by subcontractors selected in advance by KPLC.
E.	**Evaluation and Comparison of Tenders**
ITT 37.2	(a) The currency of the tender shall be in Kenya Shillings and United States Dollar (for Schedule 1) (b) Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT 39.2	KPLC Shall seek Clarification for detailed Price Analysis
ITT 39.3	KPLC shall reject abnormally low tender that fails to demonstrate capability to perform the contract with offered tender price
F	**Award Criteria**
ITT 45.1	One (1) Lot per technically responsive and lowest evaluated bidder
ITT 52.1	Within *Fourteen days* (14) days of the receipt of notification of award, successful tenderer shall furnish 10% Performance Security of the contract price.
ITT 54.1	The procedures for making a Procurement-related Complaint are detailed in the "Notice of Intention to Award the Contract" herein and are also available from the PPRA website info@ppra.go.ke or complaints@ppra.go.ke **For the attention**: *General Manager, Supply Chain & Logistics* **KPLC**: *Kenya Power & Lighting Co. PLC* **Email address***: JNgeno@kplc.co.ke, Procurement@kplc.co.ke* In summary, a Procurement-related Complaint may challenge any of the following: (i) the terms of the Tendering Documents; and (ii) KPLC's decision to award the contract.

SECTION III – EVALUATION AND QUALIFICATION CRITERIA

1. **Evaluation and Contract award Criteria**
   Kenya Power shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents, and (iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

2. **Preliminary examination for Determination of Responsiveness**
   Kenya Power will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements of "Part 2 – KPLC's "Works Requirements", including checking for tenders with unacceptable errors, abnormally low tenders, abnormally high tenders, tenders that are front loaded, and Progress of Contracts awarded in the last 12 months.
   Tenders that do not pass the Preliminary Examination will be considered irresponsive and will not be considered further.

3.1 Part 1 - Preliminary Examination Criteria. *These are mandatory requirements.* This shall include confirmation of the following: -

3.1.1 Submission of Tender Security - Checking its validity, whether it is Original; whether it is sufficient; whether it is authentic; whether it is issued by a local Bank/institution and whether it is strictly in the format required in accordance with the sample Tender Security Form(s).

3.1.2 Submission of the following duly completed and signed forms:

(a) Form of Tender
(b) Certificate of Independent Tender Determination
(c) Self-Declaration Forms -Form SD1 &Form SD2
(d) Declaration and Commitment to the Code of Ethics
(e) Form EL1 1.1 – Tenderer Information Sheet
(f) Form EL1 1.2 (if applicable)-Party to JV Information Sheet
(g) Price schedules dully filled signed and stamped

3.1.3 Submission and considering the Confidential Business Questionnaire: -

a) Is fully filled, signed and stamped.
b) That details correspond to the related information in the bid.
c) That the Tenderer is not ineligible as per ITT 3.

3.1.4 Submission and considering the following: -

a) Company or Firm's Registration Certificate
b) PIN Certificate.
c) Valid Tax Compliance Certificate.
d) Valid Business Permit

3.1.5 That the Tender is valid for the period required.

3.1.6 Submission of contractor's registration Certificate with NCA and EPRA in category of works and Class as follows:

(i) For Building works -NCA 1 or above
(ii) For electrical installation works -NCA 1 or above
(iii) For EPRA Certification as Electrical contractor - EPRA1

3.1.7 Submission of a Completed sit visit form signed by authorized KPLC officer
3.1.8 Submission of a proposed Work Program (Work Method & Schedule)
3.1.10 Submission of a Price schedule signed and stamped by bidder
3.1.11 Any bidder (Single entity or JV party) with ongoing/awarded works contract with KPLC that have not attained an overall completion of at least 70 % shall not be eligible. The bidders shall provide evidence of each contract progress minutes of meeting/reports jointly signed by both parties in the referenced contracts, to support

the project achieved performance. The bidders shall submit detailed proof of all awarded contracts with overall completion as at date of tender closing.

3.1.12 Duly filled Form EXP 4.1 and names with full contact as well as physical addresses of previous customers of with relevant building and civil works carried out within the last 8 years with reference letters from at least four (4) previous customers.

3.1.13 Submission of a complete and current CR12 Form (dated within 12 months before date of opening) obtained from the Registrar of Companies showing the Directorship and their respective shareholding of the firm, and in case of a corporate shareholder, bidders must separately submit a CR12 Form of the corporate shareholder until all the human Directors and their shareholding are disclosed.

3.1.14 submission of Audited Financial Statements for the last (7) seven years. The latest audited financial statements must be those that are reported within twelve (12) Calendar months from the date of the tender document. (For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original), with a copy of the Auditors/Audit Firm valid ICPAK practicing license.

3.1.15 Power of Attorney authorizing the signatory of the Tender to commit the Tenderer in accordance with the Tender requirements. Proof of authorization shall be furnished in the form of power of attorney which hall accompany the tender if the signatory to the tender is not a director of the company (provide name and attach proof of citizenship of the signatory to the tender).

3.1.16 Record of unsatisfactory or default in performance obligations in any contract shall be considered. This shall include any Tenderer with unresolved case (s) in its performance obligations for more than two (2) months in any contract.

3.1.17 Notwithstanding the above, considering any outstanding orders where applicable and the production capacity indicated by the Tenderer.
Tenders will proceed to the Technical Stage only if they qualify in compliance with Part 1 above, Preliminary Evaluation.

3.2 **Part II (A)- Technical Evaluation Criteria –***These are mandatory requirements*

In determining qualification requirements, KPLC shall apply the following among other criteria as listed under bidders' qualification criteria:

(a) Technical document submission requirement

3.2.1 Confirmation of the following technical information against tender requirements and Specifications: -

3.2.2 for goods manufactured outside Kenya, applicable recent and valid ISO 9001:2015 certification

3.2.3 for goods manufactured in Kenya - Valid KEBS Mark of Quality Certificate or KEBS Standardization Mark Certificate.

3.2.4 Submission of type test certificates and their Reports from the accredited testing laboratory

3.2.5 Submission of accreditation certificate for the testing laboratory to ISO/ IEC 17025

3.2.6 Submission of Works implementation schedule in Gantt chart

3.2.7 Submission of Works methodology/statement, Quality management plan and ESHS plan

3.2.8 Submission of Qualification details of key project implementation team

3.2.9 Manufacturer's Authorization form duly filled signed and stamped.

3.2.10 Checking and confirmation of the following documents as required in Vol. II of bidding document

i. Catalogues and Manufacturer's drawings
ii. Schedule of Guaranteed Technical Particulars for major items duly filled, signed and tamped.
iii. Bidder's performance qualification and supporting documents.
iv. Manufacturer's experience, and sales records with supporting document

3.2.11 Confirming that the audited financial Statements are for the last seven (7) years. The latest audited financial statements must be those that are reported within twelve (12) calendar

months of the date of the tender document. The statement must be stamped and signed. The auditors must be valid ICPAK registered practitioner.

NB: ***Bidders must clearly indicate the Auditor's ICPAK practicing License registration number in the audited financial statement report)***

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

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

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

Tenderers/Bidders will proceed to the next detailed technical evaluation stage if they qualify in compliance with Parts II (A) above.

3.3 Part II (B) – Detailed Technical Evaluation under clause 18.1 of the ITT.

3.3.1 The detailed technical evaluation shall be carried out to ensure the bid and the tenderer meets particular technical requirements for the works and materials supplies as follows: -

3.3.2 Schedule of mandatory Guaranteed Technical Particulars (GTP) shall be evaluated against tender specifications to confirm compliance of the materials to the technical specifications, and evaluation of any deviations and exceptions declared by the Tenderer.

3.3.3 Type test certificates and their reports from the testing laboratory for full compliance with materials technical Specifications (relevant to the major equipment and materials for this tender).

3.3.4 Detailed evaluation of the following documents as required in the tender document:

a) Bidder's Work experience and performance qualification with supporting documents (reference letters)
b) Manufacturer's experience, and sales records with supporting document
c) Works implementation schedule to meet project timelines.
d) Works methodology/statement to meets the Work specifications
e) Qualification details of contractor's key project implementation team
f) Proposed design drawings, manufacturer's catalogue and brochures

3.3.5 Requirement for detailed assessment of adequacy of technical Proposals, personnel and performance qualifications.

The assessment of the Technical Proposals submitted by a Bidder shall comprise

a) Bidder's technical capacity to mobilize key equipment and personnel to carry out the works
b) Construction methodology
c) Construction schedule
d) Contractor Performance qualification
e) Sufficiently detailed supply sources to meet works requirement

3.3.5.1 Key Personnel

The Bidder shall provide detailed CV (work experience) and Academic certificates of the proposed personnel in the format specified in forms PER – 1 and PER - 2

NO.	Position	Minimum Academic Qualification	Total Work Experience (years)	In Similar Works Experience (years)
1	Project Manager	BSc in Electrical Engineering or equivalent	10	7
2	Design Engineer-Electrical	BSc Electrical Engineering or equivalent	7	4
3	Design Engineer- Civil and structural	BSc in Civil Engineering or equivalent	7	4
4	Commissioning Engineer	BSc in Electrical Engineering or equivalent	7	4
5	Construction Engineer-Electrical	BSc in Electrical Engineering or equivalent	7	4
6	Construction Engineer- Civil and structural	BSc in Civil Engineering or equivalent	7	4
7	Safety, environmental and social specialist	Degree/Diploma in Safety and Environmental or equivalent	7	4

Note: 1. For this tender, the bidder shall not be allowed to change more than (2) two key personnel within 12 months after contract signature, and the change shall be only allowed under unavoidable justified circumstances.

2. Contract signing is subject to confirmation and availability of at least five (5) of evaluated key personnel
3. Key personnel committed in other ongoing project in energy sector shall not be eligible in this tender, and shall result to rejection of the bid.

3.3.5.2 Main equipment

The Tenderer shall demonstrate can obtain (purchase, lease or rent) the Key equipment listed hereafter for Project implementation in the format specified in Form EQU:

No.	Equipment Type and Characteristics	Minimum Number required
1	Calibrated Testing equipment for primary and secondary substation equipment: Live line tester, insulation resistance equipment, Primary and secondary (Voltage/current) injection sets, (Current injection set 500Amps), Earth resistance measuring equipment, Portable earthing conductors, Fiber stringing and splicing, testing and termination kits	One each
2	Oil Filtration machine	One
3	Excavation and compaction machines	One each
4	Hiab (Lifting equipment -5 tons)/Crane fitted on a truck, compactors, compressors, water boozers, tippers, Standby Generator etc.	One each
5	Line construction tools- Hydraulic crimpers and Cutters, Cable drum rollers, Ladders, wire tensioners and puller, Climbing irons, Electro-mechanical tool box	One each
6	Relay testing Set/Kit	One each

Subcontractors

The general experience and financial resources of the sub-contractors shall not be added to those of the tenderer for purposes of qualification. For the scope of works to be subcontracted, the subcontractor qualifications submitted for evaluation and approval after contract signature. However, in any case they shall have at least NCA 1 and EPRA A1

(a) Proposed Subcontractors for Key Activities/Sub-Activities

Sections of the Works	Value of Subcontract	Subcontractor (name and address)	Experience in similar work

Note: *Bidders shall submit an undertaking from each proposed subcontractor to confirm that they have read, understand and will comply with contract requirement.*

3.3.5.3 Qualification for the Manufacturers and Main Contractor

Item No.	Description of Item	Minimum Criteria to be met	Support document
1	Supplier for Major materials	For equipment supplied/manufactured outside the employer's country, i) Manufacturer must have been manufacturing the materials for at least 7 years Equipment must have been in service for at least 5 years outside the country of origin/manufacture.	Manufactures sales record list, purchase orders/ four (4) Customer references and recommendations letters.
2	Substation Installation/Construction main contractor	Must have completed construction and commissioned works of at least 2 Substation and associated Line Projects of similar size and above of the same complexity.	Signed contracts, completion certificates, and at least two (2) Customer references and recommendations letters.
3	Civil works Main contractor	Must have completed civil works of at least 2 substation and associated Lines Projects of similar size and above of the same complexity.	Signed contracts, completion certificates, and at least two (2) customer references and recommendations letters.
4	Lines construction Main contractor	Must have completed construction and commissioned works of at least 30 km MV lines Projects of similar size and above of the same complexity.	Signed contracts, completion certificates, and at least two (2) customer references and recommendations letters.
5	Testing and commissioning Main contractor	Must have completed testing and commissioning of at least 2 substations and Lines Projects of similar size and above of the same complexity.	Signed contracts, completion certificates, and at least two (2) customer references and recommendations letters.

3.3.5.4 Completeness of following technical proposals shall be evaluated as required in clause 3.3.5 of detailed technical evaluation: -

(a) General requirements- Site Organization and Method Statement for key project milestones

- Completeness of construction/Work Schedule in Gantt chart
- Implementation methodology of worksite Environmental, Social, Health and Safety (ESHS)
- Contractor Performance Qualification as specified in forms HCON, EXP 4.1, EXP 4.2, FIN- 3.1, 3.2, 3.3 and 3.4

(b) Site Organization and Method Statement requirements

The Tenderer shall set out details of the Site Organization and Method Statement for the Works to demonstrate how shall meet the Employer's objective and requirements. As a minimum, the method Statement shall address following issues.

- Details of the arrangements and methods which the tenderer proposes to implement for the construction of the Works, in sufficient detail to demonstrate their adequacy to achieve the requirements of the Contract including completion within the Time for Completion stated in the Special Conditions of Contract;
- Outline of the arrangements of the tenderer to manage coordination of Site access.
- Comments on the geotechnical and subsurface aspects of the Works including materials, material sources and any constraints;
- Comments on logistics and traffic management issues
- Outline of the arrangements and organization of the tenderer to ensure compliance with the Works Requirements and local authority regulations;
- Outline of the arrangements of the tenderer to carry out testing upon completion as specified in the Works Requirements;

(c) Construction/Works Schedule requirements

The proposed work Program and Schedule shall address the following issues:

- Details of the proposed schedule for obtaining permits that may be necessary in order to commence the Works, including the preparation of required studies, supporting information, and applications;
- Details of the proposed timeline for carrying out the Works within the Time for Completion, in form of a Gantt chart showing notably the critical path.
- Details of the proposed timeline for the testing, commissioning and handing over of the completed Works/facility;

3.3.5.5 Performance Qualification Criteria

Bidders shall provide documentary evidence as prove that they meet following performance qualification:

Performance qualification			**Compliance Requirements**				**Documentation**
Criterion		**Requirement**	**Single Entity**	**Joint Venture (existing or intended)**			**Submission Requirements**
				All Parties Combined	**Each Member**	**One Member**	
3.3.5.5.1(a) Historical Contract Non-Performance							
i	History of Non-Performing Contracts	Termination of a contract did not occur as a result of contractor's default in the Past three (5) years.	Must meet require ment	Must meet requirements	Must meet require ment	N/A	Documentary evidence termination was not result of contractor's default
ii	Suspension Based on	Not under suspension based on execution of	Must meet	Must meet requirement	Must meet	N/A	Documentary evidence

<table>
<tr><th colspan="2">Performance qualification</th><th colspan="2">Compliance Requirements</th><th colspan="3">Documentation</th></tr>
<tr><th colspan="2" rowspan="2">Criterion</th><th rowspan="2">Requirement</th><th rowspan="2">Single Entity</th><th colspan="3">Joint Venture (existing or intended)</th><th rowspan="2">Submission Requirements</th></tr>
<tr><th>All Parties Combined</th><th>Each Member</th><th>One Member</th></tr>
<tr><td></td><td>Execution of Bid Securing Declaration by the Employer</td><td>Performance bond declaration pursuant to ITT</td><td>require ment</td><td></td><td>require ment</td><td></td><td></td></tr>
<tr><td>ii</td><td>Pending Litigation</td><td>Unresolved Pending litigations involving KPLC and the Bidder shall not be as a result of contractor’s default in the Past three (3) years.</td><td>Must meet require ment</td><td>Must meet requirement</td><td>Must meet require ment</td><td>N/A</td><td>Documentary evidence</td></tr>
<tr><td colspan="8">3.3.5.5 .1(b) Construction Experience</td></tr>
<tr><td>i</td><td>General Construction Experience</td><td>Experience in EPC construction contracts in the role of prime contractor, JV member, or Sub contractor</td><td>Must meet require ment</td><td>Must meet requirement</td><td>N/A</td><td>N/A</td><td>Documentary evidence of signed contract letters and customer references/recommendations</td></tr>
<tr><td>ii</td><td>Specific Construction Experience on EPC Contract Implementation</td><td>(i) A minimum number of similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, Joint Venture member, or Sub-contractor between 1st January 2016 and November, 2026:
<table>
<tr><th>Lot</th><th>No. of Contracts</th><th>Minimum value (Ksh)</th></tr>
<tr><td rowspan="3">1</td><td>1</td><td>760M</td></tr>
<tr><td colspan="2">or</td></tr>
<tr><td>2</td><td>380M</td></tr>
<tr><td rowspan="3">2</td><td>1</td><td>950M</td></tr>
<tr><td colspan="2">or</td></tr>
<tr><td>2</td><td>475M</td></tr>
<tr><td rowspan="3">3</td><td>1</td><td>630M</td></tr>
<tr><td colspan="2">or</td></tr>
<tr><td>2</td><td>315M</td></tr>
</table></td><td>Must meet require ment</td><td>Must meet requirement</td><td>N/A</td><td>N/A</td><td>Signed Contract letters with contract value amount, and reference/recommendations</td></tr>
<tr><td>iii</td><td></td><td>For the above and any other contracts completed and under implementation as</td><td>Must meet</td><td>Must meet requirements</td><td>N/A</td><td>N/A</td><td>Signed Contract letters, Completion</td></tr>
</table>

Performance qualification			Compliance Requirements				Documentation
Criterion		Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Parties Combined	Each Member	One Member	
		prime contractor, joint venture member, or Sub-contractor from 1st January 2016 to November 2026 minimum construction experience in following key activities successfully completed in any three (3) years **For Award of:** **Lot:1 (Rongai 132/33 kV S/stn)** Contractor must have successfully completed construction of 1 Nos. 23 MVA 132/33 kV or 2 Nos. 23 MVA 66/33/11 kV (or above) substation with Switchgear building, Protection and Control and at least 30 km of 33/11(MV) kV Lines **Lot:2 (Kathwana 132/33 kV S/stn)** Contractor must have successfully completed construction 1 Nos. 23 MVA 132/33 kV or 2 Nos. 23 MVA 66/33/11 kV (or above) substation with Switchgear building, Protection and Control and at least 30 km of 33/11(MV) kV Lines and at least 10 km of 132 kV Lines **Lot:3 (Kiserian 66/11 kV S/stn)** Contractor must have successfully completed construction of 1NOs. 23 MVA 66/33/11kV (or above) substation with Switchgear building, Indoor 11kV switchgear board, Protection and Control and at least 15 km of 66 kV, 40 km of 33/11kV Lines and 1.0 km of underground Power cables	requirements				/Handover certificates and Customer recommendations

Tenderers will proceed to the next evaluation stage (financial) if they pass Parts (ITB) above.

3.4 Part III – (A) Financial Examination Criteria

Evaluation of the following financial information against tender requirements and Specifications.

3.4.1 This will include the following: -

a. Confirmation of and considering schedule of rates and prices and/or priced Bill of Quantities duly completed, signed and stamped and is in **original KPLC format** and not mutilated **or typewritten**.
b. Checking that the tenderer has quoted prices based on Delivery Duty paid (DDP) terms.
c. (Considering information submitted in the Confidential Business Questionnaire against other information in the bid including -
i) Declared maximum value of business
ii) Shareholding and citizenship for preferences where applicable.
d. Conducting a financial comparison based on the analysis of the Bidder's priced quantity.
e. Confirming that the bidder has quoted in the correct currencies.
f. Confirmation that there are no arithmetical errors

3.4.2 Confirming the following: -

a) Provision of documentary evidence of liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance if applicable under this contract, in the format specified in form FIN-3.1

B) Financial detailed Examination Criteria

3.4.3 In addition to the financial requirement in clauses above the following financial performance qualification shall be included in the detailed evaluation:

<table>
<tr><th colspan="3">Financial Performance Qualification</th><th colspan="4">Compliance Requirements</th><th>Documentation</th></tr>
<tr><th colspan="2" rowspan="2">Criterion</th><th rowspan="2">Requirement</th><th rowspan="2">Single Entity</th><th colspan="3">Joint Venture (existing or intended)</th><th rowspan="2">Submission Requirements</th></tr>
<tr><th>All Parties Combined</th><th>Each Member</th><th>One Member</th></tr>
<tr><td colspan="8">(a) Financial capability and Performance</td></tr>
<tr><td>Financial Capabilities</td><td>ii</td><td>The Bidder shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction Cash flow requirements estimated in KES as.
<table><tr><th>Lot</th><th>Cash Flow (KES)</th></tr><tr><td>1</td><td>135 M</td></tr><tr><td>2</td><td>187 M</td></tr><tr><td>3</td><td>112 M</td></tr></table></td><td>Must meet requirement</td><td>N/A</td><td>N/A</td><td>Must meet requirement</td><td>Documentary evidence</td></tr>
</table>

<table>
<tr><th colspan="2">Financial Performance Qualification</th><th colspan="4">Compliance Requirements</th><th>Documentation</th></tr>
<tr><th rowspan="2">Criterion</th><th rowspan="2">Requirement</th><th rowspan="2">Single Entity</th><th colspan="3">Joint Venture (existing or intended)</th><th rowspan="2">Submission Requirements</th></tr>
<tr><th>All Parties Combined</th><th>Each Member</th><th>One Member</th></tr>
<tr><td></td><td>ii</td><td>Bidder shall also demonstrate, to the satisfaction of the Employer, that has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments</td><td>Must meet requirement</td><td>Must meet requirement</td><td>N/A</td><td>N/A</td><td>Documentary evidence</td></tr>
<tr><td></td><td>iii</td><td>Audited financial statements for the last Seven (7) years shall be submitted and must demonstrate the current soundness of the Bidder’s financial position. The Bidder's financial position will be deemed sound if at least three (3) of the following four (4) criteria are met:
a) Average earnings before interest, taxes, depreciation, and amortization (EBITDA) for the last three (3) years > 0;
b) Total equity (net worth) for the last three (3) years > 0;
c) Average liquidity ratio for the last three (3) years > 1 ((Current assets) / (Current liabilities) > 1);
d) Average indebtedness ratio for the last three (3) years < 6 ((Total financial liabilities) / (EBITDA) < 6).</td><td>Must meet requirement</td><td>N/A</td><td></td><td>Must meet requirement</td><td>Audited financial statements</td></tr>
<tr><td>Minimum Annual Construction Turnover</td><td>iv</td><td>Minimum Average Annual Construction Turnover in KES,<table><tr><th>LOT</th><th>Annual Average construction Turnover (Ksh)</th></tr><tr><td>1</td><td>540 M</td></tr><tr><td>2</td><td>750 M</td></tr><tr><td>3</td><td>450 M</td></tr></table>for the last 7 years i.e. January 2019 to November, 2026 calculated as total Certified Annual Payments received for contracts in progress and/or completed contracts.</td><td>Must meet requirement</td><td>Must meet requirement</td><td>Must meet [twenty-five] per cent [25] % of the requirement</td><td>Must meet [forty] per cent [40] % of the requirement</td><td>Documentary evidence</td></tr>
</table>

***NOTES: -**

1. *Total tender value means the tenderer’s total bid price inclusive of Value Added Tax (V.A.T) for the works and all duties on materials.*

2. *The award shall be to the **technically responsive** bidder with the **lowest evaluated price.***

SECTION IV –TENDERING FORMS

3.5 PERFOMANCE QUALIFICATION FORMS

1. FORM EQU: PROPOSED KEY EQUIPMENT

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

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

Omit the following information for equipment owned by the Tenderer.

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

2. FORM PER -1: PROPOSED KEY PERSONNEL

Contractor's Representative and Key Personnel Schedule

Tenderers should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER1 below for each candidate. (Academic and Professional certificates required to support personnel qualifications)

1.	**Title of position: Contractor's representative**	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
2.	**Title of position:** *[_____]*	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
3.	**Title of position:** *[_____]*	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
4.	**Title of position:** *[_____]*	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
5.	**Title of position:** *[insert title]*	
	Name of candidate	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]

3. FORM PER - 2: RESUME OF PROPOSED KEY PERSONNEL

Resume and Declaration - Contractor's Representative and Key Personnel.

Summarize professional experience over the last 10 years in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Name of Tenderer

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

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

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

Declaration

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

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

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

I understand that any misrepresentation or omission in this Form may: a) be taken into consideration during Tender evaluation;

b) result in my disqualification from participating in the Tender;

c) result in my dismissal from the contract.

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

Signature: _____

Date: (day month year): _____

Counter signature of authorized representative of the Tenderer:

Signature: _____

Date: (day month year): _____

4. BIDDER'S QUALIFICATION FORMS

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

4.1 FORM ELI-1: TENDERER INFORMATION FORM

Date: _____

ITT No. and title: _____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: *[indicate country of Constitution]*
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.6 ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5 ☐ In case of state-owned enterprise or institution, in accordance with ITT 3.8, documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of Kenya Power 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

4.2 FORM ELI -2

Tenderer's JV Information Form (to be completed for each member of Tenderer's JV)
Date: _____

ITT No. and title: _____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 3.6. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of Kenya Power , in accordance with ITT 3.8. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

4.3 FORM HCON: Historical Contract Non-Performance, Pending Litigation and Litigation History

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

Non-Performed Contracts in accordance with Section II, Evaluation and Qualification Criteria			
☐ Contract non-performance did not occur since 1st January *[insert year]* specified in Section II, Evaluation and Qualification Criteria, Sub-Factor 2.1. ☐ Contract(s) not performed since 1st January *[insert year]* specified in Section II, Evaluation and Qualification Criteria, requirement 2.1			
Year	**Non- performed portion of contract**	**Contract Identification**	**Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)**
[insert year]	*[insert amount and percentage]*	Contract Identification: *[indicate complete contract name/ number, and any other identification]* Client (Procuring Entity) : *[insert full name]* Address of Procuring Entity: *[insert street/city/country]* Reason(s) for nonperformance: *[indicate main reason(s)]*	*[insert amount]*
Pending Litigation, in accordance with Section II, Evaluation and Qualification Criteria			
☐ No pending litigation in accordance with Section II, Evaluation and Qualification Criteria, Sub-Factor 2.3. ☐ Pending litigation in accordance with Section II, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			
Year of dispute	**Amount in dispute (currency)**	**Contract Identification**	**Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)**
		Contract Identification: _____ Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: ____ Status of dispute: _____ _____	

		Contract Identification: Procuring Entity: Address of Procuring Entity: Matter in dispute: Party who initiated the dispute: Status of dispute:	

Litigation History in accordance with Section II, Evaluation and Qualification Criteria

☐ No Litigation History in accordance with Section II, Evaluation and Qualification Criteria, Sub-Factor 2.4.
☐ Litigation History in accordance with Section II, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.

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

4.4 FORM FIN- 3.1: Financial Situation and Performance

Tenderer's Name: _____
*D*ate:_____
JV Member's
Name_____
ITT No. and title: _____

4.4.1. Financial Data

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

*Refer to ITT 15 for the exchange rate

4.4.2 Sources of Finance

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

No.	Source of finance	Amount (Kenya Shilling equivalent)
1		
2		
3		

4.4.3 Financial documents

The Tenderer and its parties shall provide copies of financial statements for _____years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.1. The financial statements shall:

(a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).

(b) be independently audited or certified in accordance with local legislation.

(c) be complete, including all notes to the financial statements.

(d) correspond to accounting periods already completed and audited.

☐ Attached are copies of financial statements[1] for the _____years required above; and complying with the requirements

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

4.5 FORM FIN – 3.2: Average Annual Construction Turnover

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

	Annual turnover data (construction only)		
Year	**Amount Currency**	**Exchange rate**	**Kenya Shilling equivalent**
[indicate year]	*[insert amount and indicate currency]*		
Average Annual Construction Turnover *			

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

4.6 FORM FIN – 3.3: Financial Resources

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

Financial Resources

No.	Source of financing	Amount (Kenya Shilling equivalent)
1		
2		
3		

4.7 FORM FIN/CCC – 3.4: Current Contract Commitments / Works in Progress

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

I/We hereby certify that the information provided above is true and complete. I/We understand that any false declaration may lead to disqualification, or other remedies available under applicable procurement laws and regulations.

Current Contract Commitments							
NO	**Name of Contract/Description**	**Procuring Entity's Contact Address, Tel.**	**Value of Outstanding Work [Current Kenya Shilling /Month Equivalent]**	**Overall completion in Percentage (%)**	**Commencement Date**	**Estimated Date**	**Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month)]**
1							
2							
3							
4							
5							
6							

Bidder's Name: _____

Tender No.: _____

Date: _____
Company Seal/Stamp

4.8 FORM EXP 4.1: General Construction Experience

Tenderer's Name: _____ Date _____

JV Member's Name

_____

ITT No. and title: _____

Page _____of _____pages

Starting Year	Ending Year	Contract Identification	Role of Tenderer
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Kenya Power : _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Kenya Power : _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Kenya Power : _____ Address: _____	

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

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

Similar Contract No.	**Information**			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Sub-contractor ☐
Total Contract Amount			**Kenya Shilling**	
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:				
Address: Telephone/fax number E-mail:				

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

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

4.11 FORM EXP 4.2 (b): Construction Experience in Key Activities

Tenderer's Name: _____
Date: _____
Tenderer's JV Member Name: _____
Sub-contractor's Name[2] (as per ITT 34):
_____
ITT No. and title: _____

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One: _____

	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Sub-contractor ☐
Total Contract Amount			**Kenya Shilling**	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
Procuring Entity's Name:				
Address: Telephone/fax number E-mail:				

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

1. Activity No. Two
2. Activity No. Three
3. Activity No. Four

[2] If applicable

5. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

i) The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.

ii) All italicized text is to help Tenderer in preparing this form.

iii) Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.

iv) The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.

- Tenderer's Eligibility- Confidential Business Questionnaire
- Certificate of Independent Tender Determination
- Self-Declaration of the Tenderer

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

Request for Tender No.:……..…… *[insert identification*]

Name and description of Tender
……
… ……..……..*[Insert as per ITT)*

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

To:……. [*insert complete Kenya Power*]
Dear Sirs,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above-named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum of Kenya Shillings [*[Amount in figures]*_____
_____
Kenya Shillings *[amount in words]*
_____
_____

The above amount includes foreign currency amount (s) of [*state figure or a percentage and currency*] [figures] [words]
_____.

The percentage or amount quoted above does not include provisional sums, and only allows not more than two foreign currencies.

2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.

3. We agree to adhere by this tender until *[Insert date],* 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. We further understand that you are not bound to accept the lowest or any tender you may receive.

5. We, the undersigned, further declare that:

i) *No reservations:* We have examined and have no reservations to the tender document, including Addenda issued in accordance with ITT 28;

ii) *Eligibility:* We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;

iii) *Tender-Securing Declaration:* We have not been suspended nor declared ineligible by Kenya Power based on execution of a Tender-Securing or Proposal-Securing Declaration in Kenya Power 's Country in accordance with ITT 19.8; *iv) Conformity:* We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works: *[insert a brief description of the Works];*

v) Tender Price: The total price of our Tender, excluding any discounts offered in item 1 above is: *[Insert one of the options below as appropriate]*

vi) Option 1, in case of one lot: Total price is: [*insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies*]; Or

Option 2, in case of multiple lots:

a) Total price of each lot [*insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies*]; and

b) Total price of all lots (sum of all lots) [*insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies*];

vii) Discounts: The discounts offered and the methodology for their application are:

viii) The discounts offered are: [*Specify in detail each discount offered.*] ix) The exact method of calculations to determine the net price after application of discounts is shown below: [*Specify in detail the method that shall be used to apply the discounts*];

x) *Tender Validity Period:* Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

xi) *Performance Security:* If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document; xii) *One Tender Per Tender:* We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;

xiii) *Suspension and Debarment:* We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.

xiv) *State-owned enterprise or institution:* [*select the appropriate option and delete the other*] [*We are not a state-owned enterprise or institution*] / [*We are a state-owned enterprise or institution but meet the requirements of ITT 3.8*];

xv) *Commissions, gratuities, fees:* We have paid, or will pay the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].*

Name of Recipient	Address	Reason	Amount

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

xvi) Binding Contract: We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;

xvii) Not Bound to Accept: We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive;

xviii) Fraud and Corruption: We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption;

xix) Collusive practices: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Tender Determination" attached below.

xx) We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from_____(*specify website*) during the procurement process and the execution of any resulting contract.

xxi) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:

a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.

b) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.

c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.

d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in **"Appendix 1- Fraud and Corruption**" attached to the Form of Tender.

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

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

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

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

……**Date signed**

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

Date signed_____day of _____ ,

Notes

** In the case of the Tender submitted by joint venture specify the name of the Joint Venture as Tenderer*

*** Person signing the Tender shall have the power of attorney given by the Tenderer to be attached with the Tender.*

6. TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

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

(a) Tenderer's details

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

General and Specific Details

b) Sole Proprietor, provide the following details.

Name in full _____ Age _____

_____

Country of Origin

Nationality_____
Citizenship ____

c) Partnership, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

d) Registered Company, provide the following details.

i) Private or public Company_____

ii) State the nominal and issued capital of the Company____

iii) Nominal Kenya Shillings

(Equivalent).....Issued Kenya Shillings

(Equivalent).....

iv) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

(e) Disclosure of Interest- Interest of the firm in KPLC.

i) Are there any person/persons in …… …… (*Kenya Power)* who has/have an interest or relationship in this firm? Yes/No……

If yes, provide details as follows.

	Names of Person	Designation in Kenya Power	Interest or Relationship with Tenderer
1			
2			
3			

ii) Conflict of interest disclosure

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

8	Tenderer has a close business or family relationship with a professional staff of Kenya Power who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to Kenya Power throughout the tendering process and execution of the Contract.		

f) Certification

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

Full Name _____

Title or Designation _____

(Signature) *(Date)*

7. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the _____ [Kenya Power] for: _____ [Name and number of tender] in response to the request for tenders made by: [Name of Tenderer] do hereby make the following statements that I certify to be true and complete in every respect:

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

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:

a) has been requested to submit a Tender in response to this request for tenders;

b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;

5. The Tenderer discloses that [check one of the following, as applicable:

a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;

b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;

6. In particular, without limiting the generality of paragraphs (5)(a) or (5)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding: a) prices;

b) methods, factors or formulas used to calculate prices;

c) the intention or decision to submit, or not to submit, a tender; or

d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5)(b) above;

7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;
8. the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

9. Name_____ Title_____ Date_____

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

8. SELF - DECLARATION FORMS FORM SD1 & SD2

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015; THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

Date _____

To:

The Kenya Power &
Lighting Company Plc, P.O
Box 30099 – 00100,
Stima Plaza, Kolobot Road, Parklands,
Nairobi, KENYA.

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

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of…….....
……..... *(insert name of the Company)* who is a Bidder in respect of **Tender No.** ……
for ……..…….... *(insert tender title/description)* for ……..
(insert name of KPLC) and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of……..……..
(insert name of KPLC) which is KPLC.

3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of… *(name of KPLC).*

4. That the aforesaid bidder is not insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.

5. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.

6. THAT the aforesaid Bidder, its directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

7. THAT the aforesaid bidder does not have any conflict of interest or pecuniary interest with any other tenderer participating in this tender

8. THAT what is deponed to here in above is true to the best of my knowledge information and belief.

Yours sincerely _____

Name of Tenderer _____

Signature of duly authorised person signing the Tender

_____

Name and Designation of duly authorised person signing the Tender_____

Stamp or Seal of Tenderer

9. DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

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

Name of Authorized signatory…….....

Sign…….....

Position…….....…….....

Office address…….
Telephone…….....…….
E-mail…….....….....
Name of the
Firm/Company…….....……
Date…….....….
(Company Seal/ Rubber Stamp where applicable)

Witness

Name ……..... Sign.....

Date……

10. APPENDIX 1- FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

2. The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act *(no. 33 of 2015)* and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

3. Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act *(no. 33 of 2015)* under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior: -

1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
3) Without limiting the generality of the subsection (1) and (2), the person shall be: -

a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
b) if a contract has already been entered into with the person, the contract shall be voidable;

4) The voiding of a contract by Kenya Power under subsection (7) does not limit any legal remedy Kenya Power may have;
5) An employee or agent of Kenya Power or a member of the Board or committee of Kenya Power who has a conflict of interest with respect to a procurement: - a) shall not take part in the procurement proceedings;

b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to Kenya Power ;
7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

In compliance with Kenya's laws, regulations and policies mentioned above, Kenya Power :

a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:

i) "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

v) "obstructive practice" is:

- deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
- acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.

b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"Fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of Kenya Power or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive Kenya Power of the benefits of free and open competition.

c) Rejects a proposal for award[3] of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, subcontractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;

e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect[4] all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

[4] *Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by Kenya Power to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.*

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

Beneficiary: ……...

Request for Tenders No: ---------- Date:_____-
TENDER GUARANTEE No.:_____
Guarantor: _____

1. We have been informed that_____(here in after called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here in after called" the Tender") for the execution of_____ under Request for Tenders No._(“the ITT”).

2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.

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

(a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Applicant; or

b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provide by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.

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

_____
[Signature]

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

PART II - WORK REQUIREMENT AND PARTICULAR TECHNICAL SPECIFICATIONS

SECTION V - WORK REQUIREMENTS AND PARTICULAR TECHNICAL SPECIFICATIONS

1. The successful bidder shall Design, Supply, Install, and Commission proposed primary substations and associated lines as specified in **Volume II of tender document–Work requirement and Particular Technical Specifications.**

2. Detailed scope of works, Bill of Quantities for the materials, materials Particular Technical Specifications and Guaranteed technical specifications for **LOTs (1, 2 and 3)** are given in **Volume II** of the tender document.

SECTION VI - PRICE SCHEDULES

A. General

1. The Price is divided into separate Schedules as follows:

   Schedule No. 1: Plant (including Mandatory Spare Parts) Supplied from Abroad
   Schedule No. 2: Plant (including Mandatory Spare Parts) Supplied from within the Employer's Country
   Schedule No. 3: Design Services
   Schedule No. 4: Installation and Other Services
   Schedule No. 5: Grand Summary

2. The Schedules do not generally give a full description of the plant to be supplied, and the services to be performed under each item. Bidders shall be deemed to have read the Employer's works requirements and other sections of the Bidding document and reviewed the drawings to ascertain the full scope of the requirements included in each item prior to filling in the rates and prices. The entered rates and prices shall be deemed to cover the full scope as aforesaid, including overheads and profit.
3. If bidders are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with ITT prior to submitting their bid.
4. Prices shall be filled in indelible ink, and any alterations necessary due to errors, etc., shall be initialed by the Bidder.
5. As specified in the Bid Data Sheet and Special Conditions of Contract, prices shall be fixed for the whole duration of the Contract. The prices for Substation works shall be on **Lump sum contract basis** whereas for the lines works shall be on **Admeasurement contract basis**. Bid prices shall be quoted in the manner indicated and, in the currencies, specified in the Instructions to Tenderers.
6. Prices given in the Schedules against each item shall be for the scope covered by that item as detailed in **Volume II bidding document (Work's Requirements and technical Specifications) and elsewhere in the bidding Document.**
7. Payments will be made to the Contractor in the currency or currencies indicated under each respective item.
8. When requested by the Employer for the purposes of making payments or partial payments, valuing variations or evaluating claims, or for such other purposes as the Employer may reasonably require, the Contractor shall provide the employer with a breakdown of any composite or lump sum items included in the price Schedules and Bill of quantities.

Notes

Bidder shall cost in schedule No.2 only the material NOT supplied under Schedule No.1

LOT 1: RONGAI 2 X 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 1: Plant and Mandatory Spares supplied from Abroad

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2) DDP
Substation Equipment/Materials					
RNG–101	2 X 23 MVA, 132/33 kV transformers with Online Monitoring System and Condition Controlled Maintenance Free Breather	Lot	2		
RNG–102	132kV Circuit Breaker for line- Single Pole Mechanism	Pc	4		
RNG–103	132kV Circuit Breaker substation– 3 Pole Ganged Mechanism	Pc	3		
RNG–104	132kV Motorized Isolator Without E/SW	Pc	14		
RNG–105	132kV Motorized Isolator with E/SW	Pc	4		
RNG–106	132kV Current Transformer	Pc	21		
RNG–107	132kV Voltage Transformer	Pc	18		
RNG–108	132kV Bay and Double Bus bar Materials	Lot	1		
RNG–109	132kV Surge Arresters	Pc	18		
RNG–110	132 kV Steel Structures for Gantries, Double Bus bar, and Equipment support	Lot	1		
RNG–111	Transformer Protection Relay Panels (HV and MV)	Pc	4		
RNG–112	Transformer Control Panel with AVR Relay	Pc	2		
RNG–113	132kV Line Protection Relay Panel (Main 1 & Main 2)	Pc	4		
RNG–114	132kV Line Control Panel	Pc	2		
RNG–115A	132kV Bus bar Protection Relay Panel	Pc	1		
RNG–115B	132kV Bus Coupler Control and protection Panel	Pc	1		
RNG–116	33 k V Neutral Current transformer with an Isolating Link	Pc	2		
RNG–117	33 kV Surge Arresters	Pc	30		
RNG–118	Auxiliary transformer 200 kVA, 33/0.415 kV complete with power cables, surge arrestors and Drop Out fuses	Lot	2		
RNG–119	33kV Circuit Breaker	Pc	10		
RNG–120	33kV Motorized Isolator Without E/Switch	Pc	11		
RNG–121	33kV Motorized Isolator with E/Switch	Pc	8		
RNG–122	33kV Current Transformer	Pc	30		
RNG–123	33kV Voltage Transformer	Pc	30		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2) DDP
RNG–124	33 kV Bay and Bus bar Materials	Lot	1		
RNG–125	33 kV Steel Structures for Gantry, Double Bus bar, and Equipment support	Lot	1		
RNG–126	33 kV Surge Arresters	Pc	30		
RNG–127	Substation Automation and Control system (SAS)	Lot	1		
RNG–128	Control and measuring cables	Lot	1		
RNG–129	3-Phase AC auxiliary supply system and distribution board	Lot	1		
RNG–130	110VDC Lithium-Ion Battery System with minimum capacity of 265Ahr	Lot	2		
RNG–131	48VDC Lithium-Ion Battery System with minimum capacity of 165Ahr	Lot	2		
RNG–132	DC supply distribution system	Lot	1		
RNG–133	Substation Earthing and Lightning protection system	Lot	1		
RNG–134	Switchyard Lighting System	Lot	1		
RNG–135	Telecommunication system and associated accessories capable of integration with existing Telecom system and Tele-protection schemes.	Lot	1		
RNG–136	Fire Detection and Suppression System	Lot	1		
Line Materials					
RNG–137	2 Nos. Terminal Lattice towers and associated fittings	Lot	1		
RNG–138	132kV 3-Phase O/Head **Double circuit** in 175mm^2 Lynx ACSR complete with fittings, insulators and associated line hardware in lattice towers	Lot/km	1		
RNG–139	33 kV 3-Phase O/Head circuits in 150 mm^2 ACSR conductors, insulators, fittings and associated line hardware	Lot/km	35		
RNG–140	33kV Cable (33 kV 3/Core, 300 mm^2 Al cables)	Lot/Km	3		
RNG–141	33kV cable termination kits (33 kV 3/Core, 300 mm^2 Al cables) complete with 8Nos. transition structure and surge arrestors	set	8		
RNG–142	OPGW cable complete with fittings and associated Accessories for 132KV line and 33KV lines	Lot/km	36		
RNG–143	Approach FO cable (Underground) complete with fittings and associated accessories	Lot/km	3		
RNG–144	Fiber Optic splice Boxes and ODFs	Lot	1		
RNG–145	Materials for transfer/dualling and adoption of existing 33/11/0.45kV lines and 5 No. of Distribution Substations to new lines	Lot/km	5		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2) DDP
RNG–146	Supply 5Nos. of 33kV Line Isolators with necessary hardware and fittings	Lot	1		
RNG–147	Concrete poles and their fittings	Lot/km	35		
RNG – 148	Ancillary Equipment	Lot	1		
Mandatory Spares					
SRNG–001	132kV Current transformer	Pc	3		
SRNG–002	Self-supporting Lattice tower – Complete Section Tower	Lot	1		
SRNG–003	Self-supporting Lattice tower – Complete Suspension Tower	Lot	1		
SRNG–004	132 kV Voltage transformer	Pc	3		
SRNG–005	132 kV surge arrestors	Pc	3		
SRNG–006	132 kV CB Trip and Close Coils (3No.Each)	Pc	6		
SRNG–007	132kV Tension Insulators with associated fittings	Pc	20		
SRNG–008	132kV Suspension Insulators with associated fittings	Pc	20		
SRNG–009	132kV Line clamps (tension and jumper)	Pc	50		
SRNG–010	132kV Bus bar Clamps (Assorted – 5 of each type)	Lot	1		
SRNG–011	Transformer differential Protection IED	Pc	1		
SRNG–012	Line Protection IED	Pc	1		
SRNG–013	Bay Control and Protection IED (BCPU)	Pc	1		
SRNG–014	33kV Current transformer	Pc	3		
SRNG–015	33 kV Voltage transformer	Pc	3		
SRNG–016	33 kV surge arrestors	Pc	3		
SRNG–017	33 kV CB Trip and Close Coils (3No. Each)	pc	6		
SRNG–018	33kV Feeder protection IED	Pc	1		
SRNG–019	33kV cable termination kit for 3/core 300 mm^2 AL cable	Pc	3		
SRNG–020	33kV cable Jointing kit for 3/Core 300mm^2 AL cable	Pc	3		
SRNG–021	Spares for 48VDC and 110VDC Battery charger	Set	1		
SRNG–022	Spares for Telecommunications equipment (SFP STM4 modules: 4x40km, 4x80km, 4X150km,) SAMO 2, EPSI, and (one rugged com 24 switch), GBE(4x80km, 4x40km), 10GBE(4x80km)	Lot	1		
	Sub Total Schedule No. 1				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 1: RONGAI 2 X 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 2: Plant and Mandatory Spares supplied from within the country

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2) DDP
Substation Equipment/Materials					
RNG–201	2 X 23 MVA, 132/33 kV transformers with Online Monitoring System and Condition Controlled Maintenance Free Breather	Lot	2		
RNG–202	132kV Circuit Breaker - Single Pole Mechanism	Pc	4		
RNG–203	132kV Circuit Breaker – 3 Pole Ganged Mechanism	Pc	3		
RNG–204	132kV Motorized Isolator Without E/SW	Pc	14		
RNG–205	132kV Motorized Isolator with E/SW	Pc	4		
RNG–206	132kV Current Transformer	Pc	21		
RNG–207	132kV Voltage Transformer	Pc	18		
RNG–208	132kV Bay and Double Bus bar Materials	Lot	1		
RNG–209	132kV Surge Arresters	Pc	18		
RNG–210	132 kV Steel Structures for Gantries, Double Bus bar, Equipment support	Lot	1		
RNG–211	Transformer Protection Relay Panels (HV and MV)	Pc	4		
RNG–212	Transformer Control Panel with AVR Relay	Pc	2		
RNG–213	132kV Line Protection Relay Panel (Main 1 & Main 2)	Pc	4		
RNG–214	132kV Line Control Panel	Pc	2		
RNG–215A	132kV Bus bar Protection Relay Panel	Pc	1		
RNG–215B	132kV Bus Coupler Control and protection Panel	Pc	1		
RNG–216	33 kV Neutral Current transformer with an Isolating Link	Pc	2		
RNG–217	33 kV Surge Arresters	Pc	30		
RNG–218	Auxiliary transformer 200 kVA, 33/0.415 kV complete with power cables, surge arrestors and Drop Out fuses	Lot	2		
RNG–219	33kV Circuit Breaker	Pc	10		
RNG–220	33kV Motorized Isolator Without E/Switch	Pc	11		
RNG–221	33kV Motorized Isolator with E/Switch	Pc	8		
RNG–222	33kV Current Transformer	Pc	30		
RNG–223	33kV Voltage Transformer	Pc	30		
RNG–224	33 kV Bay and Bus bar Materials	Lot	1		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2) DDP
RNG–225	33 kV Steel Structures for Gantry, Double Bus bar, Equipment support	Lot	1		
RNG–226	33 kV Surge Arresters	Pc	30		
RNG–227	Substation Automation and Control system (SAS)	Lot	1		
RNG–228	Control and measuring cables	Lot	1		
RNG–229	3-Phase AC auxiliary supply system and distribution board	Lot	1		
RNG–230	110VDC Lithium-Ion Battery System with minimum capacity of 265Ahr	Lot	2		
RNG–231	48VDC Lithium-Ion Battery System with minimum capacity of 165Ahr	Lot	2		
RNG–232	DC supply distribution system	Lot	1		
RNG–233	Substation Earthing and Lightning protection system	Lot	1		
RNG–234	Switchyard Lighting System	Lot	1		
RNG–235	Telecommunication system and associated accessories capable of integration with existing Telecom system and Tele-protection schemes.	Lot	1		
RNG–236	Fire Detection and Suppression System	Lot	1		
LINE MATERIALS					
RNG–237	2 Nos. Terminal Lattice towers and associated fittings	Lot	1		
RNG–238	132kV 3-Phase O/Head **Double circuit** in 175mm^2 ACSR complete with fittings, insulators and associated line hardware in lattice towers	Lot/km	1		
RNG–239	33 kV 3-Phase O/Head circuits in 150 mm^2 ACSR conductors, insulators, fittings and associated line hardware	Lot/km	35		
RNG–240	33kV Cable (33 kV 3/Core, 300 mm^2 Al cables)	Lot/Km	3		
RNG–241	33kV cable termination kits (33 kV 3/Core, 300 mm^2 Al cables) complete with transition structure and surge arrestors	Lot/pc	16		
RNG–242	OPGW cable complete with fittings and associated Accessories for 132KV line and 33KV lines	Lot/km	1		
RNG–243	Approach FO cable (Underground) complete with fittings and associated accessories	Lot/km	3		
RNG–244	Fiber Optic splice Boxes and ODFs	Lot	1		
RNG–245	Materials for transfer/dualling and adoption of existing 33/11/0.45kV lines and Distribution Substations to new lines	Lot/km	5		
RNG–246	Supply 5 Nos. of 33kV Line Isolators with necessary hardware and fittings	Lot	1		
RNG–247	Concrete poles and their fittings	Lot/km	35		
RNG-248	Ancillary equipment	Lot	1		
Mandatory Spares					
SRNG–201	132kV Current transformer	Pc	3		
SRNG–202	Self-supporting Lattice tower – Complete Section Tower	Lot	1		
SRNG–203	Self-supporting Lattice tower – Complete Suspension Tower	Lot	1		
SRNG–204	132 kV Voltage transformer	Pc	3		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2) DDP
SRNG–205	132 kV surge arrestors	Pc	3		
SRNG–206	132 kV CB Trip and Close Coils (3No. Each)	Lot	6		
SRNG–207	132kV Tension Insulators with associated fittings	Pc	20		
SRNG–208	132kV Suspension Insulators with associated fittings	Pc	20		
SRNG–209	132kV Line clamps (tension and jumper)	Pc	50		
SRNG–210	132kV Bus bar Clamps (Assorted – 5 of each type)	Lot	1		
SRNG–211	Transformer differential Protection IED	Pc	1		
SRNG–212	Line Protection IED	Pc	1		
SRNG–213	Bay Control and Protection IED (BCPU)	Pc	1		
SRNG–214	33kV Current transformer	Pc	3		
SRNG–215	33 kV Voltage transformer	Pc	3		
SRNG–216	33 kV surge arrestors	Pc	3		
SRNG–217	33 kV CB Trip and Close Coils (3No. Each)	PC	6		
SRNG–218	33kV Feeder protection IED	Pc	1		
SRNG–219	33kV cable termination kit for 3/core 300 mm^2 AL cable	Pc	3		
SRNG–220	33kV cable Jointing kit for 3/Core 300mm^2 AL cable	Pc	3		
SRNG–221	Spares for 48VDC and 110VDC Battery charger	Set	1		
SRNG–222	Spares for Telecommunications equipment (SFP STM4 modules: 4x40km, 4x80km, 4X150km,)	Lot	1		
	Sub Total Schedule No. 2				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 1: RONGAI 2 X 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 3: Design Services

NO	Substation and Line Design work	Unit	Qty (1)	Unit Price VAT Excl. (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
RNG-301	Substation Engineering design (Electrical, Mechanical, Civil, Control/protection, Telecommunication and SAS systems)	Lot	1		
RNG-302	Coordination of relay settings and integration of protection & Control with existing system	Lot	1		
RNG-303	132 kV Route Survey and Line Engineering design	Lot	1		
RNG-304	Tower Design	Lot	1		
RNG-305	33kV route survey and line design	Lot	1		
	Sub Total Schedule No. 3				
	Add VAT				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 1: RONGAI 2 X 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 4: Installation and Other Services

NO	Description for works	Unit	Qty (1)	Unit Price Excl. VAT (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
Substation Civil and Installation Work					
RNG–401	Transformer plinth with BOT and Oil separator	Lot	1		
RNG–402	Switchgear building with a minimum floor area of 350 sqr. meter	Lot	1		
RNG–403	Construction of a commercial office room with a minimum floor area of 50 Sqr. Meter.	Lot	1		
RNG–404	Construction of guard house with washrooms	Lot	1		
RNG–405	Earth work for entire plot area (excavation, back filling levelling, compaction, (ballasting switchyard) and landscaping)	Lot	1		
RNG–406	Platform Works – Substation equipment foundations and associated works	Lot	1		
RNG–407	Construction of cable trenches complete with cable trays/supports	Lot	1		
RNG–408	External all weather murram access road 9.0m wide and with acceleration and deceleration from substation to tarmac road	Lot/km	0.2		
RNG–409	Construction of Internal Access roads	Lot	1		
RNG–410	Substation drainage system (Storm water and Foul water/Sewage drainage)	Lot	1		
RNG–411	Substation perimeter chain-link fence for approximately Five-acre plot, with razor wire, electric fence and three main gates	Lot	1		
RNG–412	Construction of Chain Link fence within substation plot to demarcate HV switchyard from open areas	Lot	1		
RNG–413	Rainwater harvesting system	Lot	1		
RNG–414	Establishment of materials/store yard in the remaining area of the substation plot with motorable access.	Lot	1		
RNG–415	LV and Control cable installation works	Lot	1		
RNG–416	Switchyard substation lighting	Lot	1		
RNG–417	Substation Earthing and lightning protection	Lot	1		
RNG–418	Erection and Installation of Steel structures	Lot	1		
RNG–419	Substation outdoor equipment and busbars erection and installation	Lot	1		
RNG–420	Substation indoor equipment installation and commissioning	Lot	1		
RNG–421	Substation equipment (outdoor) testing and commissioning	Lot	1		
RNG–422	SAS system installation and commissioning	Lot	1		
RNG–423A	Telecommunication system installation and integration to existing system / RCC/NCC Control centre	Lot	1		
RNG–423B	SCADA integration to existing system / RCC/NCC Control centre	Lot	1		
RNG–423C	Teleprotection integration with remote End schemes	Lot	1		
RNG–424	Facilities for KPLC Project implementation team (Site office, Communication and transport services)	Lot	1		
RNG–425	Drawings approval and substation commissioning tools	Lot	1		

NO	Description for works	Unit	Qty (1)	Unit Price Excl. VAT (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
RNG–426	Costs for all statutory approvals	Lot	1		
RNG–427	Cost of ESHS activities	Lot	1		
Line Work					
RNG–428	Construction of 3 -Phase 132 kV **double circuit** (LILO) in 175 mm^2 ACSR conductor complete with OPGW on lattice towers.	Lot/km	1		
RNG–429	Tower Line Construction	Lot/km	1		
RNG–430	Construction of 33 kV 3-Phase overhead circuits in 150 mm^2 ACSR conductor complete with OPGW.	Lot/km	35		
RNG–431	Installation of 33kV Underground feeder cable (Cable terminations, civil works & transition structures)	Lot/km	3		
RNG–432	Installation and commissioning of OPGW /UG FO cable	Lot/km	39		
RNG-433	Transfer, adaptation and dualing of existing 33/11/0.420kV lines and 5No. distribution Transformers to new 33/11kV lines	Lot/km	5		
Factory acceptance test (FAT)					
RNG–434	Power transformers	Lot	1		
RNG–435	Instrument transformers	Lot	1		
RNG–436	Switchgears (Circuit breakers)	Lot	1		
RNG–437	Switchgears (Isolators)	Lot	1		
RNG–438	Insulators	Lot	1		
RNG–439	Surge arrestors	Lot	1		
RNG–440	Protection & Control and SAS system	Lot	1		
RNG–441	Power cables	Lot	1		
RNG–442	Telecommunication system	Lot	1		
RNG–443	Substation steel structures	Lot	1		
RNG–444	Battery and Charger (Dc system)	Lot	1		
RNG–445	Concrete poles	Lot	1		
RNG–446	Line Towers	Lot	1		
RNG–447	Line Conductors and OPGW	Lot	1		
Overseas training					
RNG-448	Substation Design Principles	Lot	1		
RNG-449	Transmission Line & Tower designs	Lot	1		
RNG-450	Control and Protection, SCADA and Telecommunications	Lot	1		
RNG-451	Contract management	Lot	1		
	Sub Total Schedule No. 4				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 1: SCHEDULE 5: GRAND SUMMARY

No	Item Description	Total Price Excl. VAT (Ksh)	Total Price Excl. VAT (USD)
Design, Supply, Installation and Commissioning of Rongai 132/33 kV Substation and associated Lines			
1	Total Schedule No 1: Plant and Mandatory Spares Supplied from abroad		
2	Total Schedule No 2: Plant and Mandatory Spares Supplied within Employer's Country		
3	Total Schedule No 3: Design Services		
4	Total Schedule No 4: Installation & Other Services		
	Total LOT 1 (Ksh) *(Amount Inserted in the e-Procurement Portal)*		
	Total LOT 1 (USD) *(Amount Inserted in the e-Procurement Portal)*		
	ADD 16% VAT		
	Grand Total LOT 1		
	Amount in Words:		
	Name of Bidder		
	Signature of Bidder		
	Stamp		

LOT 2: KATHWANA 2 X 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 1: Plant and Mandatory Spares supplied from Abroad

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
Substation Equipment/Materials					
KTH-101	2 X 23 MVA, 132/33 kV transformers with Online Monitoring System and Condition Controlled Maintenance Free Breather	Lot	2		
KTH-102	132kV Circuit Breaker for lines - Single Pole Mechanism	Pc	2		
KTH-103	132kV Circuit Breaker Substation– 3 Pole Ganged Mechanism	Pc	2		
KTH-104	132kV Motorized Isolator Without E/SW	Pc	5		
KTH-105	132kV Motorized Isolator with E/SW	Pc	2		
KTH-106	132kV Current Transformer	Pc	12		
KTH-107	132kV Voltage Transformer	Pc	12		
KTH-108	132kV Bay and Bus bar Materials	Lot	1		
KTH-109	132kV Surge Arresters	Pc	12		
KTH-110	132kV Steel Structures for Gantry, Bus bar, Equipment and Power cable support	Lot	1		
KTH-111	Transformer Protection Relay Panels (HV and MV)	Pc	4		
KTH-112	Transformer Control Panel with AVR Relay	Pc	2		
KTH-113	132kV Line Protection Relay Panel (Main 1 & Main 2)	Pc	4		
KTH-114	132kV Line Control Panel	Pc	2		
KTH-115	132kV Bus bar Protection Relay Panel	Pc	1		
KTH-116	33 kV Neutral Current transformer with an Isolating Link	Pc	2		
KTH-117	33 kV Surge Arresters	Pc	30		
KTH-118	Auxiliary transformer 200 kVA, 33/0.415 kV complete with power cables, surge arrestors and Drop Out fuses	Lot	2		
KTH-119	33kV Circuit Breaker	Pc	10		
KTH-120	33kV Motorized Isolator Without E/Switch	Pc	11		
KTH-121	33kV Motorized Isolator with E/Switch	Pc	8		
KTH-122	33kV Current Transformer	Pc	30		
KTH-123	33kV Voltage Transformer	Pc	30		
KTH-124	33 kV Bay and Bus bar Materials	Lot	1		
KTH-125	33kV Steel Structures for Gantry, Bus bar, Equipment and Power cable support	Lot	1		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
KTH-126	33 kV Surge Arresters	Pc	30		
KTH-127	Substation Automation and Control system (SAS)	Lot	1		
KTH-128	Control and measuring cables	Lot	1		
KTH-129	3-Phase AC auxiliary supply system and distribution board	Lot	1		
KTH-130	110VDC Lithium-Ion Battery System with minimum capacity of 265Ahr	Lot	2		
KTH-131	48VDC Lithium-Ion Battery System with minimum capacity of 165Ahr	Lot	2		
KTH-132	DC supply distribution system	Lot	1		
KTH-133	Substation Earthing and Lightning protection system	Lot	1		
KTH-134	Switchyard Lighting System	Lot	1		
KTH-135	Telecommunication system and associated accessories capable of integration with existing system and Tele-protection schemes.	Lot	1		
KTH-136	Fire Detection and Suppression System	Lot	1		
LINE MATERIALS					
KTH-137	Double circuit Lattice towers and associated fittings	Lot/Km	10		
KTH-138	132kV 3-Phase O/Head **Double circuit** in 300mm^2 ACSR complete with fittings, insulators and associated line hardware in lattice towers	Lot/km	10		
KTH-139	33 kV 3-Phase O/Head circuits in 150 mm^2 ACSR conductors, insulators, fittings and associated line hardware	Lot/km	60		
KTH-140	33kV cable termination kits (33 kV 3/Core, 300 mm^2 Al cables) complete with transition structure and surge arrestors	Lot/pc	16		
KTH-141	33kV Cable (33 kV 3/Core, 300 mm^2 Al cables)	Lot/Km	2		
KTH-142	Aerial Earth Wire (7/14SWG) complete with fittings and associated accessories	Lot/Km	10		
KTH-143	OPGW cable complete with fittings and associated Accessories for 132KV line and 33KV lines	Lot/km	70		
KTH-144	Approach FO cable (Underground) complete with fittings and associated accessories	Lot/km	2		
KTH-145	Fiber optic splice Boxes and ODFs	Lot	1		
KTH-146	Materials for transfer/dualling and adoption of existing 33/11/0.45kV lines and 5nos. distribution Substations to new lines	Lot/km	5		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
KTH-147	Supply of 8 Nos. Line Isolators with necessary hardware and fittings	Lot	1		
KTH-148	Concrete poles and their fittings	Lot/km	60		
KTH – 149	Ancillary equipment	Lot	1		
Mandatory Spares					
SKTH–001	132kV Current transformer	Pc	3		
SKTH–002	Self-supporting Lattice tower – Complete Section Tower	Lot	1		
SKTH–003	Self-supporting Lattice tower – Complete Suspension Tower	Lot	1		
SKTH–004	132 kV Voltage transformer	Pc	3		
SKTH–005	132 kV surge arrestors	Pc	3		
SKTH–006	132 kV CB Trip and Close Coils (3No. Each)	Pc	6		
SKTH–007	132kV Tension Insulators with associated fittings	Pc	20		
SKTH–008	132kV Suspension Insulators with associated fittings	Pc	20		
SKTH–009	132kV Line clamps (tension and jumper)	Pc	50		
SKTH–010	132kV Bus bar Clamps (Assorted – 5 of each type)	Lot	5		
SKTH–011	Transformer differential Protection IED	Pc	1		
SKTH–012	132 kV Line Protection IED	Pc	1		
SKTH–013	Bay Control and Protection IED (BCPU)	Pc	1		
SKTH–014	33kV Current transformer	Pc	3		
SKTH–015	33 kV Voltage transformer	Pc	3		
SKTH–016	33 kV surge arrestors	Pc	3		
SKTH–017	33 kV CB Trip and Close Coils (3No. Each)	Pc	6		
SKTH–018	33kV Feeder protection IED	Pc	1		
SKTH–019	33kV cable termination kit for 3/core 300 mm^2 AL cable	Pc	3		
SKTH–020	33kV cable Jointing kit for 3/Core 300mm^2 AL cable	Pc	3		
SKTH–021	Spares for 48VDC and 110VDC Battery charger	Set	1		
SKTH–022	Spares for Telecommunications equipment (SAMO 2, EPSI, and (one rugged com 24 switch), GBE (4x80km, 4x40km), 10GBE (4x80km))	Lot	1		
SKTH–023	132kV Current transformer	Pc	3		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
SKTH–024	Self-supporting Lattice tower – Complete Section Tower	Lot	1		
	Sub Total Schedule No.1				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 2: KATHWANA 2 x 23 MVA, 66/11 KV SUBSTATION AND ASSOCIATED LINES

Schedule 2: Plant and mandatory spares Supplied from within Employer's country

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
Substation Equipment/Materials					
KTH-201	2 X 23 MVA, 132/33 kV transformers with Online Monitoring System and Condition Controlled Maintenance Free Breather	Lot	2		
KTH-202	132kV Circuit Breaker for Line - Single Pole Mechanism	Pc	2		
KTH-203	132kV Circuit Breaker for Substation– 3 Pole Ganged Mechanism	Pc	2		
KTH-204	132kV Motorized Isolator Without E/SW	Pc	5		
KTH-205	132kV Motorized Isolator with E/SW	Pc	2		
KTH-206	132kV Current Transformer	Pc	12		
KTH-207	132kV Voltage Transformer	Pc	12		
KTH-208	132kV Bay and Bus bar Materials	Lot	1		
KTH-209	132kV Surge Arresters	Pc	12		
KTH-210	132 kV Steel Structures for Gantry, Bus bar, Equipment and Power cable support	Lot	1		
KTH-211	Transformer Protection Relay Panels (HV and MV)	Pc	4		
KTH-212	Transformer Control Panel with AVR Relay	Pc	2		
KTH-213	132kV Line Protection Relay Panel (Main 1 & Main 2)	Pc	4		
KTH-214	132kV Line Control Panel	Pc	2		
KTH-215	132kV Bus bar Protection Relay Panel	Pc	1		
KTH-216	33 kV Neutral Current transformer with an Isolating Link	Pc	2		
KTH-217	33 kV Surge Arresters	Pc	30		
KTH-218	Auxiliary transformer 200 kVA, 33/0.415 kV complete with power cables, surge arrestors and Drop Out fuses	Lot	2		
KTH-219	33kV Circuit Breaker	Pc	10		
KTH-220	33kV Motorized Isolator Without E/Switch	Pc	11		
KTH-221	33kV Motorized Isolator with E/Switch	Pc	8		
KTH-222	33kV Current Transformer	Pc	30		
KTH-223	33kV Voltage Transformer	Pc	30		
KTH-224	33 kV Bay and Bus bar Materials	Lot	1		
KTH-225	33kV Steel Structures for Gantry, Bus bar, Equipment and Power cable support	Lot	1		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
KTH-226	33 kV Surge Arresters	Pc	30		
KTH-227	Substation Automation and Control system (SAS)	Lot	1		
KTH-228	Control and measuring cables	Lot	1		
KTH-229	3-Phase AC auxiliary supply system and distribution board	Lot	1		
KTH-230	110VDC Lithium-Ion Battery System with minimum capacity of 265Ahr	Lot	2		
KTH-231	48VDC Lithium-Ion Battery System with minimum capacity of 165Ahr	Lot	2		
KTH-232	DC supply distribution system	Lot	1		
KTH-233	Substation Earthing and Lightning protection system	Lot	1		
KTH-234	Switchyard Lighting System	Lot	1		
KTH-235	Telecommunication system and associated accessories capable of integration with existing system and Tele-protection schemes.	Lot	1		
KTH-236	Fire Detection and Suppression System	Lot	1		
LINE MATERIALS					
KTH-237	Double circuit Lattice towers and associated fittings	Lot/Km	10		
KTH-238	132kV 3-Phase O/Head **Double circuit** in 300mm^2 ACSR complete with fittings, insulators and associated line hardware in lattice towers	Lot/km	10		
KTH-239	33 kV 3-Phase O/Head circuits in 150 mm^2 ACSR conductors, insulators, fittings and associated line hardware	Lot/km	60		
KTH-240	33kV cable termination kits (33 kV 3/Core, 300 mm^2 Al cables) complete with transition structure and surge arrestors	Lot/pc	16		
KTH-241	33kV Cable (33 kV 3/Core, 300 mm^2 Al cables)	Lot/Km	2		
KTH-242	Aerial Earth Wire (7/14SWG) complete with fittings and associated accessories	Lot/Km	10		
KTH-243	OPGW cable complete with fittings and associated Accessories for 132KV line and 33KV lines	Lot/km	70		
KTH-244	Approach FO cable (Underground) complete with fittings and associated accessories	Lot/km	2		
KTH-245	Fiber optic splice Boxes and ODFs	Lot	1		
KTH-246	Materials for transfer/dualling and adoption of existing 33/11/0.45kV lines and 5Nos. distribution Substations to new lines	Lot/km	5		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
KTH-247	Supply of 8Nos. 33kV Line Isolators with necessary hardware and fittings	Lot	1		
KTH-248	Concrete poles and their fittings	Lot/km	60		
KTH-249	Ancillary equipment	Lot	1		
Mandatory Spares					
SKTH–201	132kV Current transformer	Pc	3		
SKTH–202	Self supporting Lattice tower – Complete Section Tower	Lot	1		
SKTH–203	Self supporting Lattice tower – Complete Suspension Tower	Lot	1		
SKTH–204	132 kV Voltage transformer	Pc	3		
SKTH–205	132 kV surge arrestors	Pc	3		
SKTH–206	132 kV CB Trip and Close Coils (3No. Each)	Pc	6		
SKTH–207	132kV Tension Insulators with associated fittings	Pc	20		
SKTH–208	132kV Suspension Insulators with associated fittings	Pc	20		
SKTH–209	132kV Line clamps (tension and jumper)	Pc	50		
SKTH–210	132kV Bus bar Clamps (Assorted – 5 of each type)	Lot	1		
SKTH–211	Transformer differential Protection IED	Pc	1		
SKTH–212	132kV Line Protection IED	Pc	1		
SKTH–213	Bay Control and Protection IED (BCPU)	Pc	1		
SKTH–214	33kV Current transformer	Pc	3		
SKTH–215	33 kV Voltage transformer	Pc	3		
SKTH–216	33 kV surge arrestors	Pc	3		
SKTH–217	33 kV CB Trip and Close Coils (3No. Each)	Pc	6		
SKTH–218	33kV Feeder protection IED	Pc	1		
SKTH–219	33kV cable termination kit for 3/core 300 mm^2 AL cable	Pc	3		
SKTH–220	33kV cable Jointing kit for 3/Core 300mm^2 AL cable	Pc	3		
SKTH–221	Spares for 48VDC and 110VDC Battery charger	Set	1		
SKTH–222	Spares for Telecommunications equipment (Cards of each type, patch cords and SFP modules)	Lot	1		
SKTH–223	132kV Current transformer	Pc	3		
SKTH–224	Self-supporting Lattice tower – Complete Section Tower	Lot	1		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
	Sub Total Schedule No.2				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 2: KATHWANA 2 x 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 3: Design Services

NO	Substation and Line Design work	Unit	Qty (1)	Unit Price VAT Excl. (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
KTH-301	Substation Engineering design (Electrical, Mechanical, Civil, Control/protection, Telecommunication and SAS systems)	Lot	1		
KTH-302	Coordination of relay settings including Source substation	Lot	1		
KTH-303	132kV route survey and line design	Lot	1		
KTH-304	Tower Design	Lot	1		
KTH-305	33kV route survey and line design	Lot	1		
	Sub Total Schedule No. 3				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 2: KATHWANA 2 X 23 MVA, 132/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 4: Installation and Other Services

NO	Description for works	Unit	Qty (1)	Unit Price Excl. VAT (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
Substation Civil and Installation Work					
KTH–401	Transformer plinth with BOT and Oil separator	Lot	1		
KTH–402	Control Room building with a minimum floor area of 350 sqr. meter	Lot	1		
KTH–403	Construction of guard house with washrooms	Lot	1		
KTH–404	Earth work for entire plot area (excavation, back filling levelling, compaction, ballasting and landscaping)	Lot	1		
KTH–405	Rock excavation of approximately 100m^3	m^3	100		
KTH–406	Platform Works – Substation equipment foundations and associated works	Lot	1		
KTH–407	Construction of cable trenches complete with cable trays/supports	Lot	1		
KTH–408	Improvement of the existing 9m wide external murram access road from substation with acceleration and deceleration lanes to the main tarmac road.	Lot/km	0.9		
KTH–409	Construction of Internal Access roads	Lot	1		
KTH–410	Internal and external drainage system (Storm water and Foul water/Sewage drainage)	Lot	1		
KTH–411	Substation perimeter chain link fence for approximately three-acre plot, with razor wire, electric fence and two main gates	Lot	1		
KTH–412	Construction of Chain Link fence within substation plot to demarcate HV switchyard from open areas	Lot	1		
KTH–413	Rainwater harvesting system	Lot	1		
KTH–414	Establishment of materials/store yard in the remaining area of the substation plot with motorable access.	Lot	1		
KTH–415	LV and Control cable installation works	Lot	1		
KTH–416	Substation switchyard lighting	Lot	1		
KTH–417	Substation Earthing and lightning protection	Lot	1		
KTH–418	Erection and Installation of Steel structures	Lot	1		
KTH–419	Substation outdoor equipment and busbars erection and installation	Lot	1		
KTH–420	Substation indoor equipment installation, testing and commissioning	Lot	1		
KTH–421	Substation equipment (outdoor) installation, testing and commissioning	Lot	1		
KTH–422	SAS system installation and commissioning	Lot	1		
KTH–423A	Telecommunication system installation and integration to existing system / RCC/NCC control centre	Lot	1		
KTH–423B	SCADA integration to existing system / RCC/NCC control centre	Lot	1		
KTH–423C	Teleprotection integration to remote schemes	Lot	1		
KTH–424	Facilities for KPLC Project implementation team (Site office, Communication and transport services)	Lot	1		
KTH–425	Drawings approval and substation commissioning tools	Lot	1		
KTH–426	Costs for all statutory approvals	Lot	1		
KTH–427	Cost of ESHS activities for new bays	Lot	1		
Line Work					

NO	Description for works	Unit	Qty (1)	Unit Price Excl. VAT (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
KTH–428	Construction of 3 -Phase 132 kV **double circuit** (LILO) in 175 mm^2 ACSR conductor complete with OPGW on lattice towers.	Lot/km	10		
KTH–429	Tower Line Construction	Lot/km	10		
KTH–430	Construction of 33 kV 3-Phase overhead circuits in 150 mm^2 ACSR conductor.	Lot/km	60		
KTH–431	Installation of 33kV Underground feeder cable (Cable terminations, civil works & transition structures)	Lot/km	1		
KTH–432	Installation and commissioning of OPGW /UG FO cable	Lot/km	72		
KTH–433	Transfer, adaptation and dualing of existing 33/11/0.420kV lines and 5 Nos. distribution Transformers to new 33/11kV lines	Lot/km	5		
KTH–434	Recovery of the existing switching station materials and equipment to the nearest KPLC Stores (Chuka KPLC yard)	Lot/km	25		
Factory Acceptance Test (FAT)					
KTH–435	Power transformers	Lot	1		
KTH–436	Instrument transformers	Lot	1		
KTH–437	Switchgears (Circuit breakers)	Lot	1		
KTH–438	Switchgears (Isolators)	Lot	1		
KTH–439	Insulators	Lot	1		
KTH–440	Surge arrestors	Lot	1		
KTH–441	Protection & Control and SAS system	Lot	1		
KTH–442	Power cables	Lot	1		
KTH–443	Telecommunication system	Lot	1		
KTH–444	Substation steel structures	Lot	1		
KTH–445	Battery and Charger (Dc system)	Lot	1		
KTH–446	Concrete poles	Lot	1		
KTH-447	Line Towers	Lot	1		
KTH-448	Line Conductors and OPGW	Lot	1		
Overseas training					
KTH-449	Substation Design Principles	Lot	1		
KTH-450	Transmission Line & Tower designs	Lot	1		
KTH-451	Control and Protection, SCADA and Telecommunications	Lot	1		
KTH-452	Contract Management.	Lot	1		
	Sub Total Schedule NO. 4				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 2: SCHEDULE 5: GRAND SUMMARY

No	Item Description	Total Price Excl. VAT (Ksh)	Total Price Excl. VAT (USD)
Design, Supply, Installation and Commissioning of Kathwana 132/33 kV Substation and associated Lines			
1	Total Schedule No 1: Plant and Mandatory Spares Supplied from abroa		
2	Total Schedule No 2: Plant and Mandatory Spares Supplied within Employer's Country		
3	Total Schedule No 3: Design Services		
4	Total Schedule No 4: Installation & Other Services		
	Total LOT 2 (Ksh) *(Amount Inserted in the e-Procurement Portal)*		
	Total LOT 2 (USD) *(Amount Inserted in the e-Procurement Portal)*		
	ADD 16% VAT		
	Grand Total LOT 2		
	Amount in Words		
	Name of Bidder		
	Signature of Bidder		
	Stamp		

LOT 3: KISERIAN 2x 23 MVA, 66/11 KV SUBSTATION AND ASSOCIATED LINES

Schedule 1: Plant and Mandatory Spares supplied from Abroad

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
Substation Equipment/Materials					
KSN - 101	23 MVA, 66/11 kV transformer	Pc	2		
KSN - 102	66kV Circuit breakers	Pc	5		
KSN - 103	66kV motorized Isolators with Earth switch	Pc	3		
KSN - 104	66kV motorized Isolators without Earth switch	Pc	7		
KSN - 105	66kV Current Transformer	Pc	15		
KSN - 106	66kV Voltage Transformer	Pc	15		
KSN - 107	66kV kV Bay and Bus bar materials	Lot	1		
KSN - 108	Steel Structures for Gantry, Bus bar, equipment and Power cable support	Lot	1		
KSN - 109	66kV Surge arrestors with surge counters	Pc	15		
KSN - 110	Transformer Protection Panels	Pc	2		
KSN - 111	Transformer Bay Control Panel with Voltage regulating IED (AVR)	Pc	2		
KSN - 112	66kV Line Control and Protection panel	pc	3		
KSN - 113	66kV Bus bar Control and Protection panel	pc	1		
KSN - 114	11 kV Neutral CT with isolating link and associated accessories	pc	2		
KSN - 115	11 kV Surge Arresters for six circuits	Pc	30		
KSN - 116	Auxiliary transformer 100 kVA, 11/0.415 kV complete with supply power cable between the board and Tx. complete with termination kits	Lot	2		
KSN - 117	11kV Switch Board Panel for Auxiliary transformers	Pc	2		
KSN - 118	11kV Switch Board Panel for feeders	Pc	8		
KSN - 119	11kV Switch Board Panel for Bus section and Bus riser for switchgear Board	Lot	2		
KSN - 120	11kV Switch Board Panel for transformer Incomers	Pc	2		
KSN - 121	11kV S/Core, 630mm2 Copper Cables between transformer and switchgear board, Complete with indoor and outdoor terminations kits	Lot	1		
KSN - 122	11kV cable termination kits (11 kV 3/Core, 300 mm^2 Al cables) on both end of 8 Nos. of Cable circuits (Indoor and Outdoor)	Set	16		
KSN - 123	11kV 3/Core, 300 mm^2 AL cable for feeder outs	Lot/km	2		
KSN - 124	Substation Automation and Control system (SAS)	Lot	1		
KSN - 125	Telecommunication system and associated accessories capable of integration with existing system at Kiserian and remote end	Lot	2		
KSN - 126	AC and DC Distribution boards and auxiliary system	Lot	1		
KSN - 127	110VDC (Lithium Ion) System with minimum capacity of 265 Ahr and Charger	Lot	1		
KSN - 128	48VDC (Lithium-Ion) System with minimum capacity of 165 Ahr and Charger	Lot	1		
KSN - 129	Control and measuring cables	Lot	1		
KSN - 130	Substation Earthing and Lightning protection system	Lot	1		
KSN - 131	Switchyard lighting system	Lot	1		
KSN - 132	Substation fire protection system	Lot	1		
Line Materials					

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
KSN - 133	66 kV 3-Phase O/H Double circuit in 300mm^2 AAA Conductor complete with Line fittings, Insulators and associated line hardware	Lot/km	13		
KSN - 134	11 kV 3-Phase O/H circuits in 150 mm^2 ACSR conductors, insulators, Line fittings and associated line hardware	Lot/km	40		
KSN - 135	OPGW cable complete with fittings and associated accessories	Lot/km	20		
KSN - 136	ADSS FO Cable complete with fittings and associated Accessories	Lot/km	5		
KSN - 137	Fibre optic splice Boxes and ODFs at Kiserian and remote source	Lot	1		
KSN - 138	Underground fibre approach cable with fittings at Kiserian and remote source	Lot	1		
KSN - 139	Materials for transfer/dualling and adoption of existing 33/11/0.45kV lines and 5No. Distribution substations to new lines	Lot/km	5		
KSN - 140	Supply of 6Nos.11kV Line Isolators complete with hardware accessories	Lot	1		
KSN – 141	Supply of 3Nos. 66 kV Line Isolators complete with hardware accessories	Lot	1		
KSN - 141	Concrete Pole fittings, stay wire and Accessories	Lot/km	66		
KSN – 142	Ancillary equipment	Lot	1		
Mandatory Spares					
SSK-011	66 kV Current transformer	Pc	3		
SSK-012	66 kV Voltage transformer	Pc	3		
SSK-013	Bay Control and Protection IED (BCPU)	Pc	1		
SSK-014	66 kV CB Trip and Close Coils (3No.Each)	Pc	6		
	11 kV CB Trip and Close Coils (3No.Each)	Pc	6		
SSK-015	66kV surge arrestors	pc	3		
SSK-016	Auxiliary relays for SCADA signals	pc	12		
SSK-018	11 kV indoor Circuit Breaker - Incomer	pc	1		
SSK-019	11kV Indoor circuit breaker - Feeder	pc	1		
SSK-020	11 Feeder protection IED	pc	1		
SSK-021	11kV cable termination kit for 3/core 300 mm^2 AL cable	Set	3		
SSK-022	11kV cable Jointing kit for 3/Core 300mm^2 AL cable	Set	3		
SSK-023	11kV cable termination kit for S/Core 630mm^2 Copper cable	Set	3		
SSK-024	Spares for 48VDC and 110VDC Battery charger (One Card of each type)	Set	1		
SSK-025	Spares for Telecommunications equipment	Set	1		
	Sub Total Schedule NO.1				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 3: KISERIAN 2 x 23 MVA, 66/11 KV SUBSTATION AND ASSOCIATED LINES

Schedule 2: Plant and mandatory spares Supplied from within Employer's country

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
Substation Equipment/Materials					
KSN - 201	23 MVA, 66/11 kV transformer	Pc	2		
KSN - 202	66kV Circuit breakers	Pc	5		
KSN - 203	66kV motorized Isolators with Earth switch	Pc	3		
KSN - 204	66kV motorized Isolators without Earth switch	Pc	7		
KSN - 205	66kV Current Transformer	Pc	15		
KSN - 206	66kV Voltage Transformer	Pc	15		
KSN - 207	66kV kV Bay and Bus bar materials	Lot	1		
KSN - 208	Steel Structures for Gantry, Bus bar, equipment and Power cable support	Lot	1		
KSN - 209	66kV Surge arrestors with surge counters	Pc	15		
KSN - 210	Transformer Protection Panels	Pc	2		
KSN - 211	Transformer Bay Control Panel with Voltage regulating IED (AVR)	Pc	2		
KSN - 212	66kV Line Control and Protection panel	pc	3		
KSN - 213	66kV Bus bar Control and Protection panel	pc	1		
KSN - 214	11 kV Neutral CT with isolating link and associated accessories	pc	2		
KSN - 215	11 kV Surge Arresters for six circuits	Pc	30		
KSN - 216	Auxiliary transformer 100 kVA, 11/0.415 kV complete with supply power cable between the board and Tx. complete with termination kits	Lot	2		
KSN - 217	11kV Switch Board Panel for Auxiliary transformers	Pc	2		
KSN - 218	11kV Switch Board Panel for feeders	Pc	8		
KSN - 219	11kV Switch Board Panel for Bus section and Bus riser for switchgear Board	Lot	2		
KSN - 220	11kV Switch Board Panel for transformer Incomers	Pc	2		
KSN - 221	11kV S/Core, 630mm2 Copper Cables between transformer and switchgear board, Complete with indoor and outdoor terminations kits	Lot	1		
KSN - 222	11kV cable termination kits (11 kV 3/Core, 300 mm^2 Al cables) on both end of 8 Nos. of Cable circuits (Indoor and Outdoor)	Set	16		
KSN - 223	11kV 3/Core, 300 mm^2 AL cable for feeder outs	Lot/km	2		
KSN - 224	Substation Automation and Control system (SAS)	Lot	1		
KSN - 225	Telecommunication system and associated accessories capable of integration with existing system at Kiserian and remote end	Lot	2		
KSN - 226	AC and DC Distribution boards and auxiliary system	Lot	1		
KSN - 227	110VDC (Lithium Ion) System with minimum capacity of 265 Ahr and Charger	Lot	1		
KSN - 228	48VDC (Lithium-Ion) System with minimum capacity of 165 Ahr and Charger	Lot	1		
KSN - 229	Control and measuring cables	Lot	1		
KSN - 230	Substation Earthing and Lightning protection system	Lot	1		
KSN - 231	Switchyard lighting system	Lot	1		
KSN - 232	Substation fire protection system	Lot	1		

NO	Materials and Equipment Description	UoM	Qty (1)	Unit Price Excl. VAT (USD) (2)	Sum Total Excl VAT (3) = (1*2)
Line Materials					
KSN - 233	66 kV 3-Phase O/H Double circuit in 300mm^2 AAA Conductor complete with Line fittings, Insulators and associated line hardware	Lot/km	13		
KSN - 234	11 kV 3-Phase O/H circuits in 150 mm^2 ACSR conductors, insulators, Line fittings and associated line hardware	Lot/km	40		
KSN - 235	OPGW cable complete with fittings and associated accessories	Lot/km	20		
KSN - 236	ADSS FO Cable complete with fittings and associated Accessories	Lot/km	5		
KSN - 237	Fibre optic splice Boxes and ODFs at Kiserian and remote source	Lot	1		
KSN - 238	Underground fibre approach cable with fittings at Kiserian and remote source	Lot	1		
KSN - 239	Materials for transfer/dualling and adoption of existing 33/11/0.45kV lines and 5No. Distribution substations to new lines	Lot/km	5		
KSN - 240	Supply of 6Nos.11kV Line Isolators complete with hardware accessories	Lot	1		
KSN - 241	Supply of 3Nos. 66 kV Line Isolators complete with hardware accessories	Lot	1		
KSN - 242	Concrete Pole fittings, stay wire and Accessories	Lot/km	66		
Mandatory Spares					
SKSN-201	66 kV Current transformer	Pc	3		
SKSN-202	66 kV Voltage transformer	Pc	3		
SKSN-203	Bay Control and Protection IED (BCPU)	Pc	1		
SKSN-204	66 kV CB Trip and Close Coils (3No.Each)	Pc	6		
SKSN-205	11 kV CB Trip and Close Coils (3No.Each)	Pc	6		
SKSN-206	66kV surge arrestors	pc	3		
SKSN-207	Auxiliary relays for SCADA signals	pc	12		
SKSN-208	11 kV indoor Circuit Breaker - Incomer	pc	1		
SKSN-209	11kV Indoor circuit breaker - Feeder	pc	1		
SKSN-210	11 Feeder protection IED	pc	1		
SKSN-211	11kV cable termination kit for 3/core 300 mm^2 AL cable	Set	3		
SKSN-212	11kV cable Jointing kit for 3/Core 300mm^2 AL cable	Set	3		
SKSN-213	11kV cable termination kit for S/Core 630mm^2 Copper cable	Set	3		
SKSN-214	Spares for 48VDC and 110VDC Battery charger (One Card of each type)	Set	1		
SKSN-215	Spares for Telecommunications equipment	Set	1		
	Sub Total Schedule NO.2				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 3: KISERIAN 2 x 23 MVA, 66/11 KV SUBSTATION AND ASSOCIATED LINES

Schedule 3: Design Services

NO	Substation and Line Design work	Unit	Qty (1)	Unit Price VAT Excl. (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
KSN-301	Substation Engineering design (Electrical, Mechanical, Civil, Control/protection, Telecommunication and SAS systems)	Lot	1		
KSN-302	Coordination of relay settings including Source substation	Lot	1		
KSN-303	66 kV route survey and line design	Lot	1		
KSN-304	11kV route survey and line design	Lot	1		
	Sub Total Schedule No. 3				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 3: KISERIAN 23 MVA, 66/33 KV SUBSTATION AND ASSOCIATED LINES

Schedule 4: Installation and Other Services

NO	Description for works	Unit	Qty (1)	Unit Price Excl. VAT (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
Substation Civil and Installation Work					
KSN - 401	Transformer plinth with BOT and Oil separator	Lot	1		
KSN - 402	Control room building with an internal commercial office, and a minimum floor area of 400 sqr. meter	Lot	1		
KSN - 403	Platform Works – Substation equipment foundations and associated works	Lot	1		
KSN - 404	Earth work for entire plot area (excavation, back filling levelling, compaction, ballasting and landscaping)	Lot	1		
KSN - 405	Establishment of materials/store yard in the remaining area of the substation plot with motorable access.	Lot	1		
KSN - 406	Substation perimeter masonry wall for entire plot, with razor wire, electric fence and two main gates	Lot	1		
KSN - 407	Construction of Chain Link fence within substation plot to demarcate HV switchyard from open areas	Lot	1		
KSN - 408	Improvement of all-weather murram access roads approximately 200m long and 9.0m wide with acceleration and deceleration lanes from substation to tarmac road	Lot	1		
KSN - 409	Internal and external drainage system (Storm water and Foul water/Sewage drainage)	Lot	1		
KSN - 410	Construction of Internal Access roads	Lot	1		
KSN - 411	Rainwater harvesting system	Lot	1		
KSN - 412	Construction of cable trenches complete with cable trays/supports	Lot	1		
KSN - 413	Erection and Installation of Steel structures	Lot	1		
KSN - 414	Substation equipment (outdoor) erection and installation	Lot	1		
KSN - 415	Substation equipment (outdoor) testing and commissioning	Lot	1		
KSN - 416	Substation indoor equipment installation and commissioning	Lot	1		
KSN - 417	SAS system installation and commissioning	Lot	1		
KSN - 418	Telecommunication system installation and integration to RCC/NCC control center at both Kiserian and remote end				
KSN - 419	Transformer power cables installation and commissioning	Lot	1		
KSN - 420	LV and Control cable installation works	Lot	1		
KSN - 421	Substation switchyard lighting	Lot	1		
KSN - 422	Substation Earthing and lightning protection	Lot	1		
KSN - 423	Demarcated Guard house with washroom	Lot	1		
KSN - 424	Facilities for KPLC Project implementation team (Site office, Communication and transport services)	Lot	1		
KSN - 425	Drawings approval and substation commissioning tools	pc	4		
KSN - 426	Costs for all statutory approvals	Lot	1		
KSN - 427	Cost of ESHS activities for new bays	Lot	1		
Line Work					
KSN - 427	Construction of 66 kV double circuit overhead line Civil work, pole erection and dressing	Lot/km	13		
KSN - 428	66 kV double circuit Overhead line Stringing and commissioning	Lot/km	13		
KSN - 429	Installation and Commissioning of 11kV feeder out cables	Lot/km	2		
KSN - 430	11kV Overhead line civil work, pole erection and dressing	Lot/km	40		
KSN - 431	11kV Overhead line Stringing and commissioning	Lot/km	40		
KSN - 432	Installation and commissioning of OPGW/ADSS cable	Lot/km	20		
KSN - 433	Transfer, adaptation and dualling of existing 33/11/0.420kV lines				

NO	Description for works	Unit	Qty (1)	Unit Price Excl. VAT (Ksh) (2)	Sum Total Excl. VAT (3) = (1*2)
	and distribution Transformers to new 33/11kV lines	Lot/km	5		
Factory acceptance test (FAT)					
KSN - 434	Power transformers	Lot	1		
KSN - 435	Instrument transformers	Lot	1		
KSN - 436	Switchgears (Circuit breakers)	Lot	1		
KSN - 437	Switchgears (Isolators)				
KSN - 438	Line Conductors and OPGW				
KSN - 439	Insulators	Lot	1		
KSN - 440	Surge arrestors				
KSN - 441	Protection & Control and SAS system	Lot	1		
KSN - 442	Power cables	Lot	1		
KSN - 443	Telecommunication system	Lot	1		
KSN – 444	Substation steel structures	Lot	1		
KSN – 445	Battery and Charger (Dc system)	Lot	1		
KSN – 446	Concrete poles	Lot	1		
Overseas training					
KSN-447	Substation Design Principles	Lot/Pax	10		
KSN-448	Transmission Line & Tower designs	Lot	1		
KSN-449	Control and Protection, SCADA and Telecommunications	Lot	1		
KSN-450	Contract management.	Lot	1		
	Sub Total Schedule NO. 4				
	Name of Bidder				
	Signature of Bidder				
	Stamp				

LOT 3: SCHEDULE 5: GRAND SUMMARY

No	Item Description	Total Price Excl. VAT (Ksh)	Total Price Excl. VAT (USD)
Design, Supply, Installation and Commissioning of Kiserian 66/11 kV Substation and associated Lines			
1	Total Schedule No 1: Plant and Mandatory Spares Supplied from abroa		
2	Total Schedule No 2: Plant and Mandatory Spares Supplied within Employer's Country		
3	Total Schedule No 3: Design Services		
4	Total Schedule No 4: Installation & Other Services		
	Total LOT 3 (Ksh) *(Amount Inserted in the e-Procurement Portal)*		
	Total LOT 3 (USD) *(Amount Inserted in the e-Procurement Portal)*		
	ADD 16% VAT		
	Grand Total LOT 3		
	Amount in Words:		
	Name of Bidder		
	Signature of Bidder		
	Stamp		

PART III - CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VII - GENERAL CONDITIONS OF CONTRACT

These General Conditions of Contract (GCC), read in conjunction with the Special Conditions of Contract (SCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties. These General Conditions of Contract have been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

1. General Provisions

1.1 *Definitions*

Bold face type is used to identify defined terms.

a) ***"Accepted Contract Amount"*** *means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.*
b) ***"Bill of Quantities"*** *means the schedule of price and completed Bill of Quantities forming part of the tender.*
c) ***"Base Date****" means the date 14 days prior to the latest date for submission of the Tender.*
d) *"Commencement Date" means the date notified under Sub-Clause 8.1 [Commencement of Works].*
e) *"Time for Completion" means the time for completing the Works or a Section (as the case may be) under Sub-Clause 8.2 [Time for Completion], as stated in the Contract Data (with any extension under Sub-Clause 8.4 [Extension of Time for Completion]), calculated from the Commencement Date.*
f) ***"Certificate of performance (Completion and Acceptance/operational)"*** *means the certificate issued by KPLC to the Contractor confirming that the Works have been completed as per the terms of the Contract or plant is operating per contract and design.*
g) ***"Completion Date"*** *means the date of completion of the Works as certified by the Project Manager.*
h) ***"Contract"*** *means the agreement entered into between the Procuring Entity and the Contractor as recorded in the Agreement Form and signed by the parties including all attachments and appendices thereto and all documents incorporated by reference therein to execute, complete, and maintain the Works.*
i) ***"Contractor"*** *means the individual or firm supplying the goods and undertaking the Works under this Contract as the case may be or his/ her/ its permitted heir(s), personal representative(s), successor(s) or permitted assign(s) where the context so admits. For the avoidance of doubt this shall mean the successful Tenderer(s) pursuant to the tender.*
j) ***"Special Conditions of Contract"*** *means the pages completed by the Procuring Entity entitled Special Conditions of Contract (SCC) which constitute Part A of the Special Conditions.*
k) ***"Contractor's Documents"*** *means the calculations, computer programs and other software, progress reports, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.*
l) ***"Contractor's Equipment"*** *means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects.*
m) ***"Contract Price"*** *means the price defined in the contract and thereafter as adjusted in accordance with the provisions of the Contract or the price payable to the Contractor under the contract for the full and proper performance of its contractual obligations.*
n) ***"Contractor's Personnel"*** *means the Contractor's Representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labor and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.*
o) ***"Contractor's Representative"*** *means the person named by the Contractor in the Contractor appointed from time to time by the Contractor who acts on behalf of the Contractor.*
p) ***"Cost"*** *means expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit*
q) ***"Day"*** *means a calendar day and* ***"year"*** *means 365 days.*
r) ***"Day works"*** *means Work inputs subject to payment on a time basis for labor and the associated materials and plant.*
s) ***"Defects Notification Period"*** *means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause11.1 [Completion of Outstanding Work and Remedying Defects], which extends over the days stated in the Special Conditions of Contract.*

t) ***"Defects Liability Period"*** *means the period named in the Special Conditions of Contract and calculated from the Completion Date, within which the contractor is liable for any defects that may develop in the handed over works.*

u) ***"Defect"*** *means any part of the Works not completed in accordance with the Contract.*

v) ***"Defects Liability Certificate"*** *means the certificate issued by Project Manager upon correction of defects by the Contractor.*

w) ***"Drawings"*** *means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract.*

x) ***"Procuring Entity"*** *means the* ***Kenya power*** *named herein as KPLC in the Special Conditions of Contract.*

y) ***"Procuring Entity's Personnel"*** *means the Project Manager, the assistants and all other staff, labor and other employees of the Project Manager and of the Procuring Entity; and any other personnel notified to the Contractor, by the Procuring Entity or the Project Manager, as Procuring Entity's Personnel.*

z) ***"Project Manager"*** *means the person appointed by the Procuring Entity to act as the Project Manager for the purposes of the Contract and named in the Special Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor*

aa) ***"Final Payment Certificate"*** *means the payment certificate issued under Sub-Clause 14.13 [Issue of Final Payment Certificate].*

bb) ***"Foreign Currency"*** *means a currency of another country (not Kenya) in which part (or all) of the Contract Price is payable, but not the Local Currency.*

cc) ***"The Goods"*** *includes all of the equipment, machinery, and or other materials, which the Contractor is required to supply to KPLC under the contract and install and commission under the contract as the case may be.*

dd) ***"Interim Payment Certificate"*** *means a payment certificate issued under Clause 14 [Contract Price and Payment], other than the Final Payment Certificate.*

ee) ***"Laws"*** *means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.*

ff) ***"Letter of Acceptance"*** *means the letter of formal acceptance, signed by the Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties.*

gg) ***"Local Currency"*** *means the currency of Kenya.*

hh) ***"Materials"*** *means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.*

ii) ***"Notice of Dissatisfaction"*** *means the notice given by either Party to the other under Sub-Clause 20.3 indicating its dissatisfaction and intention to commence arbitration.*

jj) ***"Party"*** *means the Procuring Entity or the Contractor, as the context requires.*

kk) ***"Payment Certificate"*** *means a payment certificate issued under Clause 14 [Contract Price and Payment].*

ll) ***"Performance Security"*** *means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].* ***"Performance Certificate"*** *means the certificate issued under Sub-Clause 11.9 [Performance Certificate].* ***"Permanent Works"*** *means the permanent works to be executed by the Contractor under the Contract.*

mm) ***"Plant"*** *means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Procuring Entity and relating to the construction or operation of the Works.*

nn) ***"Provisional Sum"*** *means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional Sums].*

oo) ***"Project Manager"*** *is the employee of KPLC responsible for supervising the execution of the Works and administering the Contract.*

pp) ***"Retention Money"*** *means the accumulated retention moneys which the Procuring Entity retains under Sub-Clause 14.3 [Application for Interim Payment Certificates] and pays under Sub-Clause 14.9 [Payment of Retention Money].*

qq) ***"Schedules"*** *means the document (s) entitled schedules, completed by the Contractor and submitted with the Form of Tender, as included in the Contract.*

rr) ***"Section"*** *means a part of the Works specified in contract document Volume II*

ss) ***"Site"*** *means the places where the Works are to be executed under this contract, including storage and working areas, and to which Plant and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.*

tt) ***"Statement"*** *means a statement submitted by the Contractor as part of an application, under Clause 14 [Contract Price and Payment], for a payment certificate.*

uu) ***"Start Date" or "Commencement Date"*** *is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with the site possession date(s).*

vv) ***"Subcontractor"*** *means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works.*

ww) ***"Specification"*** *means the document entitled specification as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works, equipment, materials under volume II contract document, Particular technical specifications in the Appendixes/annexes etc.*

xx) ***"Taking-Over/Completion Certificate"*** *means a certificate issued under Clause 10 [Procuring Entity's Taking Over].*

yy) ***"Temporary Works"*** *means all temporary works of every kind required on Site for the execution and completion of the Permanent Works and the remedying of any defects.*

zz) ***"Tests on Completion"*** *means the tests which are specified in the Contractor agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case maybe) are taken over by the Procuring Entity.*

aaa) ***"Tests after Completion"*** *means the tests (if any) which are specified in the Contract and which are carried out in accordance with the Specification after the Works or a Section (as the case may be) are taken over by the Procuring Entity.*

bbb) ***"Time for Completion"*** *means the time for completing the Works or a Section (as the case may be) as stated in the Special Conditions of Contract (with any extension calculated from the Commencement Date.*

ccc) ***"Unforeseeable"*** *means not reasonably foreseeable by an experienced contractor by the Base Date.*

ddd) ***"Variation"*** *means any change to the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].*

eee) ***"Works"*** *means the construction, repair, renovation or demolition of buildings, roads or other structures and includes the design, supply, installation, testing and commissioning of equipment and materials, site preparation and other incidental services where applicable.*

1.2 Interpretation

In the Contract, except where the context requires otherwise:

a) Words indicating one gender include all genders;

b) words indicating the singular also include the plural and words indicating the plural also include the singular;

c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;

d) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and

e) The marginal words and other headings shall not be taken in to consideration in the interpretation of these Conditions.

1.3 Communications

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

a) In writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Special Conditions of Contract (SCC); and

b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Special Conditions of Contract. However:

i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and

ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Project Manager, a copy shall be sent to the Project Manager or the other Party, as the case may be.

1.3.1 Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each Party hereto.

1.3.2 Non-Waiver

a. Subject to GCC Sub-Clause 1.3.2 (b) below, no relaxation, forbearance, delay or indulgence by either Party in enforcing any of the terms and conditions of the Contract or the granting of time by either Party to the other shall prejudice, affect or restrict the rights of that Party under the Contract, nor shall any waiver by either Party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

b. Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived.

1.4 Law and Language

1.4.1 The Contract shall be governed by the laws of **Kenya.**

1.4.2 The ruling language of the Contract shall be **English.**

1.4.3 Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in Kenya Power 's Country when

a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country; or

b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

1.5 Priority of documents

1.5.1 The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

1) the Letter of Acceptance
a) the Contract Agreement letter
b) the Letter of Tender
c) the Special Conditions of Contract
d) the General Conditions of Contract
e) the Price Schedules submitted by the Contractor and agreed upon with KPLC.
f) Minutes for Contract clarification
g) the Volume II of tender documents (Work requirements and Equipment Specifications)
h) the Volume II of tender document attachments/Annexes (Drawings and KPLC equipment& Material Specifications)
i) the Tender Clarifications/Amendments
j) the Project Scope and BOQ details
k) the Tender Form signed by the Contractor
l) the Declaration Form signed by the Contractor
m) the Equipment manufacturer's guarantee and 12 months Warranty
n) Any other documents forming part of the Employer's requirements

If an ambiguity or discrepancy is found in the documents, the Project Manager shall issue any necessary clarification or instruction.

1.6 Contract Agreement

The Parties shall enter into a Contract Agreement within 28 days after the Contractor receives the Letter of Acceptance, unless the Special Conditions establish otherwise. The Contract Agreement shall be based upon the form annexed to the Special Conditions. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Procuring Entity.

1.7 Assignment

Party shall assign neither the whole nor any part of the Contractor any benefit or interest in or under the Contract. However, either Party:

a) May as sign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and
b) may, as security in favor of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.

1.8 Care and Supply of Documents

1.8.1 The Specifications and Drawings shall be in the custody and care of the Procuring Entity. Unless otherwise stated in the Contract, two copies of the Contract and of each subsequent Drawings and Bills of Quantities shall be supplied to the Contractor, who may make or request further copies at the cost of the Contractor.

1.8.2 Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Procuring Entity. Unless otherwise stated in the Contract, the Contractor shall supply to the Project Manager two copies of each of the Contractor's Documents.

1.8.3 The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the contract. The Procuring Entity's Personnel shall have the right of access to all these documents at all reasonable times.

1.8.4 If a Party become aware of an error or defect in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.9 Delayed Instructions

1.9.1 The Contractor shall give notice to the Project Manager whenever the Works are likely to be delayed or disrupted if any necessary instruction is not issued to the Contractor within a particular time, which shall

be reasonable. The notice shall include details of the necessary instruction, details of why and by when it should be issued, and the nature and amount of the delay or disruption likely to be suffered if it is late.

1.9.2 If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Project Manager to issue the notified instruction within a time which is reasonable and is specified in the notice with supporting details, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

b) payment of any such Cost, which shall be included in the Contract Price.

1.9.3 After receiving this further notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

1.9.4 However, if and to the extent that the Project Manager's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time or Cost

1.10. Procuring Entity's Use of Contractor's Documents

1.10.1 As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

1.10.2 The Contractor shall be deemed (by signing the Contract) to give to the Procuring Entity a non-terminable transferable non-exclusive royalty-free license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This license shall:

a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,

b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and

c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

1.10.3 The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Procuring Entity for purposes other than those permitted under Sub-Clause1.10.2.

1.11. Contractor's Use of Procuring Entity's Documents

1.11.1 As between the Parties, the Procuring Entity shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Procuring Entity. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Procuring Entity's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

1.12 Confidential Details

1.12.1 The Contractor's and the Procuring Entity's Personnel shall disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation.

1.12.2 The Contractor's and the Procuring Entity's Personnel shall also treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.

1.13 Compliance with Laws

1.131 The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Special Conditions:

a) The Procuring Entity shall have obtained (or shall obtain) the planning, zoning, building permit or similar permission for the Permanent Works, and any other permissions described in the Specifications as having been (or to be) obtained by the Procuring Entity; and the Procuring Entity shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and

b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Procuring Entity harmless against and from the consequences of any failure to do so, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence.

1.14 Joint and Several Liability

If the Contractor constitutes (under applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons:

a) These persons shall be deemed to be jointly and severally liable to the Procuring Entity for the performance of the Contract;

b) these persons shall notify the Procuring Entity of their leader who shall have authority to bind the Contractor and each of these persons; and

c) the Contractor shall not alter its composition or legal status without the prior approval or consent of the Procuring Entity.

1.15 Inspections and Audit by the Procuring Entity

The Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Public Procurement Regulatory Authority, Procuring Entity and/or persons appointed or designated by the Government of Kenya to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Procuring Entity if requested by the Procuring Entity.

2. The Procuring Entity (KPLC)

2.1 Right of Access to the Site

2.1.2 The Procuring Entity shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the **Special Conditions of Contract.** The right and possession may not be exclusive to the Contractor. If, under the Contract, the Procuring Entity is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Procuring Entity shall do so in the time and manner stated in the Specification. However, the Procuring Entity may withhold any such right or possession until the Performance Security has been received.

2.1.3 If no such time is stated in the Special Conditions of Contract, the Procuring Entity shall give the Contractor right of access to, and possession of, the Site within such times as required to enable the Contractor to proceed without disruption in accordance with the program submitted under Sub-Clause 8.3 [Program].

2.1.4 If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Procuring Entity to give any such right or possession within such time, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

b) payment of any such Cost, which shall be included in the Contract Price.

2.1.5 After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

2.1.6 However, if and to the extent that the Procuring Entity's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

2.2. Permits, Licenses or Approvals

2.2.1 If stated in the contract, the Procuring Entity shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain properly:

a) Copies of the Laws of Kenya (foreign contractors) which are relevant to the Contract but are not readily available, and

b) Any permits, licenses or approvals required by the Laws of Kenya:

i) Which the Contractor is required to obtain under Sub-Clause1.13[Compliance with Laws],

ii) For the delivery of Goods, including clearance through customs, and

iii) For the export of Contractor's Equipment when it is removed from the Site.

2.3 Procuring Entity's Personnel

2.3.1 The Procuring Entity shall be responsible for ensuring that the Procuring Entity's Personnel and the Procuring Entity's other contractors on the Site:

a) co-operate with the Contractor's efforts under Sub-Clause4.6 [Co-operation], and

b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b) and (c) of Sub-Clause 4.8[Safety Procedures]and under Sub-Clause 4.18 [Protection of the Environment].

2.4 Procuring Entity's Financial Arrangements

The Procuring Entity shall submit (if stated in SCC), before the Commencement Date and thereafter within 28 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Procuring Entity to pay the Contract Price punctually (as estimated at that time) in accordance with Clause 14 [Contract Price and Payment]. Before the Procuring Entity makes any material change to his financial arrangements, the Procuring Entity shall give notice to the Contractor with detailed particulars.

2.5 Procuring Entity's Claims

2.5.1 If the Procuring Entity considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period, the Procuring Entity or the Project Manager shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Procuring Entity's Equipment and Free-Issue Materials], or for other services requested by the Contractor.

2.5.2 The notice shall be given as soon as practicable and no longer than twenty eighty (28) days after the Project Manager became aware, or should have become aware, of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.

2.5.3 The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Procuring Entity considers himself to be entitled in connection with the Contract. The Project Manager shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Procuring Entity is entitled to be paid by the Contractor, and/ or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension of Defects Notification Period].

2.5.4 This amount may be included as a deduction in the Contract Price and Payment Certificates. The Procuring Entity shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Sub-Clause.

3. The Project Manager

3.1 Project Manager's Duties and Authority

3.1.1 The Procuring Entity shall appoint the Project Manager who shall carry out the duties assigned to him in the Contract. The Project Manager's team shall include suitably qualified Assistants and other professionals who are competent to carry out these duties. The Project Manager's Name and address shall be provided in the **Special Conditions of Contract.**

a) List of documents for approval

Pursuant to GCC Sub-Clause 3.1 the Contractor shall prepare, or cause his Subcontractor to prepare, and present to the Project Manager in accordance with the materials requirement and work program/performance the following documents for:

1. Change in Contractor`s Project Organization structure and Key personnel
2. Change in Supplier/Manufacturer of Major Materials/Equipment
3. Contractor`s work Program/Schedule
4. Work Progress Joint Measurements.
5. Quality and safety Assurance plan
6. Sub-Contractors' for Works and Material supply
7. Facility drawings and Layouts for: Civil, Mechanical & Structural, Electrical, Protection & system, SAS & Telecoms systems system
8. All Facility designs and technical documents.
9. All Facility test Protocols and test Reports/results etc.

b) List of documents for review

1. Monthly progress reports and any other Project progress report
2. Work Progress Joint Measurements.
3. Final Project report after Installation before Issuance of Performance Certificates
4. Project closure and materials reconciliation report
5. Final "As built" drawings.

3.1.2 The Project Manager shall have no authority to amend the Contract terms.

3.1.3 The Project Manager may exercise the authority attributable to the Project Manager as specified in or necessarily to be implied from the Contract. If the Project Manager is required to obtain the approval of the Procuring Entity before exercising a specified authority, the requirements shall be as stated in the Special Conditions of contract. The Procuring Entity shall promptly inform the Contractor of any change to the authority attributed to the Project Manager.

3.1.4 However, whenever the Project Manager exercises a specified authority for which the Procuring Entity's approval is required, then (for the purposes of the Contract) the Procuring Entity shall be deemed to have given approval.

3.1.5 Except as otherwise stated in these Conditions:

a) Whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Project Manager shall be deemed to act for the Procuring Entity;

b) The Project Manager has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract;

c) Any approval, review checks, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Project Manager (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for his approved drawing errors & omissions, discrepancies and non-compliances; and

d) Any act by the Project Manager in response to a Contractor's request except as otherwise expressly specified shall be notified in writing and or via e-mails to the Contractor within fourteen (14) days of receipt.

3.1.6 The following provisions shall apply:

The Project Manager shall obtain specific approval of the Procuring Entity before acting under the-following Sub-Clauses of these Conditions:

a) Sub-Clause 4.12: agreeing or determining an extension of time and / or additional cost.

b) Sub-Clause 13.1: instructing a Variation, except;

   i) In an emergency situation as determined by the Project Manager, or

   ii) if such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the **Special Conditions of Contract.**

c) Sub-Clause13.3: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1or13.2.

d) Sub-Clause13.4: Specifying the amount payable in each of the applicable currencies.

3.1.7 Notwithstanding the obligation, as set out above to obtain approval, if, in the opinion of the Project Manager, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Project Manager, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Procuring Entity, with any such instruction of the Project Manager. The Project Manager shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause13 and shall notify the Contractor accordingly, with a copy to the Procuring Entity.

3.2 Delegation by the Project Manager

3.2.1 The Project Manager may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident Project Manager, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing or official e-mail and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Project Manager shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations].

3.3.2 Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Project Manager. However:

a) Any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Project Manager to reject the work, Plant or Materials;

b) If the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Project Manager, who shall promptly confirm, reverse or vary the determination or instruction.

3.3 Instructions of the Project Manager

3.3.1 The Project Manager may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Project Manager, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause13 [Variations and Adjustments] shall apply.

3.3.2 The Contractor shall comply with the instructions given by the Project Manager or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing or e-mail.

If the Project Manager or a Delegated assistant:

a) Gives an oral instruction,

b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within Seven (7) days working days after giving the oral instruction, and

c) does not reply by issuing a written rejection and/ or instruction within Seven (7) working days after

receiving the confirmation from contractor, then the confirmation shall constitute the written instruction of the Project Manager or delegated assistant (as the case may be).

3.4 Replacement of the Project Managers

3.4.1 Replacement by procuring Entity

If the Procuring Entity intends to replace the Project Manager, the Procuring Entity shall, not less than fourteen (14) days before the intended date of replacement, give notice to the Contractor of the name, address and any other relevant information of the intended replacement for Project Manager. If the Contractor considers the intended replacement for Project Manager to be unsuitable, he has the right to raise objection against him by notice to the Procuring Entity, with supporting particulars, and the Procuring Entity shall give full and fair consideration to this objection.

3.4.2 Replacement by Contractor

If the Contractor intends to replace the contract Project Manager, the contractor shall, not less than twenty one (21) days before the intended date of replacement, give submit a written request to the Employer's Project Manager of the name, address, CV, Academic qualifications and Experience supporting documents, and any other relevant information for consideration. Project Manager shall give fair consideration and may accept or reject at his discretion, and notify the Contractor promptly.

3.4.3 Pursuant to clause 3.4 [Removal of Project Manager], Procuring Entity shall give notice the Contractor to replace his Project Manager if below events occurs: The contractor's Project Manager is (i) gross incompetent in performance of his contractual obligations, (ii) absent for site and other contract meetings for three consecutive sittings (iii) Consistently behind project implementation schedule despite reminders to revise and make-up for lost time to get back to agreed schedule (iv) not following work safety and shutdown requirements as per contract or as directed by employers Project manager, and (v) any other occurrences in the judgement of procuring Entity may jeopardize smooth implementation of the contract.

3.4.4 Contractor shall respond in writing within fourteen (14) days by submitting relevant document of his proposed replacement to Employer's Project manager for consideration.

3.4.5 The replacement period shall take a maximum of Thirty (30) days, after which the Project Manager shall notify Contractor to stop the work until a competent project manager is put in place. In such event the Contractor shall not be entitled to any compensation for work stoppage or Time Extension of contract.

3.5 Determinations

3.51 Whenever these Conditions provide that the Project Manager shall proceed in accordance with this Sub-Clause

3.5 to agree or determine any matter, the Project Manager shall consult with each Party in an endeavor to reach agreement. If agreement is not achieved, the Project Manager shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.

3.5.2 The Project Manager shall give notice to both Parties of each agreement or determination, with supporting particulars, within 28 days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].

4. The Contractor

4.1 Contractor's General Obligations

4.1 The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Project Manager's instructions, and shall remedy any defects in the Works.

4.1.1 The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

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

4.1.3 The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor (i) shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and (ii) shall be responsible for the design or specification of the Permanent Works.

4.1.4 The Contractor shall, whenever required by the Project Manager, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Project Manager.

4.1.5 The Contract unless otherwise specified in special condition of the contract, shall design all and or any part of the Permanent Works as per contract specifications.

a) The Contractor shall submit to the Project Manager the Contractor's Documents for this part in accordance with the procedures specified in the Contract;

b) These Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language], and shall include additional information required by the Project Manager to add to the Drawings for co-ordination of each Party's designs;

c) The Contractor shall be responsible for this part and it shall, when the Works are completed, befit for such purposes for which the part is intended as are specified in the Contract; and

d) prior to the commencement of the Tests on Completion, the Contractor shall submit to the Project Manager the "as-built" documents and, if applicable, operation and maintenance manuals in accordance with the Specification and in sufficient detail for the Procuring Entity to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of taking-over under Sub-Clause10.1[Taking Over of the Works and Sections] until these documents and manuals have been submitted to the Project Manager.

4.1.6 Notwithstanding the provisions of clause 3.3, 3.4 and 3.5 above Contractor shall be responsible for design errors, omissions, discrepancies and non-compliances to specifications, document approval/review omissions, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Project Manager (including absence of disapproval).

4.2 Performance Guarantee (Security)

4.2.1 The Contractor shall obtain (at his cost) within fourteen (14) days of the notification of contract award/receiving letter of Acceptance, provide a security for the due performance of the Contract in the amount specified in the **SCC and send a copy to the Project Manager.** If an amount is not stated in the Special Conditions of Contract, this Sub-Clause shall apply.

4.2.2 The Performance Security shall be issued by a reputable local bank acceptable by the procuring entity, and shall be in the form annexed to the Special Conditions, as stipulated by the Procuring Entity in the Special Conditions of Contract or in another form approved by the Procuring Entity.

4.2.3 The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contract or has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.

4.2.4 The Procuring Entity shall not make a claim under the Performance Security, except for amounts to which the Procuring Entity is entitled under the Contract.

4.2.5 The Procuring Entity shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Procuring Entity was not entitled to make the claim.

4.2.6 The Procuring Entity shall return the Performance Security to the Contractor within 14 days after receiving a copy of the Taking-Over Certificate.

4.2.7 Without limitation to the provisions of the rest of this Sub-Clause, whenever the Project Manager determines an addition or a reduction to the Contract Price as a result of a change in cost and/ or legislation, or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Project Manager's request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage.

4.3 Contractor's Representative

4.3.1 The Contractor shall appoint the Contractor's Representative (Contractor's Project Manager) and shall give him all authority necessary to act on the Contractor's behalf under the Contract.

4.3.2 Unless the Contractor's Representative is named in the Contrac**t**, the Contractor shall, prior to the Commencement Date, submit to the Project Manager for approval of the name and particulars of the person the Contract or proposes to appoint as Contractor's Representative. If approval is withheld or subsequently revoked in terms of Sub-Clause 6.9 [Contractor's Personnel], or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment for approval.

4.3.3 The Contractor shall not, without the prior consent or approval of the Project Manager, revoke the appointment of the Contractor's Representative or appoint a replacement.

4.3.4 The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Project Manager's prior consent, and the Project Manager shall be notified accordingly.

4.3.5 The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Project Manager].

4.3.6 The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Project Manager has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

4.3.7 The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause1.4 [Law and Language]. If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Project Manager.

4.4 Subcontractors

4.4.1 The Contractor shall not subcontract or sublet the whole of the Works.

4.4.1 The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Special Conditions:

e) The Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract;

f) The prior approval or consent of the Project Manager shall be obtained to other proposed Subcontractors and suppliers of materials/equipment;

g) the Contractor shall give the Project Manager not less than 14 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site; and

h) each subcontract shall include provisions which would entitle the Procuring Entity to require the subcontract to be assigned to the Procuring Entity under Sub-Clause 4.5 [Assignment of Benefit of Subcontract] (I for when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity].

4.4.3 The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.

4.4.4 Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from Kenya to be appointed as Subcontractors.

4.5 Assignment of Benefit of Subcontract

4.5.1 If a Subcontractor's obligations extend beyond the expiry date of the relevant Defects Notification Period and the Project Manager, prior to this date, instructs the Contractor to assign the benefit of such obligations to the

Procuring Entity, then the Contractor shall do so. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Procuring Entity for the work carried out by the Subcontractor after the assignment takes effect.

4.6 Co-operation

4.6.1 The Contractor shall, as specified in the Contract or as instructed by the Project Manager, allow appropriate opportunities for carrying out work to:

i) The Procuring Entity's Personnel,

ii) Any other contractors employed by the Procuring Entity, and

iii)The personnel of any legally constituted public authorities, who may be employed in the execution on or near the Site of any work not included in the Contract.

4.6.2 Any such instruction shall not constitute a Variation if and to the extent that it causes the Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements, which are the responsibility of the Contractor.

4.6.3 If, under the Contract, the Procuring Entity is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Project Manager in the time and manner stated in the Specification.

4.7 Setting Out

4.7.1 The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contractor and or notified by the Project Manager. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works, Notwithstanding the approval or instruction by project manager.

4.7.2 The Procuring Entity shall be responsible for any errors in the specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used. Procuring entity reserves the right to correct item of reference at no additional costs or variations to the contract price.

4.7.3 However if the Contractor can prove that such item caused a delay of more than 120 days and/or incurred additional Cost that is more than 5% from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or Cost, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

b) payment of any such Cost, which shall be included in the Contract Price.

4.7.4 After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent the error could not reasonably have been discovered, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this.

4.8 Safety Procedures

4.8.1 The Contractor shall:

a) Comply with all applicable safety regulations,

b) Take care for the safety of all persons entitled to be on the Site,

c) Use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons,

d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Procuring Entity's Taking Over], and

e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

4.9 Quality Assurance

4.9.1 The Contractor shall institute a quality assurance management system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Project Manager shall be titled to audit any aspect of the system to approve or reject.

4.9.2 Details of all procedures and compliance documents shall be submitted to the Project Manager for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Project Manager, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.

4.9.3 Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

4.10 Site Data

4.10.1 The Procuring Entity shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Procuring Entity's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Procuring Entity shall similarly make available to the Contractor all such data which come into the Procuring Entity's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.

4.10.1 To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Tender as to all relevant matters, including (without limitation):

c) The form and nature of the Site, including sub-surface conditions,
d) The hydrological and climatic conditions,
e) The extent and nature of the work, possible line route/ wayleaves and Goods necessary for the execution and completion of the Works and the remedying of any defects,
f) The Laws, procedures and labor practices of Kenya, and
g) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

4.11 Sufficiency of the Accepted Contract Amount

4.11.1 The Contractor shall be deemed to:

h) Have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and

i) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.10 [Site Data].

4.11.2 Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any defects.

4.12 Unforeseeable Physical Conditions

4.12.1 In this Sub-Clause, “adverse physical conditions” means adverse climatic conditions and other adverse physical obstructions, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions not available/recoded in the meteorological historical data of the region or area.

4.12.2 If, during the execution of the Contract, the Contractor shall encounter on Site adverse physical conditions and other adverse climatic conditions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced contractor on the basis of reasonable examination of the data relating to the Facilities including any data as to boring tests, and on the basis of information that could have been obtained from a visual inspection of the Site if access thereto was available, or other data readily available to site and relating to the Facilities, and if Contractor determines that it will in consequence of such conditions incur additional cost or require additional time to perform his obligations under the Contract that would not have been required if such conditions had not been encountered, the Contractor shall promptly, notify the Project Manager in writing of:

a) the climatic and or physical conditions on Site that could not have been reasonably foreseen;

a) the additional work and/or Plant and/or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions;

b) the extent of the anticipated delay; and

a) the additional cost and expense that the Contractor is likely to incur.

On receiving any notice from the Contractor under GCC Sub-Clause 14.12.2, the Project Manager shall promptly consult with Contract implementation team to make a determination of the right actions to be taken to overcome the adverse condition, and notify the contractor.

4.12.3 If the Contractor is delayed or impeded in the performance of his obligation because of any such adverse physical conditions or artificial obstructions referred to in GCC Sub-Clause 14.12.2, the Time for Completion shall be extended in accordance with GCC relevant Clause dealing with extension.

4.12.4 If and to the extent that the Contractor encounters adverse climatic/physical condition changes, which are Unforeseeable, gives such a notice, and incurs Cost due to these conditions, the Contractor shall be titled subject to notice under Sub-Clause 20.1 [Contractor's Claims] to:

a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

b) payment of any such Cost, which shall be included in the Contract Price.

4.12.5 Upon receiving such notice and inspecting and/or investigating these physical conditions, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

4.12.6 However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Project Manager may also review whether other physical conditions in similar parts of the Works (if any) were more favorable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favorable conditions were encountered, the Project Manager may proceed in accordance with Sub- Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.

4.12.7 The Project Manager shall take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which shall be made available by the Contractor, but shall not be bound by the Contractor's interpretation of any such evidence.

4.13 Rights of Way and Facilities

Unless otherwise specified in the Contract the Procuring Entity shall not provide effective access to the site including special and/or temporary rights-of-way which are necessary for the Works. The Contractor shall obtain, at his risk and cost, any all rights of way or facilities outside the Site, which he may require for the purposes of the Works.

4.14 Avoidance of Interference

4.14.5 The Contractor shall not interfere unnecessarily or improperly with:

a) The convenience of the public, or

b) The access to and use and occupation of all roads and foot paths, irrespective of whether they are public or in the possession of the Procuring Entity or of others.

4.14.6 The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

4.15 Access Route

4.15.5 The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site at Base Date. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

4.15.6 Except as otherwise stated in these Conditions:

a) The Contractor shall be responsible for any maintenance which may be required for his use of access routes;

b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;

c) the Procuring Entity shall not be responsible for any claims which may arise from the use or otherwise of any access route;

d) the Procuring Entity does not guarantee the suitability or availability of particular access routes; and

e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

4.16 Transport of Goods

Unless otherwise stated in the Special Conditions:

a) The Contractor shall give the Project Manager not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;

b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and

c) the Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.

4.17 Contractor's Equipment

The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Project Manager. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

4.18 Protection of the Environment

4.18.5 The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

4.18.6 The Contractor shall ensure that missions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the Specification or prescribed by applicable Laws.

4.19 Electricity, Water and Gas

4.19.5 The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Specifications, for the tests.

4.19.6 The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Specifications. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

4.19.7 The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Project Manager in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.

4.20 Procuring Entity's Equipment and Free-Issue Materials

4.20.5 The Procuring Entity shall make the Procuring Entity's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Specification. Unless otherwise stated in the Specification:

a) The Procuring Entity shall be responsible for the Procuring Entity's Equipment, except that

b) the Contractor shall be responsible for each item of Procuring Entity's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.

4.20.6 The appropriate quantities and the amounts due (at such stated prices) for the use of Procuring Entity's Equipment shall be agreed or determined by the Project Manager in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.

4.20.7 The Procuring Entity shall supply, free of charge, the "free-issue materials" (if any) in accordance with the details stated in the Specification. The Procuring Entity shall, at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them, and shall promptly give notice to the Project Manager of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Procuring Entity shall immediately rectify the notified shortage, defect or default.

4.20.8 After this visual inspection, the free-issue materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody and control shall not relieve the Procuring Entity of liability for any shortage, defect or default not apparent from a visual inspection.

4.21 Progress Reports

4.21.1 Unless otherwise stated in the Special Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Project Manager in **one editable soft** copy and **three hard copies**. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

4.21.2 Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works. Each report shall include:

a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),

b) photographs showing the status of manufacture and of progress on the Site;

c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
   i) commencement of manufacture,
   ii) Contractor's inspections,
   iii) tests, and
   iv) shipment and arrival at the Site;

d) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];

e) copies of quality assurance documents, test results and certificates of Materials;

f) list of notices given under Sub-Clause 2.5 [Procuring Entity's Claims] and notices given under Sub-Clause 20.1[Contractor's Claims];

g) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and

h) comparisons of actual and planned progress, with details of any events or circumstances which may

jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

4.22 Security of the Site

Unless otherwise stated in the Special Conditions:

a) The Contractor shall be responsible for keeping un authorized persons off the Site, and

b) Authorized persons shall be limited to the Contractor's Personnel and the Procuring Entity's Personnel; and to any other personnel notified to the Contractor, by the Procuring Entity or the Project Manager, as authorized personnel of the Procuring Entity's other contractors on the Site.

4.23 Contractor's Operations on Site

4.23.1 The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Project Manager as additional working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

4.23.2 During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

4.23.2 Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.

4.24 Fossils

4.24.1 All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Procuring Entity. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

4.24.2 The Contractor shall, upon discovery of any such finding, promptly give notice to the Project Manager, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause20.1[Contractor's Claims] to:

i) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

j) payment of any such Cost, which shall be included in the Contract Price.

After receiving this further notice, the Project Manager shall proceed in accordance with Sub-Clause3.5 [Determinations] to agree or determine these matters.

5 Nominated Subcontractors

5.1 Definition of "nominated Subcontractor"

In the Contract, "nominated Subcontractor" means a Subcontractor:

a) Who is stated in the Contract as being a nominated Subcontractor, or

b) whom the Project Manager, under Clause 13 [Variations and Adjustments], instructs the Contractor to employ as a Subcontractor subject to Sub-Clause 5.2 [Objection to Notification].

5.2 Objection to Nomination

The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Project Manager as soon as practicable, with supporting particulars. An objection shall be deemed reasonable if it arises from (among other things) any of the following matters, unless the Procuring Entity agrees in writing to indemnify the Contractor against and from the consequences of the matter:

a) there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength;

b) the nominated Subcontractor does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor, his agents and employees; or

c) the nominated Subcontractor does not accept to enter into a subcontract which specifies that, for the subcontracted work (including design, if any), the nominated Subcontractor shall:

i) undertake to the Contractor such obligations and liabilities as will enable the Contractor to discharge his obligations and liabilities under the Contract;

ii) indemnify the Contractor against and from all obligations and liabilities arising under or in connection with the Contract and from the consequences of any failure by the Subcontractor to perform these obligations or to fulfil these liabilities, and

iii) be paid only if and when the Contractor has received from the Procuring Entity payments for sums due under the Subcontract referred to under Sub-Clause5.3[Payment to nominated Subcontractors].

5.3 Payments to nominated Subcontractors

The Contractor shall pay to the nominated Subcontractor the amounts shown on the nominated Subcontractor's invoices approved by the Contractor which the Project Manager certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with sub- paragraph (b) of Sub-Clause 13.5 [Provisional Sums], except as stated in Sub-Clause 5.4 [Evidence of Payments].

5.4 Evidence of Payments

5.4.1 Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the Project Manager may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

a) Submits this reasonable evidence to the Project Manager, or

b) i) satisfies the Project Manager in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and

ii) submits to the Project Manager reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement, then the Procuring Entity may (at his sole discretion) pay, direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Procuring Entity, the amount which the nominated Subcontractor was directly paid by the Procuring Entity.

6 Staff and Labour

6.1 Engagement of Staff and Labour

6.1.1 Except as otherwise stated in the Specification, the Contractor shall decide for the engagement of all staff and labor, local or otherwise, and for their payment, feeding, transport, and, when appropriate, housing. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources with in Kenya.

6.2 Rates of Wages and Conditions of Labour

6.2.1 The Contractor shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Procuring Entities whose trade or industry

is similar to that of the Contractor.

6.2.2 The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in Kenya in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of Kenya for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

6.3 Persons in the Service of Procuring Entity

The Contractor shall not recruit, or attempt to recruit, staff and Labour from amongst the Procuring Entity's Personnel.

6.4 Labour Laws

6.4.1 The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

6.4.2 The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

6.5 Working Hours

No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the **Special Conditions of Contract**, unless:

a) Otherwise stated in the Contract,
b) The Project Manager gives consent, or
c) The work is un avoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Project Manager.

6.6 Facilities for Staff and Labour

Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Procuring Entity's Personnel as stated in the Specifications. The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

6.7 Health and Safety

6.7.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

6.7.2 The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

6.7.3 The Contractor shall send, to the Project Manager, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Project Manager may reasonably require.

6.7.4 The Contractor shall conduct an awareness program on HIV and other sexually transmitted diseases via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of these diseases between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.

6.8 Contractor's Superintendence

6.8.1 Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary super in tendencies to plan, arrange, direct, manage, inspect and test the work.

6.8.2 Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to been countered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

6.9 Contractor's Personnel

6.9.1 The Contractor's Personnel shall be appropriately qualified, skilled and experienced in the irrespective trades or occupations. The Contractors Key personnel shall be named in the **Special Conditions of Contract**. The Project Manager may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Project manager if applicable, who:

a) Persists in any misconduct or lack of duty to care,
b) Carries out duties incompetently or negligently,
c) Fails to conform with any provisions of the Contract,
d) Persists in any conduct which is prejudicial to safety, health, or the protection of the environment, or
e) Based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works.

6.9.2 If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

6.10 Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Project Manager, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Project Manager, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

6.11 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

6.12 Foreign Personnel

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

6.12.2 The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in Kenya of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

6.13 Supply of Water

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

6.14 Measures against Insect and Pest Nuisance

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

6.15 Alcoholic Liquor or Drugs

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

6.16 Prohibition of Forced or Compulsory Labour

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

6.17 Prohibition of Harmful Child Labour

The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental,

spiritual, moral, or social development. Where the relevant labour laws of Kenya have provisions for employment of minors, the Contractor shall follow those laws applicable to the Contractor. Children below the age of 18years shall not be employed in dangerous work.

6.18 Employment Records of Workers

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

6.19 Workers' Organizations

The Contractor shall comply with the relevant labour laws that recognize workers' rights to form and to join workers' organizations of their choosing without interference.

6.20 Non-Discrimination and Equal Opportunity

The Contractor shall base the labour employment on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline.

7 Plant, Materials and Workmanship

7.1 Scope of Facilities and Manner of Execution

i) Unless otherwise expressly limited in KPLC's Requirements, the Contractor's obligations cover the provision of all Plant and the performance of all Installation Services required for the design, and the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Pre- commissioning and delivery) of the Plant, and the installation, completion and commissioning of the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Section, KPLC's Works Requirements. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labor, materials, equipment, spare parts and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage,

ii) The Contractor shall carryout the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:

a) In the manner specified in the Contract,

b) In a proper work man like and careful manner, in accordance with recognized good practice, and

c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

7.2 Samples

The Contractor shall submit the following samples of Materials, and relevant information, to the Project Manager for consent prior to using the Materials in or for the Works:

a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and

b) additional samples instructed by the Project Manager.
Each sample shall be labelled as to origin and intended use in the Works.
c) Locally sourced materials for civil work and construction.
d) Locally source electrical fittings, sanitary wares and hardwires

7.3 Inspection

7.3.1 The Procuring Entity's Personnel shall at all reasonable times:

a) Have full access to all parts of the Site and to all places from which natural Materials are being obtained, and

b) During production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.

7.3.2 The Contractor shall give the Procuring Entity's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

7.3.3 The Contractor shall give notice to the Project Manager whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Project Manager shall then carry out the examination, inspection, either measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Project Manager does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by the Project Manager, uncover the work and thereafter reinstate and make good, all at the Contractor's cost.

7.3.4 The Contractor shall at its own expense carryout at the place of manufacture and/or on the Site all such tests and/ or inspections of the Plant and any part of the Facilities as are specified in the Contract.

7.3.5 KPLC and the Project Manager or their designated representatives shall be entitled to attend the afore said test and/ or inspection, provided that KPLC shall bear all costs and expenses incurred in connection with such attendance except, Airfare, local transport services and FAT costs at manufacturer premise.

7.3.6 Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give two (2) months advance notice of such test and/or inspection and of the place and time thereof to the Project Manager.

The Contractor shall obtain from any relevant third Party or manufacturer any necessary permission or consent to enable KPLC and the Project Manager or their designated representatives to attend the test and/ or inspection.

7.3.7 The Contractor shall provide to the Project Manager with certified reports of the results of any such test and/ or inspection. If Project Manager or their designated representatives fails to attend the test and/or inspection, or if it is agreed between the Parties that such persons shall not do so, then the Contractor may proceed with the test and/ or inspection in the absence of such persons, and may provide the Project Manager with certified reports of the results thereof.

7.3.8 If any Plant or any part of the Facilities fails to pass any test and/ or inspection, the Contractor shall either rectify or replace such Plant or part of the Facilities and shall repeat the test and/or inspection upon giving a notice to Project Manager

7.3.9 If any dispute or difference of opinion shall arise between the Parties in connection with or arising out of the test and/or inspection of the Plant or part of the Facilities that cannot be settled between the Parties within a reasonable period of time, it may be referred to thirty party accredited testing body acceptable by the Procuring entity. Such test report form the Thirty Party laboratory shall in no way relieve the contract of his responsibility as required in the contract. The costs of the tests shall be borne by the contractor.

7.3.10 No part of the Facilities or foundations shall be covered upon the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such parts of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice there of shall be subject to the requirements of the Contract.

7.3.11 The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

7.4 Testing

7.4.1 This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

7.4.2 Except as otherwise specified in the Contract, the Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labor, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Project Manager, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

7.4.3 The Project Manager may vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the material shall stand rejected and replaceable and rework in case of work.

7.4.4 Notwithstanding other provisions of the Contract unless state in special condition of the contract, the costs of carrying out retesting, replacement and rework shall be borne by the Contractor.

7.4.5 The contractor shall give the project manager not less than fourteen (14) days request to witness of site and local tests. If the Project Manager does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Project Manager, and the tests shall then be deemed to have been made in the Project Manager's presence.

7.4.6 If the Contractor suffers delay and/ or incurs Cost as a result of a delay for which the Procuring Entity is responsible, the Contractor shall give notice to the Project Manager and shall been titled subject to Sub-Clause20.1 [Contractor's Claims] to:

a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
b) Payment of any such Cost, which shall be included in the Contract Price.

7.4.7 After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

7.4.8 The Contractor shall promptly forward to the Project Manager duly certified reports of the tests. When the specified tests have been passed, the Project Manager shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Project Manager has not attended the tests, he shall be deemed to have accepted the readings as accurate.

7.5 Rejection of workmanship and facility

7.5.1 If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Project Manager may reject the Plant, Materials or section of work by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

7.5.2 If the Project Manager requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Procuring Entity to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity.

7.6 Remedial Work

7.6.1 Notwithstanding any previous test or certification, the Project Manager may instruct the Contractor to:

a) Remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
b) remove and re-execute any other work which is not in accordance with the Contract, and
c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

7.6.2 The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph(c).

7.6.3 If the Contractor fails to comply with the instruction, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity all costs arising from this failure.

7.7 Ownership of Plant and Materials

7.7.1 Except as otherwise provided in the Contract, each item of Plant and Materials shall become the property of the Procuring Entity at whichever is the earlier of the following times, free from liens and other encumbrances:

a) When it is incorporated in the Works;
b) when the Contractor is paid the corresponding value of the Plant and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

7.8 Royalties

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

a) Natural Materials obtained from outside the Site, and
b) The disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal are as within the Site are specified in the Contract.

8 Commencement, Delays and Suspension

8.1 Effective date for commencement of Works

8.1.1 Except as otherwise specified in the Special Conditions of Contract, the date for commencement of works shall be the date at which following precedent conditions have all been fulfilled.

a. Signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of Kenya;
b. The Performance Security provided to Kenya Power no later than the date specified in the Letter of Acceptance and issued in an amount specified in the SCC
c. Except if otherwise specified in the Special Conditions of Contract, access to and possession of the Site given to the Contractor.
d. Receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor. If provided for under SCC
e. Any other condition that may be specified in the SCC

8.1.2 Receipt by the Contractor of Advance Payment under Sub-Clause 14.2 [Advance Payment] after delivery of bank guarantee, if provided for in SCC shall Not constitute Conditions for effective date for commencement of works by contractor

8.1.3 If the said Project Manager's instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor].

8.1.4 The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.

8.2 Responsibilities and Time for Completion

8.2.1 Contractor's responsibilities

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time specified in the SCC for Completion for the Works or Section (as the case may be), or within such extended time to which the Contractor shall be entitled under GCC Clause 8.4 hereof, including:

a) Achieving the passing of the Tests on Completion, and

b) Completing all work, which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

c) Design, manufacture including associated purchases and/or subcontracting, install and complete the Facilities in accordance with the Contract. When completed, the Facilities should be fit for the purposes for which they are intended as defined in the Contract.

d) The Contractor confirms that it has entered in to this Contract on the basis of a proper examination of the data relating to the Facilities including any data as to boring tests, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site and of other data readily available to it relating to the Facilities as of fourteen (14) days prior to Tender submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.

e) Acquire and pay for all permits, approvals and /or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Contractor to obtain and which are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of KPLC under GCC Sub- Clauses and that are necessary for the performance of the Contract.

f) Complying with all laws in force in the country where the Facilities are to be implemented. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless KPLC from and against all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to any GCC Sub-Clauses.

g) Ensuring any Plant and Installation Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Clause 1 (Country of Origin). Any subcontractors retained by the Contractor shall be from a country as specified in GCC Clause1 Country of Origin).

h) If the Contractor is a joint venture, or association (JV) of two or more persons, all such persons shall be jointly and severally bound to KPLC for the fulfillment of the provisions of the Contract, and shall designate one of such persons to act as a leader with authority to bind the JV. The composition or the constitution of the JV shall not be altered without the prior consent of KPLC. The Contractor shall design, manufacture including associated purchases and/or subcontracting, install and complete the Facilities in accordance with the Contract. When completed, the Facilities should be fit for the purposes for which they are intended as defined in the Contract.

i) The Contractor confirms that it has entered in to this Contract on the basis of a proper examination of the data relating to the Facilities including any data as to boring tests provided by KPLC, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site if access there to was available and of other data readily available to it relating to the Facilities as of the date twenty-eight (28) days prior to Tender submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.

j) The Contractor shall acquire and pay for all permits, approvals and /or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Contractor to obtain in its name and which are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of KPLC under GCC Sub- Clause 10.3 hereof and that are necessary for the performance of the Contract.

k) The Contractor shall comply with all laws in force in the country where the Facilities are to be implemented. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless KPLC from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 10.1 hereof.

l) Any Plant and Installation Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Clause 1 (Country of Origin). Any subcontractors retained by the Contractor shall be from a country as specified in GCC Clause1 Country of Origin).

m) If the Contractor is a joint venture, or association (JV) of two or more persons, all such persons shall be jointly and severally bound to KPLC for the fulfillment of the provisions of the Contract, and shall designate one of such persons to act as a leader with authority to bind the JV. The composition or the constitution of the JV shall not be altered without the prior consent of KPLC.

n) permitting and causing its subcontractors and sub-consultants to permit, PPRA and/or persons appointed by PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by PPRA. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 6.1 which provides, inter-alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination.

o) The Contractor shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC.

8.2.2 KPLC'S Responsibilities

a) All information and/or data to be supplied by KPLC as described in the Contract Agreement titled Scope of Works and Supply by KPLC, shall be deemed to be accurate, except when KPLC expressly states otherwise.

b) KPLC shall be responsible for acquiring and providing legal and physical possession of the Site, and for providing possession of to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in the Contract Agreement titled Scope of Works and Supply by KPLC.

c) If requested by the Contractor, KPLC shall at his discretion use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service under takings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain. However, this shall not relieve the contractor of his responsibility under clause 8.2.1 (e) above.

d) All costs and expenses involved in the performance of the obligations under this GCC Clause 8.2.2 shall be the responsibility of KPLC, save those to be incurred by the Contractor with respect to associated responsibilities

e) In the event that KPLC shall be in breach of any of his obligations under this Clause, and contractor performs the responsibility, the additional cost incurred by the Contractor in consequence there of shall be determined by the Project Manager and added to the Contract Price.

8.3 Program

8.3.1 The Contractor shall submit a detailed time program to the Project Manager within 14 days after receiving the notice under Sub-Clause 8.1 [Commencement of Works]. The Contractor shall also submit a revised

program whenever the previous program is inconsistent with actual progress or with the Contractor's obligations. Each program shall include:

a. The order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing,
b. each of these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
c. the sequence and timing of inspections and tests specified in the Contract, and
d. a supporting report which includes:
   i. a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and
   ii. details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage.

8.3.2 Unless the Project Manager, within 21days after receiving a program, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the program, subject to his other obligations under the Contract. The Procuring Entity's Personnel shall be entitled to rely upon the program when planning their activities.

8.3.3 The Contractor shall promptly give notice to the Project Manager of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/ or a proposal under Sub-Clause13.3[Variation Procedure].

8.3.4 If, at any time, the Project Manager gives notice to the Contractor that a program fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised program to the Project Manager in accordance with this Sub-Clause.

8.4 Extension of Time for Completion

8.4.1 The Time(s) for Completion specified in the **SCC** pursuant to GCC Sub-Clause 8.2.1 shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

a) any Change in the Facilities as provided in GCC Clause 21

b) any occurrence of Force Majeure as provided in GCC Clause 19, unforeseen conditions as provided in GCC Clause 4.12

c) Any suspension order given by KPLC under GCC Clause 8.8 here of or reduction in the rate of progress pursuant to GCC Sub-Clause 8.9.1 or

- Any changes in laws and regulations as provided in GCC Clause 13.7 or
- Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, exceptionally adverse climatic conditions or
- Any default or breach of the Contract by KPLC to the Contract Agreement, or any activity, actor omission of KPLC, or the Project Manager, or any other contractors employed by KPLC, or
- Any delay on the part of a Subcontractor, provided such delay is due to a cause for which the Contractor himself would have been entitled to an extension of time under this sub-clause, or
- Delays attributable to KPLC or caused by custom Authorities, or

d) any other matter specifically mentioned in the Contract by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

8.4.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, KPLC and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept KPLC's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to a Dispute Board, pursuant to GCC Sub-Clause 20.4.

8.4.3 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

8.4.4 In all cases where the Contractor has given a notice of a claim for an extension of time under GCC 8.4.2, the Contractor shall consult with the Project Manager in order to determine the steps (if any) which can be taken to overcome or minimize the actual or anticipated delay. The Contractor shall there after comply with all reasonable instructions which the Project Manager shall give in order to minimize such delay. If compliance with such instructions shall cause the Contractor to incur extra costs and the Contractor is entitled to an extension of time under GCC 8.4.1, the amount of such extra costs shall be added to the Contract Price.

8.4.5 If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Project Manager in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Project Manager shall review previous determinations and may increase, or decrease the total extension of time.

8.5 Delays Caused by Authorities

If the following conditions occurs, namely:

a) The Contractor or Employer has diligently followed the procedures laid down by the relevant legally constituted public authorities in Kenya to acquire any required approval,
b) these authorities delayed or disrupt the Contractor's work, and
c) the delay or disruption was Unforeseeable, then this delay or disruption will be considered as a cause for Time extension under Sub-paragraph (c) of Sub-Clause 8.4 [Extension of Time for Completion]. However, notwithstanding any provisions under GCC for contractor's right for compensation, this delays clause 8.5 [Delays caused by Authorities] shall Not entitle the Contractor claim, price adjustment or variation. However, contractor may request for Time Extension consideration, that shall be approved or rejected by project Manager at No Additional Costs or Delay associated Costs to the procuring entity.

8.6 Rate of Progress

8.6.1 If, at any time:

a. Actual progress is too slow to complete within the Time for Completion, and/or

b. Progress has fallen (or will fall) behind the current program under Sub-Clause 8.3 [Program], other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Project Manager may instruct the Contractor to submit, under Sub-Clause 8.3[Program], a revised/acceleration program and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete the work within the Time for Completion.

8.6.2 Unless the Project Manager notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Procuring Entity to incur additional costs, the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity, in addition to delay damages (if any) under Sub-Clause 8.7 below.

8.6.3 Additional costs of revised methods including acceleration measures, instructed by the Project Manager to reduce delays resulting from causes listed under Sub-Clause8.4 [Extension of Time for Completion] shall be borne by the contractor, without generating, however, any other additional payment benefit to the Contractor.

8.7 Delay (liquidated) Damages

8.7.1 If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion], the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay delay damages to the Procuring Entity for this default. These delay/liquidated damages shall be the sum stated in the **Special Conditions of Contract**, which shall be paid for every day which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the **Special Conditions of Contract.**

8.7.2 These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity] prior to completion of the Works. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities, which he may have under the Contract.

8.8 Suspension of Work

8.8.1 The Project Manager may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage, at no extra cost to procuring entity.

If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time there after and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that KPLC shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 21, excluding the performance of the suspended obligations from the Contract.

If KPLC fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects apart only of the Facilities, as a deletion of such part in accordance with GCC Clause 21 or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause.

8.8.2 The Project Manager may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

8.9 Consequences of Suspension

8.9.1 If the Contractor suffers delay and/or incurs Cost from complying with the Project Manager's instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Project Manager and shall been titled subject to Sub-Clause 20.1 [Contractor's Claims] to:

a. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

b. payment of any such Cost, which shall be included in the Contract Price.

8.9.2 After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

8.9.3 The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty in design, document approvals and or reviews, workmanship, rework an or retest or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

8.10 Payment for Plant and Materials in Event of Suspension

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to Site, if:

a) The work on Plant or delivery of Plant and/or Materials to site has been suspended for more than 28 days, and

b) the Contractor has marked the Plant and/or Materials as the Procuring Entity's property in accordance with the Project Manager's instructions.

8.11 Prolonged Suspension

If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Project Manager's permission to proceed. If the Project Manager does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Project Manager, treat the suspension as an omission under Clause13 [Variations and Adjustments] of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause16.2 [Termination by Contractor].

8.12 Resumption of Work

After the permission or instruction to proceed is given, the Contractor and the Project Manager shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension after receiving from the Project Manager an instruction to this effect under Clause 13 [Variations and Adjustments].

9 Tests on Completion

9.1 Contractor's Obligations

9.1.1 The Contractor shall carry out the Tests and Retests on Completion in accordance with this Clause and Sub-Clause 7.4 [Testing], after providing the documents in accordance with sub-paragraph (d) of Sub-Clause4.1[Contractor's General Obligations].

9.1.2 The Contractor shall give to the Project Manager not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Project Manager shall instruct.

9.1.3 In considering the results of the Tests on Completion, the Project Manager shall make allowances for the effect of any use of the Works by the Procuring Entity on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Project Manager.

9.1.4 As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which KPLC will undertake such completion and deduct the costs there of from any monies owing to the Contractor

9.2 Delayed Tests

9.2.1 If the Tests on Completion are being unduly delayed by the Contractor, the Project Manager may by notice require the Contractor to carry out the Tests within 14 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Project Manager.

9.2.2 If the Contractor fails to carry out the Tests on Completion within the period of 14 days, the Procuring Entity's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

9.3 Retesting

If the Plant, Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Project Manager or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions at no additional cost to procuring entity.

9.4 Failure to Pass Tests on Completion

9.4.1 If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3[Retesting], the Project Manager shall be entitled to:

a. Order further repetition of Tests on Completion under Sub-Clause 9.3;

b. if the failure deprives the Procuring Entity of substantially the whole benefit of the Works or Section, reject the Works, Plant or Section (as the case may be), in which event the Procuring Entity shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects]; or

c. in case of materials/equipment order for immediate removal form site within 24 hours and replacement within thirty days (30) days.

d. issue a Taking-Over Certificate for failed section/equipment and reduce the contract scope accordingly and or contract value.

9.4.2 In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced scope by the Procuring Entity as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Procuring Entity may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations].

9.5 Facility Completion

9.5.1 The Contractor shall attain Completion of the Facilities (or a part for which a separate time for completion is specified) within the Time for Completion specified in the GCC clause or within such extended time to which the Contractor may be entitled under the contract hereof.

9.5.2 If the Contractor fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under the contract, shall pay to KPLC liquidated damages in the amount specified in the **SCC** as a percentage rate of the Contract Price or the relevant part thereof. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the **SCC** as a percentage rate of the Contract Price. Once the "If Maximum" is reached, KPLC may consider termination of the Contract, pursuant to General Condition Contract.

10 Procuring Entity's Taking Over

10.1 Taking Over of the Works and Sections of facility

10.1.1 Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Procuring Entity when: (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (b) below, and (ii) a Taking-Over/Completion Certificate for the Works has been issued, or is deemed to have been issued in accordance with Sub-Clause (a) below.

10.1.2 The Contractor shall apply and notify to Project Manager for a Taking-Over/Completion Certificate not earlier than fourteen (14) days before the Works in the Contractor's opinion will be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

10.1.3 The Project Manager shall, within twenty eight (28) days after receiving the Contractor's application for completion certificate:

a. Issue the Taking-Over/Completion certificate to the Contractor, stating the date on which the Works or Section facility were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the facility or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or

b. Reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice for completion under this Sub-Clause.

10.1.4 If the Project Manager fails either to issue Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially completed in accordance with the Contract, the Taking-Over/completion Certificate shall be deemed to have been issued on the last day of that period.

10.2 Taking Over of Parts of the Works

10.2.1 The Project Manager may, at his sole discretion as representative of Procuring Entity, issue a Taking-Over /Completion Certificate for any part of the Permanent Works.

10.2.2 The Procuring Entity shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Project Manager has issued a Taking- Over Certificate for this part. However, if the Procuring Entity does use any part of the Works before the Taking- Over Certificate is issued:

a) The part which is used shall be deemed to have been taken over as from the date on which it is used,
b) The Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Procuring Entity, and
c) If requested by the Contractor, the Project Manager shall issue a Taking-Over Certificate for this part.

10.2.3 After the Project Manager has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding tests for complete functionality of the facility. The Contractor shall carry out the tests on completion as soon as practicable before the expiry date of the relevant Defects Notification Period.

10.2.4 If the Contractor incurs cost as a result of the Procuring Entity taking over and/or using a part of the Works, other than such use as is specified in the contractor and agreed by the Contractor, the Contractor shall (i) give notice to the Project Manager and (ii) be entitled subject to Sub-Clause 20.1[Contractor's Claims] to payment for such Costs, which shall be included in the Contract Price. After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the Cost No Profits for such costs shall be accepted or incurred by the procuring entity.

10.2.5 If a Taking-Over/completion Certificate has been issued for a part of the Works (Section of work), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of the damages.

10.3 Interference with Tests on completion

10.3.1 If the Contractor is prevented, for more than Forty five (45) days, from carrying out tests on completion by a cause for which the Procuring Entity is responsible, the Procuring Entity shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.

10.3.2 The Project Manager shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the tests as soon as practicable, before the expiry date of the Defects Notification Period. The Project Manager shall require the Tests on Completion (Pending/work remedial tests) to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.

10.3.3 If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
a an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
b payment of any such Cost-plus profit, which shall be included in the Contract Price.

10.3.4 After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

10.4 Surfaces requiring reinstatement

Except or otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement. Contractor shall reinstate the ground and facilities to their original state and or to the approval of project manager at no additional cost to the Procuring Entity.

10.5 Right of access to work site

Until the Performance operational Certificate has been issued, the Contractor shall have such right of access to the Works as is reasonably required in order to comply with contract requirement on defect liability, except as may be inconsistent with the Procuring Entity's reasonable security restrictions.

10.6 Contractor to Search

The Contractor shall, if required by the Project Manager, search for the cause of any defect identified or as directed by the Project Manager. Unless the defect is to be remedied at the cost of the procuring entity under Sub-Clause 11.1.10 [Cost of remedying defects], the Cost of the directed search shall be agreed and or determined by the Project Manager in accordance with Sub-Clause 3.5 [Determinations] and unless otherwise stated in SCC, it shall be borne by the Contractor.

10.7 Performance (Acceptance/Operational) Certificates

i. Performance of the Contractor's obligations shall not be considered to have been completed until the Project Manager has issued the Operational acceptance Certificates to the Contractor, stating the date on which the Contractor completed his obligations under the Contract, or the operation acceptance date.

ii. The Project Manager shall issue the Performance (Operational) certificate within 28 days after expiry of defect liability period or as soon thereafter after the Contractor has supplied all the Contract's as built facility documents and, completed and tested all the works, including remedying any defects. A copy of the operation/acceptance Certificate shall be issued to the Procuring Entity.

iii. Only the Performance operational certificate shall be deemed to constitute acceptance of the works.

b. Unfulfilled Obligations

After the Performance Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

c. Clearance of Site

i. Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

ii. If all these items have not been removed within 28 days after receipt by the Contractor of the Performance Certificate, the Procuring Entity may sell or otherwise dispose of any remaining items. The Procuring Entity shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

iii. Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Procuring Entity's costs, the Contractor shall pay the outstanding balance to the Procuring Entity.

11.1 Defects Liability

11.1.1 The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant supplied and of the work executed.

11.1.2 The Defect Liability Period shall be as specified in the SCC from the date of Completion of the Facilities and issuance of Completion Certificate (or any part thereof) or it shall be one (1) year from the date of completion certificate of the facilities (or any part thereof), whichever first occurs, unless specified otherwise in the SCC.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with Project Manager regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good as the Project Manager shall determine at its discretion, such defect as well as any damage to the Facilities caused by such defect.

11.1.3 Project manager shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. KPLC shall afford all reasonable opportunity for the Contractor to inspect any such defect and propose remedial action subject to Project manager approval.

11.1.4 KPLC shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under GCC Clause 11.1.

The Contractor may, with the consent of KPLC, remove from the Site any Plant or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

11.1.5 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, KPLC may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, where upon the Contractor shall carryout such tests.

11.1.6 If such part fails the tests, the Contractor shall carryout further repair, replacement or making good, as the case may be, until that part of the Facilities passes such tests. Project Manager and the Contractor shall agree upon the tests

11.1.7 If the Contractor fails to commence the work necessary to remedy such defector any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), KPLC may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by KPLC in connection there with shall be paid to KPLC by the Contractor or may be deducted by KPLC from any monies due the Contractor or claimed under the Performance Security.

11.1.8 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by KPLC because of any of the aforesaid reasons.

11.1.9 In addition, any such component of the Facilities, and during the period of time as may be specified in the SCC, shall be subject to an extended defect liability period. Such obligation of the Contractor shall be in addition to the defect liability period specified under GCC Sub-Clause 11.1.2

11.1.10 **Completion of Outstanding Work and Cost of remedying defects**
In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Project Manager, and
b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Procuring Entity on or before the expiry date of the Defects Liability Period for the Works or Section (as the case may be).

11.1.11 All work referred to in sub-paragraph (b) of Sub-Clause 11.1.10 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:
a) Any design for which the Contractor is responsible, notwithstanding Project manager approval.
b) Plant, materials or workmanship not being in accordance with the Contract, or
c) Failure by the Contractor to comply with any other obligation or instructions given by Project manager.

11.1.12 If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by project manager (or on behalf of) the Procuring Entity, and shall proceed to remedy the defect.

11.2 Extension of defects notification period

11.2.1 The Procuring Entity shall be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or by reason of damage attributable to the Contractor. However, a Defects Notification Period shall not be extended by more than two years.

11.2.2 If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/or Materials would otherwise have expired.

11.3 Failure to Remedy Defects

11.3.1 If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Procuring Entity, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

11.3.2 If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.1.10 [Completion of Outstanding Work and Remedying Defects], the Procuring Entity may (at his option):

a. carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity the costs reasonably incurred by the Procuring Entity in remedying the defect or damage;

b. require the Project Manager to agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations]; or

c. if the defector damage deprives the Procuring Entity of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contractor otherwise, the Procuring Entity shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.

11.4 Removal of Defective Work

11.4.1 If the defect or damage cannot be remedied expeditiously on the Site and the Procuring Entity gives consent; the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.

11.5 Further Tests

11.5.1 If the work of remedying of any defect or damage may affect the performance of the Works, the Project Manager may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 28 days after the defect or damage is remedied.

11.5.2 These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause11.1.10 [Completion of Outstanding work and Remedying Defects], for the cost of the remedial work.

12 Measurement and Evaluation

12.1 Works to be Measured

12.1.1 The Works shall be measured, and valued for payment, in accordance with this Clause. The Contractor shall show in each application under Sub-Clauses 14.3 [Application for Interim Payment Certificates], 14.10 [Statement on Completion] and 14.11 [Application for Final Payment Certificate] the quantities and other particulars detailing the amounts which he considers to been titled under the Contract.

12.1.2 Whenever the Project Manager requires any part of the Works to be measured, reasonable notice at least 7 days shall be given to the Contractor's representative, who shall:

a. Promptly either attend or send another qualified representative to assist the Project Manager in making the measurement, and
b. Supply any particulars requested by the Project Manager.

12.1.3 If the Contractor fails to attend or send a representative, the measurement made by (or on behalf of) the Project Manager shall be accepted as accurate.

12.1.4 Except as otherwise stated in the Contract, wherever any Permanent Works are to be measured from records, these shall be prepared by the contractor representative for Project Manager approval before measurement. The Contractor shall, as and when requested, attend to examine and agree the records with the Project Manager, and shall sign the same when agreed. If the Contractor does not attend, the records shall be accepted as accurate. Contractor Representative shall make formal request at least 14 days prior to proposed date for work measurement and or inspection. Project manager shall respond within 14 days agreeing with the proposed date or propose a new reasonable date for the measurement

and or inspection.

12.1.5 If the Contractor examines and disagrees with the records, and/or does not sign them as agreed, then the Contractor shall give notice to the Project Manager of the respects in which the records are asserted to be inaccurate. After receiving this notice, the Project Manager shall review the records and either confirm or vary them and certify the payment of the undisputed part. If the Contractor does not so give notice to the Project Manager within 14 days after being requested to examine the records, they shall be accepted as accurate.

12.2 Method of Measurement

Except as otherwise stated in the Contract and not withstanding local practice:

a) Measurement shall be made of the net actual quantity of each item of the Permanent Works and or temporary work and

b) the method of measurement shall be in accordance with the Bill of Quantities or other applicable Schedules agreed by both parties.

12.3 Evaluation

12.3.1 Except as otherwise stated in the Contract, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the Contract Price by evaluating each item of work, applying the measurement agreed or determined in accordance with the above Sub-Clauses 12.1 and 12.2 and the appropriate rate or price for the item.

12.3.2 For each item of work, the appropriate rate or price for the item shall be the rate or price specified for such item in the Contractor, if there is no such item, specified for similar work.

12.3.3 Any item of work included in the Bill of Quantities for which no rate or price was specified shall be considered as included in other rates and prices in the Bill of Quantities and will not be paid for separately.

12.3.4 However, a new rate or price shall be appropriate for an item of work if:

a) i) the measured quantity of the item is changed by more than 25% from the quantity of this item in the Bill of Quantities or another Schedule,

ii) this change in quantity multiplied by such specified rate for this item exceeds 0.25% of the Accepted Contract Amount,

iii) this change in quantity directly changes the cost per unit quantity of this item by more than 1%, and

iv) this item is not specified in the Contract as a "fixed rate item"; or

b) the work is instructed under Clause13 [Variations and Adjustments],

ii) no rate or price is specified in the Contract for this item, and

iii) no specified rate or price is appropriate because the item of work is not of similar character, or is not executed under similar conditions, as any item in the Contract.

c) Each new rate or price shall be derived from any relevant rates or prices in the Contract, with reasonable adjustments to take account of the matters described in sub-paragraph (a) and/or (b), as applicable. If no rates or prices are relevant for the derivation of a new rate or price, it shall be derived from the reasonable Cost of executing the work, together with profit, taking account of any other relevant matters.

d) Until such time as an appropriate rate or price is agreed or determined, the Project Manager shall determine a provisional rate or price for the purposes of Interim Payment Certificates as soon as the concerned work commences.

12.4 Omissions

a) Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:

i) The Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;

ii) The omission of the work will result (or has resulted) in this sum not forming part of the Contract Price; and

iii) This cost is not deemed to be included in the evaluation of any substituted work;

12.4.1 then the Contractor shall give notice to the Project Manager accordingly, with supporting particulars. Upon receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause3.5 [Determinations] to agree or determine this cost, which shall be included in the Contract Price.

13 Variations and Adjustments

13.1 Right to Vary

13.1.1 The Project Manager may initiate variations at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

13.1.2 The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Project Manager stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works. Upon receiving this notice, the Project Manager shall cancel, confirm or vary the instruction.

13.1.3 Each Variation may include:

a. changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),
b. changes to the quality and other characteristics of any item of work,
c. changes to the levels, positions and/or dimensions of any part of the Works,
d. omission of any work unless it is to be carried out by others,
e. any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, bore holes and other testing and exploratory work, or
f. changes to the sequence or timing of the execution of the Works.
g. Deletion of a part of scope by procuring entity for whatever reason, and in such event, contractor shall not be paid for the descoped work or materials.

13.1.4 The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Project Manager instructs or approves a Variation.

13.2 Value Project Managing

13.2.1 The Contractor may, at any time, submit to the Project Manager a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Procuring Entity of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Procuring Entity of the completed Works, or (iv) otherwise be of benefit to the Procuring Entity.

13.2.2 The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause13.3 [Variation Procedure].

13.2.3 If a proposal, which is approved by the Project Manager, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:

a. The Contractor shall design this part,

b. sub-paragraphs (a)to (d) of Sub-Clause4.1[Contractor's General Obligations] shall apply, and

c. if this change results in a reduction in the contract value of this part, the Project Manager shall proceed in accordance with Sub-Clause3.5 [Determinations] to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:

   i) such reduction in contract value, resulting from the change, excluding adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost], and

   ii) the reduction (if any) in the value to the Procuring Entity of the varied works, taking account of any reductions in quality, anticipated life or operational efficiencies.

13.2.4 However, if amount (i) is less than amount (ii), there shall not be a fee.

13.3 Variation Procedure

13.3.1 If the Project Manager requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

a. A description of the proposed work to be performed and a program for its execution,
b. The Contractor's proposal for any necessary modifications to the program according to Sub-Clause 8.3 [Program] and to the Time for Completion, and
c. The Contractor's proposal for evaluation of the Variation.

13.3.2 The Project Manager shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Project Managing] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

13.3.3 Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Project Manager to the Contractor, who shall acknowledge receipt.

13.3.4 Each Variation shall be evaluated in accordance with Clause 12 [Measurement and Evaluation], unless the Project Manager instructs or approves otherwise in accordance with this Clause.

13.4 Payment in Applicable Currencies

If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.

13.5 Provisional Sums

13.5.1 Each Provisional Sum shall only be used, in whole or in part, in accordance with the Project Manager's instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Project Manager shall have instructed. For each Provisional Sum, the Project Manager may instruct:

a. Work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under Sub-Clause13.3[Variation Procedure]; and/or

b. Plant, Materials or services to be purchased by the Contractor, from a nominated Subcontractor (as defined in Clause5 [Nominated Subcontractors]) or otherwise; and for which there shall be included in the Contract Price:

i. The actual amounts paid (or due to be paid) by the Contractor, and

ii. a sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, the percentage rate stated in the **Special Conditions of Contract** shall be applied.

13.5.2 The Contractor shall, when required by the Project Manager, produce quotations, invoices, vouchers and accounts or receipts in substantiation.

13.6 Day works

13.6.1 For work of a minor or incidental nature, the Project Manager may instruct that a Variation shall be executed on a day work basis. The work shall then be valued in accordance with the Day work Schedule included in the Contract, and the following procedure shall apply. If a Day work Schedule is not included in the Contract, this Sub-Clause shall not apply.

13.6.2 Before ordering Goods for the work, the Contractor shall submit quotations to the Project Manager. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.

13.6.3 Except for any items for which the Day work Schedule specifies that payment is not due, the Contractor shall deliver each day to the Project Manager accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

a. The names, occupations and time of Contractor's Personnel,
b. The identification, type and time of Contractor's Equipment and Temporary Works, and
c. The quantities and types of Plant and Materials used.

13.6.4 One copy of each statement will, if correct, or when agreed, be signed by the Project Manager and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Project Manager, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payment Certificates].

13.7 Change in Laws and Regulations

13.7.1 If, after the date twenty-eight (28) days prior to the date of Tender submission, in Kenya, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed which shall be deemed to include any change in interpretation or application by the competent authorities, that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the SCC pursuant to GCC Sub-Clause 13.8.

13.8 Adjustments for Changes in Cost (Price adjustment)

13.8.1 Unless an adjustment clause is provided for in the SCC, the Contract Price shall be a firm lump sum not subject to any alteration, except in the event of a change in the facilities or as otherwise provided in the SCC. If so provided for under SCC, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type specified below or in the Appendices (Appendix 2: Price adjustment) shall apply:

P = A + B Im/Ioc

where: P is the adjustment factor for the portion of the Contract Price payable.
A and B are coefficients **specified in the SCC,** representing the non-adjustable and adjustable portions, respectively, of the Contract Price payable and Im is the index prevailing at the end of the month being invoiced and Ioc is the index prevailing 28 days before Tender opening for inputs payable.

NOTE: The sum of the two coefficients A and B should be1(one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the non-adjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other non-adjustable components. The sum of the adjustments for each currency are added to the Contract Price.

13.8.2 Subject to GCC Sub-Clauses 4.12.1, 8.2.1 and 8.2.2(b), the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the **SCC**, cover all its obligations under the Contract.

14 Contract Price and Payment

14.1 The Contract Price

14.1.1 Unless otherwise stated in the Special Conditions:

a. the Contract Price shall be agreed or determined under Sub-Clause 12.3 [Evaluation] and be subject to adjustments in accordance with the Contract;

b. the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract,

and the Contract Price shall not be adjusted for any of these costs except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation];

c. any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities:

i. of the Works which the Contractor is required to execute, or

ii. for the purposes of Clause 12 [Measurement and Evaluation]; and

d. the Contractor shall submit to the Project Manager, within 28 days after the Commencement Date, a proposed breakdown of each lump sum price in the Schedules. The Project Manager may take account of the breakdown when preparing Payment Certificates, but shall not be bound by it.

14.1.2 Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts there for, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of import duties and taxes upon importation. This exemption shall apply if provided for in **SCC**

14.2 Advance Payment

14.2.1 The Procuring Entity may make an advance payment, as an interest-free loan for mobilization and cash flow support. The Contractor shall issue a guarantee in accordance with Sub-Clause 14.2.2. for the advance payment.

14.2.2 The total advance payment, number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in **Special Conditions of Contract (SCC).**

14.2.3 Unless and until the procuring entity receives this guarantee or if the total advance payment is not stated in the SCC, this Sub-Clause (14.2.3) shall not apply.

14.2.4 Project Manager shall deliver to the Employer and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Interim Payment Certificates], and after the Procuring Entity receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Guarantee] and (ii) a Guarantee in amounts and currencies equal to the advance payment.

This guarantee shall be issued by a reputable bank or financial institution selected by the Contractor and shall be in the form annexed to the Special Conditions or in another form approved by the Procuring Entity.

14.2.5 The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

14.2.6 Unless stated otherwise in the **Special Conditions of Contract**, the advance payment shall be repaid through percentage deductions from the interim payments determined by the Project Manager in accordance with Sub-Clause14.6 [Issue of Interim Payment Certificates], as follows:

a. Deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention) exceeds 30 percent (30%) of the Accepted Contract Amount Less Provisional Sums; and

b. Deductions shall be made at the amortisation rate stated in the **Special Conditions of Contract** of the amount of each Interim Payment Certificate (excluding the advance payment and deductions for its repayments as well as deductions for retention money) in the currencies and

proportions of the advance payment until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when 90 percent (90 %) of the Accepted Contract Amount Less Provisional Sums has been certified for payment.

14.2.7 If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Procuring Entity], Clause 16 [Suspension and Termination by Contractor] or Clause19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under Clause 15 [Termination by Procuring Entity], except for Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination for Convenience], payable by the Contractor to the Procuring Entity.

14.3 Application for Interim Payment Certificates

14.3.1 The Contractor shall submit a Statement in three (3) copies to the Project Manager after the end of each month, in a form approved by the Project Manager, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include report on project progress during the month in accordance with Sub-Clause 4.21 [Progress Reports].

14.3.2 The Statement shall include following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:

a. the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub- paragraphs (b) to (g) below);

b. any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];

c. any amount to be deducted for retention, calculated by applying the percentage of retention stated in **the Special Conditions of Contract** to the total of the above amounts, until the amount so retained by the Procuring Entity reaches the limit of Retention Money (if any) stated in **the special Conditions of Contract**;

d. any amounts to be added for the advance payment and (if more than one instalment) and to be deducted for its repayments in accordance with Sub-Clause 14.2 [Advance Payment];

e. any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];

f. any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and

g. the deduction of amounts certified in all previous Payment Certificates.

14.4 Schedule of Payments

14.4.1 The Contract includes a schedule of payments specifying the instalments in which the Contract Price will be paid, unless otherwise stated in this schedule:

a. The instalments quoted in this schedule of payments shall be the estimated contract values for the purposes of sub-paragraph (a) of Sub-Clause14.3 [Application for Interim Payment Certificates];

b. Sub-Clause14.5 [Plant and Materials intended for the Works] shall not apply; and

c. If these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less or more than that on which this schedule of payments was based, then the Project Manager may proceed in accordance with Sub-Clause3.5 [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less or more than that on which the instalments were previously based.

14.4.2 The Contract include a schedule of payments, attached to this contract as Document

14.4.3 The Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

14.5 Plant and Materials intended for the Works

14.5.1 If this Sub-Clause applies, Interim Payment Certificates shall include, under sub-paragraph (e) of Sub-Clause 14.3, (i) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and (ii) a reduction when the contract value of such Plant and Materials is included as part of the Permanent Works under sub-paragraph (a) of Sub-Clause14.3 [Application for Interim Payment Certificates].

14.5.2 If the lists referred to in sub-paragraphs (b) (i) or (c) (i) below are not included in the Schedules, this Sub-Clause shall not apply.

14.5.3 The Project Manager shall determine and certify each addition if the following conditions are satisfied:

a. The Contractor has:
   (i) Kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and
   (ii) submitted a statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence;
   and either:

b. the relevant Plant and Materials:
   (i) are those listed in the Schedules for payment when shipped,
   (ii) have been shipped to Kenya, enroute to the Site, in accordance with the Contract; and
   (iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Project Manager together with evidence of payment of freight and insurance, any other documents reasonably required, and a bank guarantee in a form and issued by an entity approved by the Procuring Entity in amounts and currencies equal to the amount due under this Sub- Clause: this guarantee may be in a similar form to the form referred to in Sub-Clause14.2 [Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration; or

c. the relevant Plant and Materials:
   (i) are those listed in the Schedules for payment when delivered to the Site, and
   (ii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration, and appear to be in accordance with the Contract.

14.5.4 The additional amount to be certified shall be the equivalent of eighty percent (80%) of the Project Manager's determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this Sub-Clause and of the contract value of the Plant and Materials.

14.5.6 The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificate shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.

14.6 Issue of Interim Payment Certificates

14.6.1 No amount will be certified or paid until the Procuring Entity has received and approved the Performance Security. Thereafter, the Project Manager shall, within 28 days after receiving a Statement and supporting documents, deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate which shall state the amount which the Project Manager fairly determines to be due, with all supporting particulars for any reduction or with holding made by the Project Manager on the Statement if any.

14.6.2 However, prior to issuing the Taking-Over Certificate for the Works, the Project Manager shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated **in the**

special Conditions of Contract. In this event, the Project Manager shall give notice to the Contractor accordingly.

14.6.3 An Interim Payment Certificate shall not be withheld for any other reason, although:

a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or

b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Project Manager, the value of this work or obligation may be withheld until the work or obligation has been performed.

14.6.4 The Project Manager may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Project Manager's acceptance, approval, consent or satisfaction.

14.7 Payment

14.7.1 The Procuring Entity shall pay to the Contractor:

a) The first instalment of the advance payment within 60 days after issuing the Letter of Acceptance or within 45 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause14.2 [Advance Payment], whichever is later;

b) the amount certified in each Interim Payment Certificate within 45 days after the Project Manager receives the Statement and supporting documents; and

c) the amount certified in the final Payment Certificate within 45 days after the Procuring Entity receives this Payment Certificate; or after determination of any disputed amount shown in the final statement in accordance with Sub-Clause 16.2 [termination by contractor].

14.7.2 No payment made by KPLC herein shall be deemed to constitute acceptance by KPLC of the facilities or any part (s) thereof.

14.7.5 Payment of the amount due in each currency shall be made into the bank account, nominated by the Contractor, in the payment country (for this currency) specified in the Contract.

14.8 Delayed Payment

14.8.1 If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges (interest) compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its sub-paragraph (b) of the date on which any Interim Payment Certificate is issued.

14.8.2 Unless otherwise stated in the **Special Contract Conditions**, these financing charges shall be calculated at the annual rate of two percentage (2%) points above the discount rate of the central bank in Kenya of the currency of payment, or if not available, the interbank offered rate, and shall be paid in such currency.

14.8.3 The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to clause 14.9 [Payment of Retention Money] or to any other right or remedy.

14.9 Payment of Retention Money

14.9.2 When the Taking Over/completion Certificate has been issued for the Works, the first half of the Retention Money shall be certified by the Project Manager for payment to the Contractor. If a Taking-Over Certificate is issued for a Section or part of the Works, a proportion of the Retention Money shall be certified and paid. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section or part, by the estimated final Contract Price.

14.9.3 Promptly after the latest of the expiry dates of the Defects Notification Periods, the outstanding balance of the Retention Money shall be certified by the Project Manager for payment to the Contractor. If a Taking-Over Certificate was issued for a Section, a proportion of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Notification Period for the

Section. This proportion shall behalf (50%) of the proportion calculated by dividing the estimated contract value of the Section by the estimated final Contract Price.

14.9.4 However, if any work remains to be executed under Clause 11.1 [Defects Liability], the Project Manager shall be entitled to withhold certification of the estimated cost of this work until it has been executed.

14.9.5 When calculating these proportions, no account shall be taken of any adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost].

14.9.6 Unless otherwise stated in the Special Conditions, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Project Manager, the Contractor shall be entitled to substitute a Retention Money Security guarantee, in the form annexed to the Special Conditions or in another form approved by the Procuring Entity and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money.

14.9.5 The Procuring Entity shall return the Retention Money Security guarantee to the Contractor within 14 days after receiving a copy of the Performance Certificate.

14.10 Statement at Completion

14.10.1 Within 84 days after receiving the Taking Over Certificate for the Works, the Contractor shall submit to the Project Manager six copies of a Statement at completion with supporting documents, in accordance with Sub- Clause14.3 [Application for Interim Payment Certificates], showing:

a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
b) any further sums which the Contractor considers to be due, and
c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

14.10.2 The Project Manager shall then certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates].

14.11 Application for Final Payment Certificate

14.11.1 Within 56 days after receiving the Performance Certificate, the Contractor shall submit, to the Project Manager, six copies of a draft final statement with supporting documents showing in detail in a form approved by the Project Manager:

a. The value of all work done in accordance with the Contract, and

b. Any further sums which the Contractor considers to be due to him under the Contractor otherwise.

14.11.2 If the Project Manager disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Project Manager may reasonably require within 28 days from receipt of said draft and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Project Manager the final statement as agreed. This agreed statement is referred to in these Conditions as the "Final Statement".

14.11.3 However, if, following discussions between the Project Manager and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Project Manager shall deliver to the Procuring Entity (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under Sub-Clause 20.4 (Arbitration] or Sub-Clause 20.2 [Amicable Settlement], the Contractor shall then prepare and submit to the Procuring Entity (with a copy to the Project Manager) a Final Statement.

14.12 Discharge

When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has

received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.

14.12.1 Issue of Final Payment Certificate

14.12.2 Within 28 days after receiving the Final Statement and discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Project Manager shall deliver, to the Procuring Entity and to the Contractor, the Final Payment Certificate which shall state:

a. The amount which he fairly determines is finally due, and

b. aftergivingcredittotheProcuringEntityforallamountspreviouslypaidbytheProcuringEntityandfor all sums to which the Procuring Entity is entitled, the balance (if any) due from the Procuring Entity to the Contractor or from the Contractor to the Procuring Entity, as the case may be.

14.12.3 If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Project Manager shall request the Contractor to do so. If the Contractor fails to apply within a period of 28 days, the Project Manager shall issue the Final Payment Certificate for such amount a she fairly determines to be due.

14.13 Cessation of Procuring Entity's Liability

14.13.1 The Procuring Entity shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

a) In the Final Statement and also

b) (except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause14.10 [Statement at Completion].

14.13.2 However, this Sub-Clause shall not limit the Procuring Entity's liability under his indemnification obligations, or the Procuring Entity's liability in any case of fraud, deliberate default or reckless misconduct by the Procuring Entity.

14.14 Currencies of Payment

14.14.1 The Contract Price shall be paid in the currency or currencies named in the Schedule of Payment Currencies. If more than one currency is so named, payments shall be made as follows:

a) If the Accepted Contract Amount was expressed in Local Currency only:

i) The proportions or amounts of the Local and Foreign Currencies, and the fixed rates of exchange to be used for calculating the payments, shall be as stated in the Schedule of Payment Currencies, except as otherwise agreed by both Parties;

ii) payments and deductions under Sub-Clause 13.5 [Provisional Sums] and Sub-Clause 13.7 [Adjustments for Changes in Legislation] shall be made in the applicable currencies and proportions; and

iii) other payments and deductions under sub-paragraphs (a) to (d) of Sub-Clause14.3[Application for Interim Payment Certificates] shall be made in the currencies and proportions specified in sub-paragraph (a) (i) above;

b) payment of the damages specified in the Special Conditions of Contract, shall be made in the currencies and proportions specified in the Schedule of Payment Currencies;

c) other payments to the Procuring Entity by the Contractor shall be made in the currency in which the sum was expended by the Procuring Entity, or in such currency as may be agreed by both Parties;

d) if any amount payable by the Contractor to the Procuring Entity in a particular currency exceeds the sum payable by the Procuring Entity to the Contractor in that currency, the Procuring Entity may recover the balance of this amount from the sums otherwise payable to the Contractor in other currencies; and

e) if no rates of exchange are stated in the Schedule of Payment Currencies, they shall be those prevailing on the Base Date and determined by the central bank of Kenya.

14.15 Termination of the Contract by Parties

(A) Termination by procuring entity's for Convenience

KPLC may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 14.15 (A). Upon receipt of the notice of termination under this clause, the Contractor shall either immediately or upon the date specified in the notice of termination.

a) cease all further work, except for such work as KPLC may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition,

b) terminate all subcontracts, except those to be assigned to KPLC pursuant to paragraph (d) (ii) below,

c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition, and

d) subject to the payment specified in GCC Sub-Clause 14.15 (A) e.

i. deliver to KPLC the parts of the Facilities executed by the Contractor up to the date of termination

ii. to the extent legally possible, assign to KPLC all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by KPLC, in any subcontracts concluded between the Contractor and its Subcontractors; and

iii. deliver to KPLC all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

e) In the event of termination of the Contract under GCC Sub-Clause 14.15 (A) KPLC shall pay to the Contractor the following amounts.

i The Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination,

ii the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel,

iii any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges,

iv costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 14.15 (A)

v the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have under taken with third Parties in connection with the Contract and that are not covered by paragraphs (i) through (v) above.

(B) Termination by Procuring entity resulting from Contractor's failure to perform

i) Notice to Correct

If the Contractor fails to carry out any obligation under the Contract, the Project Manager may by Notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

14.15.1. The Procuring Entity shall be entitled to terminate the Contract if the Contractor:

a. fails to comply with Sub-Clause 4.2 [Performance Security] or with a Notice to Correct

b. abandons the Works or otherwise plainly demonstrates the intention not to continue performance of

his obligations under the Contract for 30 days,

c. without reasonable excuse fails:

i. to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension], or

ii. to comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [Remedial Work], within 28 days after receiving it,

iii. Has without valid reason failed to commence work on the Facilities promptly or has suspended, other than pursuant to GCC Sub-Clause 8.11, the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from KPLC to proceed

d. subcontracts the major part or whole of the Works or assigns the Contract without the agreement with Procuring Entity,

e. becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or

f. gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:

i. for doing or for bearing to do any action in relation to the Contract, or

ii. for showing or for bearing to show favor or disfavor to any person in relation to the Contract, or

iii. if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f).

g. Refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the Contractor's Project implementation or program furnished to KPLC at rates of progress that give reasonable assurance to KPLC that the Contractor can attain Completion of the Facilities by the Time for Completion as extended, then KPLC may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then KPLC may terminate the Contract forth with by giving a notice of termination to the Contractor in reference to GCC Sub-Clause 14.15 (B).

14.15.2 In any of these events or circumstances, the Procuring Entity may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (e) or (f) or (g), the Procuring Entity may by notice terminate the Contract immediately.

14.15.3 The KPLC's election to terminate the Contract shall not prejudice any other rights of the KPLC, under the Contract or otherwise.

14.15.4 Upon receipt of the notice of termination, the Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Project Manager. However, the Contractor shall use his Lowest efforts to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

14.15.5 After termination, the Procuring Entity may complete the Works and/ or arrange for any other entities to do so. The Procuring Entity and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.

14.15.6 The Procuring Entity shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Procuring Entity, these items may be sold by the Procuring Entity in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

14.16 Valuation at Date of Termination

As soon as practicable after a notice of termination under Sub-Clause 14.15 (B) [Termination by Procuring Entity] has taken effect, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

14.17 Payment after Termination

After a notice of termination under Sub-Clause 15.2 (B) [Termination by Procuring Entity] has taken effect, the Procuring Entity may:

a) Proceed in accordance with Sub-Clause 2.5 [Procuring Entity's Claims],

b) withhold further payments to the Contractor until the costs of execution, completion and remedying of any defects, damages for delay incompletion (if any), and all other costs incurred by the Procuring Entity, have been established, and/or

c) recover from the Contractor any losses and damages incurred by the Procuring Entity and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 14.16 [Valuation at Date of Termination]. After recovering any such losses, damages and extra costs, the Procuring Entity shall pay any balance to the Contractor.

14.18 After termination by procuring entity under GCC clause 14.15 (B)

After this termination, the Contractor shall proceed in accordance with Sub-Clause16.1 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 14.17 [Payment after Termination].

14.19 Fraud and Corruption

14.19.1 KPLC requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 as set forth in Section …IV... *"Declaration not to engage in corruption."* The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

14.19.2 Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the PPRA to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the PPRA.

14.20 Corrupt gifts and payments of commission

14.20.1 The Contractor shall not;

a. Offer or give or agree to give to any person in the service of the Procuring Entity any gift or consideration of any kind as an inducement or reward for doing or for bearing to do or for having done or for borne to do any act in relation to the obtaining or execution of this or any other Contract for the Procuring Entity or for showing or for bearing to show favour or disfavour to any person in relation to this or any other contract for the Procuring Entity.
b. Enter in to this or any other contract with the Procuring Entity in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment there of have been disclosed in writing to the Procuring Entity.

14.20.2 Any breach of this Condition by the Contractor or by any one employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement Regulations issued under The Exchequer and Audit Act Cap 412 of the Laws of Kenya.

15 Suspension and Termination by Contractor

15.1 Contractor's Entitlement to Suspend Work

15.1.1 If the Project Manager fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or the Procuring Entity fails to comply with Sub-Clause 2.4 [Procuring Entity's Financial Arrangements] or Sub-Clause14.7 [Payment], the Contractor may, after giving not less than 28 days' notice to the Procuring Entity, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence or payment, as the case may be and as described in the notice.

15.1.2 The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8 [Delayed Payment] and to termination under Sub-Clause 15.2 [Termination by Contractor].

15.1.3 If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant Sub-Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.

15.1.4 If the Contractor suffers delay and/ or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall give notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

a. an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
b. payment of any such Cost, which shall be included in the Contract Price.

15.1.5 After receiving this notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

15.2 Termination by Contractor

15.2.1 The Contractor shall be entitled to terminate the Contract if:

a. the Contractor does not receive the reasonable evidence within 60 days after giving notice under Sub- Clause 15.1 [Contractor's Entitlement to Suspend Work] in respect of a failure to comply with Sub-Clause
b. 2.4 [Procuring Entity's Financial Arrangements],
c. the Project Manager fails, within 45days after receiving a Statement and supporting documents, to issue the relevant Payment Certificate,
d. the Contractor does not receive the amount due under an Interim Payment Certificate within 90 days after the expiry of the time stated in Sub-Clause 14.7 [Payment] within which payment is to be made (except for deductions in accordance with Sub-Clause 2.5 [Procuring Entity's Claims]),
e. the Procuring Entity substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the economic balance of the Contract and/ or the ability of the Contractor to perform the Contract,
f. the Procuring Entity fails to comply with Sub-Clause 1.6 [Contract Agreement] or Sub-Clause 1.7 [Assignment],
g. a prolonged suspension affects the whole of the Works as described in Sub-Clause 8.11 [Prolonged Suspension], or
h. the Procuring Entity becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.

15.2.2 In any of these events or circumstances, the Contractor may, upon giving 28 days' notice to the Procuring Entity, terminate the Contract.

15.2.3 The Contractor' selection to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contractor otherwise.

16.1 Cessation of Work and Removal of Contractor's Equipment

After a notice of termination under Sub-Clause 14.15 (A) [Procuring Entity's Entitlement to Termination for Convenience], Sub-Clause 15.2 [Termination by Contractor] or Sub-Clause 19.7 [Release from performance] has taken effect, the Contractor shall promptly:

a) Cease all further work, except for such work as may have been instructed by the Project Manager for the protection of life or property or for the safety of the Works,
b) hand over Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
c) remove all other Goods from the Site, except as necessary for safety, and leave the Site.

16.2 Payment on Termination by Contractor

After a notice of termination under Sub-Clause 15.2 [Termination by Contractor] has taken effect, the Procuring Entity shall promptly.

a) return the Performance Security to the Contractor,
b) pay the Contractor in accordance with Sub-Clause 19.7 [Release from performance]

16.3 Emergency work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, KPLC may cause such work to be done as KPLC may determine is necessary in order to prevent damage to the Facilities. In such event KPLC shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons there for. If the work done or caused to be done by KPLC is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by KPLC in connection there with shall be paid by the Contractor to KPLC. Otherwise, the cost of such remedial work shall be borne by KPLC.

16.4 Site clearance

16.4.1 Site Clearance in Course of Performance: In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

16.4.2 Clearance of Site after Completion: After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities in a clean and safe condition.

17. Risk and Responsibility

17.1 Indemnities

17.1.1 The Contractor shall indemnify and hold harmless the Procuring Entity, the Procuring Entity's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

a. KSJily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and

b. Damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, their respective agents, or any one directly or indirectly employed by any of them.

17.1.2 Procuring entity (KPLC) shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims,

demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of KPLC.

17.2 Care for the Facilities

17.2.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period.

The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof after issuance of operation certificate.

17.2.2 The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the completion of facilities or is deemed to be issued under Sub-Clause 10.1[Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Procuring Entity.

17.2.3 The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except where such loss or damage arises by reason of any of the matters specified in GCC Sub-Clauses 19.1.

17.2.4 After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any work, which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

17.2.5 If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

17.2.6 The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

17.2.7 Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

a) The Contractor shall indemnify and hold harmless KPLC and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property other than the Facilities whether accepted or not, arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of KPLC, its contractors, employees, officers or agents.

b) If any proceedings are brought or any claim is made against KPLC that might subject the Contractor to liability under GCC Sub-Clause 17.2.7(a), KPLC shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in KPLC's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

c) If the Contractor fails to notify KPLC within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then KPLC shall be free to conduct the same on

its own behalf. Unless the Contractor has so failed to notify KPLC within the twenty- eight (28) day period, KPLC shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

17.3 Procuring Entity's Risks

The risks referred to in Sub-Clause 17.4 [Consequences of Procuring Entity's Risks] below, insofar as they directly affect the execution of the Works in Kenya, are:

a) War hostilities (whether war be declared or not),
b) rebellion, riot, commotion or disorder, terrorism, sabotage by persons other than the Contractor's Personnel,
c) explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such explosives, radiation or radio-activity,
d) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventive precautions.

17.4 Consequences of Procuring Entity's Risks

17.4.1 If and to the extent that any of the risks listed in Sub-Clause17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Project Manager and shall rectify this loss or damage to the extent required by the Project Manager.

17.4.2 If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1[Contractor's Claims] to:

(a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
(b) Payment of any such Cost, which shall be included in the Contract Price.

17.4.3 After receiving this further notice, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

17.5 Intellectual and Industrial Property Rights

17.5.1 In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trademark, tradename, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

17.5.2 Whenever a Party does not give notice to the other Party of any claim within 28days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

17.5.3 The Procuring Entity shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement that is or was:

a) An unavoidable result of the Contractor's compliance with the Contract, or

17.5.4 The Contractor shall indemnify and hold the Procuring Entity harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.

17.6 Limitation of Liability

17.6.1 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contractor for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 8.7 [Delay Damages]; Sub-Clause11.2 [Cost of Remedying Defects]; Sub-Clause 14.17 [Payment after Termination]; Sub-Clause 16.2 [Payment on Termination]; Sub-Clause 17.1 [Indemnities]; Sub-Clause 17.4 (b) [Consequences of Procuring Entity's Risks] and Sub-Clause17.5 [Intellectual and Industrial Property Rights].

17.6.2 This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

18 Insurance

18.1 To the extent specified in the Appendix to the Contract Agreement titled Insurance Requirements, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of KPLC, who should not unreasonably withhold such approval.

a. Cargo Insurance During Transport
Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant (including spare parts therefor) and to the Contractor's Equipment.

b. Installation All Risks Insurance
Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period.

c. Third Party Liability Insurance
Covering KSJily injury or death suffered by third Parties including KPLC's personnel, and loss of or damage to property occurring in connection with the supply and installation of the Facilities.

d. Automobile Liability Insurance
Covering use of all vehicles used by the Contractor or its Subcontractors, whether or not owned by them, in connection with the execution of the Contract.

c. Workers' Compensation
In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

d. KPLC’s Liability
In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

e. Other Insurances
Such other insurances as may be specifically agreed upon by the Parties here to as listed in the Appendix to the Contract Agreement titled Insurance Requirements.

18.2 KPLC shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 18.1, except for the Third Party Liability, Workers' Compensation and KPLC’s Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 18.1 except for the Cargo Insurance During Transport, Workers' Compensation and KPLC’s Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.

18.3 The Contractor shall, in accordance with the provisions of the Appendix to the Contract Agreement titled Insurance Requirements, deliver to KPLC certificates of insurance or copies of the insurance policies as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to KPLC by insurers prior to cancellation or material modification of a policy.

18.4 Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.

18.5 KPLC shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in the Appendix titled Insurance Requirements, in the sums and with the deductibles and other conditions specified in the said Appendix.

18.6 If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause

18.1, KPLC may take out and maintain in effect any such insurances and may from time to time deduct from any amount due to the Contractor under the Contract any premium that KPLC shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor.

18.7 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 18, and all monies payable by any insurers shall be paid to the Contractor. KPLC shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which KPLC's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent or approval of KPLC. With respect to insurance claims in which the Contractor's interest is involved, KPLC shall not give any release or make any compromise that is outside the contract requirement.

19 Force Majeure

19.1 Definition of Force Majeure

19.1.1 In this Clause, "Force Majeure" means an exceptional event or circumstance:

a. Which is beyond a Party's control,
b. Which such Party could not reasonably foreseen before entering in to the Contract,
c. which, having arisen, such Party could not reasonably have avoided or overcome, and
d. which is not substantially attributable to the other Party.

19.1.2 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
ii) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,
iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,
iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

19.2 Notice of Force Majeure

19.2.1 If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within seven (7) days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

19.2.2 The Party shall, having given notice, be excused performance of its obligations for so long as such Force Majeure prevents it from performing them.

19.2.3 The Party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 8.4 (Extension of Time for Completion)

19.2.4 The Party or Parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either Party's right to terminate the Contract under GCC Sub-Clauses 19.2.6

19.2.5 No delay or nonperformance by either Party hereto caused by the occurrence of any event of Force Majeure shall:

a) constitute a default or breach of the Contract by either party, or

b) give rise to any claim for damages or additional cost or expense occasioned thereby, subject to any GCC Sub-Clauses if and to the extent that such delay or nonperformance is caused by the occurrence of an event of Force Majeure.

19.2.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the implementation of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other, but without prejudice to either Party's right to terminate the Contract under GCC Sub-Clause 14.5

19.2.7 In the event of termination pursuant to GCC Sub-Clause 19.2.6, the rights and obligations of KPLC and the Contractor shall be as specified in under GCC sub clause 14.5(A) [Terminal for KPLC's convenience].

19.2.8 Notwithstanding GCC Sub-Clause 19.2.6, Force Majeure shall not apply to any obligation of KPLC to make payments to the Contractor herein.

19.3 War Risks

9.3.1 "War Risks" shall mean any event specified in paragraphs (a) and (b) of GCC Sub-Clause 19.1 and any explosion or impact of any mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war, occurring or existing in or near the country (or countries) where the Site is located.

19.3.2 Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to.

a) destruction of or damage to Facilities, Plant, or any part thereof;
b) destruction of or damage to property of KPLC or any third Party; or
c) injury or loss of life

if such destruction, damage, injury or loss of life is caused by any War Risks, and KPLC shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence of or in connection with the same.

19.3.3 If the Facilities or any Plant or Contractor's Equipment or any other property of the Contractor used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, KPLC shall pay the Contractor for

a) any part of the Facilities or the Plant so destroyed or damaged to the extent not already paid for by KPLC and so far, as may be required by KPLC, and as may be necessary for completion of the Facilities
b) replacing or making good any such destruction or damage to the Facilities or the Plant or any part thereof.

19.3.4 The Time for Completion shall be extended in accordance with GCC sub clause 8.4.

19.3.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work, provided, however, that if the execution of the work becomes impossible or is substantially prevented for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of any War Risks, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other.

19.4 Duty to Minimize Delay

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

19.5 Consequences of Force Majeure

Shall be dealt with as provided for under GCC sub clause 19.2

19.6 Force Majeure Affecting Subcontractor

If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to

relief under this Clause.

19.7 Release from Performance

19.7.1 If the execution of substantially all the Works in progress is prevented for a continuous period of 180 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 365 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 28 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

19.7.2 Upon such termination, the Project Manager shall determine the value of the work done and issue a Payment Certificate which shall include:

a. The amounts payable for any work carried out for which a price is stated in the Contract;

b. The Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and beat the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;

c. other Cost or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works.

20 Settlement of Claims and Disputes

20.1 Contract Claims

20.1.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

20.1.2 If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and KPLC shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

20.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

20.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting KPLC's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager

20.1.5 Within forty two (42) days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect: This fully detailed claim shall be considered as interim;

a) This fully detailed claim shall be considered as interim;

b) The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and

c) The Contractor shall send a final claim within 28days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

20.1.6 Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.

20.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

20.1.8 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Project Manager shall agree with the Contractor or estimate: (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with GCC Clause 8.4, and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

20.1.9 If the Project Manager does not respond within the time frame defined in this Clause, either Party may consider the claim is rejected. In the event that the Contractor and KPLC cannot agree on any matter relating to a claim, either Party may refer the matter to the Dispute Board pursuant to GCC 20.4 hereof.

20.1.10 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

20.2 Amicable Settlement

Where a dispute (of any kind whatsoever) arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Project Manager, either Party may refer the dispute in writing to the Project Manager by issuing a Notice of Dissatisfaction.

20.3 Issuing of a Notice of dissatisfaction

Where a Notice of Dissatisfaction has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction in accordance with Sub-Clause 20.2 above should move to commence arbitration after the fifty-sixth (56) day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

20. 3.1 Matters that may be referred to arbitration

Notwithstanding anything stated herein the following matters may be referred to arbitration before practical completion of Works or abandonment of Works or termination of Contract by either party:

a) Whether or not the issue of an instruction by the Project Manager is empowered by the contract.
b) Whether or not a certificate has been improperly withheld or is not in accordance with the contract.
e) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

20.4 Arbitration

20.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.3 shall be finally settled by arbitration. Arbitration shall be conducted as follows.

a) if the contract is with foreign contractors, the dispute shall be referred to international arbitration either:

i) with proceedings administered by the arbitration institution designated in the Special Conditions of Contract, and conducted under the rules of arbitration of such institution; or, if so specified in the Special Conditions of Contract, or

ii) international arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL), unless specified otherwise in the SCC;

b) if the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the Arbitration Laws of Kenya.

c) If the Contract is with national contractors, arbitration with proceedings conducted in accordance with the Arbitration Laws of Kenya.

20.4.2 The place of arbitration shall be the neutral location specified in the Special Conditions of Contract; and the arbitration shall be conducted in the English Language for all communications.

20.4.3 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

20.4.4 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

20.4.5 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the Works.

20.4.6 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

20.5 National arbitration with proceedings

20.5.1 In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within forty five days (45) days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties.

20.5.2 Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

i) Architectural Association of Kenya
ii) Institute of Quantity Surveyors of Kenya
iii) Association of Consulting Engineers of Kenya
iv) Chartered Institute of Arbitrators (Kenya Branch)
v) Institution of Engineers of Kenya

20.5.3 The institution written to first by the aggrieved party shall take precedence over all other institutions.

20.5.4 The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising thereunder or in connection therewith, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.

20.5.5 Provided that no arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

20.5.6 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.

20.5.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included

in any certificate.

20.5.8 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.

20.5.9 The Decision of the Arbitration proceedings will be final and binding on both parties.

20.6 Failure to Comply with Arbitrator's Decision

In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent Kenya court of law.

21 Change in Contract Elements and Facilities

21.1 Introducing a Change

21.1.1 Subject to GCC Sub-Clauses 21.2.5 and 21.2.7, KPLC shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities here in after called "Change", provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.

21.1.2 Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

a) The proposed change (s), and a description of the difference to the existing contract requirements;
b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) KPLC may incur in implementing the value engineering proposal; and
c) a description of any effect (s) of the change on performance/ functionality.

KPLC may accept the value engineering proposal if the proposal demonstrates benefits that:

a) accelerates the delivery period; or
b) reduces the Contract Price or the life cycle costs to KPLC; or
c) improves the quality, efficiency, safety or sustain ability of the Facilities; or
d) yields any other benefits to KPLC, without compromising the necessary functions of the Facilities.

If the value engineering proposal is approved by KPLC and results in:

(a) a reduction of the Contract Price; the amount to be paid to the Contractor shall be the percentage specified in the **SCC** of the reduction in the Contract Price; or
(b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Contractor shall be the full increase in the Contract Price.

21.1.3 Notwithstanding GCC Sub-Clauses 21.1.1 and 21.1.2, no Change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

21.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 21.2 and 21.3, and further details and forms are provided in KPLC's Works Requirements (Contract VOL. II) under Forms and Procedures.

21.2 Changes Originating from KPLC

21.2.1 If KPLC proposes a Change pursuant to GCC Sub-Clause 21.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

a) Brief description of the Change
b) Effect on the Time for Completion
c) Estimated cost of the Change
d) Effect on Functional Guarantees (if any)

e) Effect on the Facilities
f) Effect on any other provisions of the Contract. (21.2.1)

21.2.2 Prior to preparing and submitting the "Change Proposal," the Contractor shall submit to the Project Manager an "Estimate for Change Proposal," which shall be an estimate of the cost of preparing and submitting the Change Proposal.
Upon receipt of the Contractor's Estimate for Change Proposal, KPLC shall do one of the following:

a) Accept the Contractor's estimate for change proposal or proceed as specified in SCC, to give instructions to the Contractor to proceed with the preparation of the Change Proposal or
b) Advise the Contractor of any part of its Estimate for Change Proposal that is unacceptable and request the Contractor to review its estimate
c) Advise the Contractor that KPLC does not intend to proceed with the Change.

21.2.3 Upon receipt of KPLC's instruction to proceed under GCC Sub-Clause 21.2.2 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Sub-Clause 21.2.1.

21.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the Parties there to shall agree on specific rates for the valuation of the Change.

21.2.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance with this change order and with all other Change Orders, that have already become binding under GCC Clause 21, would be to increase or decrease the Contract Price as originally set in Contract Agreement by more than fifteen percent (15 %), the Contractor may give a written notice of objection, prior to furnishing the Change Proposal as aforesaid. If KPLC accepts the Contractor's objection, it shall withdraw the proposed Change and shall notify the Contractor in writing or e-mail thereof.

21.2.6 (a) Upon receipt of the Change Proposal, KPLC and the Contractor shall mutually agree upon all matters therein contained. Within twenty one (21) days after such agreement, KPLC shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

(b) If KPLC is unable to reach a decision within twenty one (21) days, it shall notify the Contractor with details of when the Contractor can expect a decision.

(c) If KPLC decides not to proceed with the Change for whatever reason, it shall, within the said period notify the Contractor accordingly. Under such circumstances, the Contractor shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Contractor in its Estimate for Change Proposal submitted in accordance with GCC Sub-Clause 21.2.2.

21.2.7 (a) If KPLC and the Contractor cannot reach agreement on the price for the Change, on equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, KPLC may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."

(b) Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The Parties shall there after attempt to reach agreement on the outstanding issues under the Change Proposal.

(c) If the Parties cannot reach agreement within ninety (90) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Arbitration board in accordance with the provisions of GCC Sub-Clause 20.4

21.3 Changes Originating from Contractor

21.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 21.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 21.1.2.

21.3.2 Upon receipt of the Application for Change Proposal, the Parties shall follow the procedures outlined in GCC Sub-Clauses 21.2.6 and 21.2.7. However, the Contractor shall not be entitled to claim the costs of preparing the Change Proposal.

SECTION IX - SPECIAL CONDITIONS OF CONTRACT

Special Conditions of Contract *hereafter abbreviated as SCC* shall form part of the Conditions of Contract. They are made in accordance with the Kenyan law and KPLC's guidelines, practices, procedures and working circumstances. They shall amend, add to and vary the General Condition of Contract (GCC). Whenever there is a conflict between GCC and SCC the provisions of SCC shall prevail over those in the GCC.

GCC Clause	**Amendments and Supplements to Clauses in the General Conditions of Contract** (GCC)
Procuring entity **GCC 1.1**	The Employer or Procuring Entity is: **The Kenya Power & Lighting Company LC,** **Stima Plaza P.O. Box 30099 – 00100 Nairobi,** **Kenya.**
Communication **GCC 1.3**	All communications shall be through Project Manager. Modes of communication shall be: Written letter/memos and e-mails. All queries and or clarification except approval and review of documents shall be communicated back to either party within fourteen (14) days.
Priority of Contract documents: GCC 1.5	As detailed in the GCC
Access to site **GCC 2.1.3**	Contractor shall have access to site within F**ourteen (14) days** after the Contract agreement signing.
Procuring entity financial arrangement GCC 2.4	**N/A -** Submission of Procuring Entity's Financial Arrangement to contractor
Project Managers **GCC 3.0**	Contract Manager appointed by KPLC: Lot 1: Rongai 2x23 MVA 132/33 KV Substation and Associated lines Name: Address: P.O Box 30099,00100, Nairobi, Kenya Email: Phone:
	Contract Manager appointed by KPLC: Lot 2: Kathwana 2x23 MVA 132/33 KV Substation and Associated lines Name: Address: P.O Box 30099,00100, Nairobi, Kenya Email: Phone:
	Contract Manager appointed by KPLC: Lot 3: Kiserian 2x23 MVA 66/11 KV Substation and Associated lines Name: Address: P.O Box 30099,00100, Nairobi, Kenya Email: Phone:
Documents to be approved by Project Manager GCC 3.1	As detailed in the GCC
Priority of Contract documents: GCC 1.5	As detailed in the GCC
Subcontractors **GCC 4.4**	Prior approval by KPLC's Contract Manager shall be obtained for any other proposed **Sub-Contractor, Suppliers/manufacturers** not included in the Contract.

Quality Assurance GCC 4.9. (Samples/Locally Sourced Materials)	All **locally sourced materials and or samples** shall be subject to Contract Manager's approval prior to installation or usage. Contractor shall be responsible for any error in the materials and its quality, and the approval shall not relief him of any obligation under the contract.
Contractor's Superintendence GCC 6.8	Change or removal of any project Key personnel in the contract shall be subject to Contract Manager's Approval
Commencement and Time for Completion of work **GCC 8.1 & 8.2**	Effective date for commencement of works shall be the date at which following precedent conditions shall have been fulfilled. a. The Performance guarantee (Security) provided to Kenya Power no later than the date specified in the Letter of Acceptance and issued in an amount specified in the SCC b. Signing of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of Kenya; c. Access and site handover to the contractor Time for Completion of the Project shall be **Twenty four** ***(24) months*** from ***the Effective Date*** of Contract Guaranteed tests of the facilities shall be successfully completed within **sixty (60) days** from the date of installation completion
Project Implementation Program GCC 8.3	The Contractor shall submit for approval revised Project implementation/Time Program within ***14 (Fourteen) days*** from the date of Contract signing
Liquidated damages **GCC 8.7**	Applicable rate for liquidated damages is **0.005%** of contract price per day up to a maximum of ten percent ***(10 %)*** of the Contract price.
Defect liability period. GCC 11.1	The defects liability period is **twelve (12) Months** from date of issuance of Taking-Over/Completion Certificate or ***Twelve (12) Months*** from date of issuance of Acceptance/Operational Certificate, which ever comers earlier M**anufacturer's Authorization and Warranty Form** ***Signed and Stamped*** by Manufacturer together with manufacturing document (Technical data, Brochures/Catalogue, Design drawings etc.) for All Materials/Equipment shall be submitted for A*pproval before start of manufacturing*
Right to Vary the contract GCC 13.1	Maximum of ***25%*** of the original Contract Quantity and Scope, within contract period.
Price Adjustment **GCC 13.8**	***N/A: Price adjustment shall not be Applicable in this Tender***
Contract price **GCC 14.2.2**	Contract price shall be in ***KENYA SHILLINGS*** and ***Delivered Duty Paid (DDP)*** with ***NO EXEMPTION*** of Import duties and Taxes on contractor's imported Equipment/Materials and Spare parts
Total Advance payment GCC 14.2	N/A
Repayment amortization rate of advance payment 14.2.6	N/A
Percentage of Retention GCC.14.3	10%
Limit of Retention Money GCC 14.3	10% of the Accepted Contract Amount
Schedule of Payments (Payment Terms) **GCC 14.4, 4.6 and 14.7**	The Contract Price is a mix of Lump Sum Price Component and Admeasurement Component. Substation works component shall be on lump sum Contract basis whereas the distribution line works shall be on admeasurement Contract basis. (In a lump sum contract, Contractor is deemed to have included all inputs that are necessary to perform the facility scope of work).

Payments shall be made promptly by KPLC within ***Forty-five (45) days*** from the **D*ate of Invoice submission*** together with ***All other required and related documents*** and in the following proportion: -

a) <u>Schedule 1 and 2 Plant and mandatory supplied form abroad and within employer's country spares</u>:

i) ***Eighty percent (80%)*** of the total or pro rata DDP amount (comprising of the plant/items, accessories and mandatory spares) will be paid upon delivery and inspection at project site).

ii) ***Ten percent (10%)*** of the total or pro rata DDP amount will be paid upon successful installation (erection/assembly) of the plant, equipment or the Facility sections.

iii) ***Five percent (5%)*** of the total or pro rata DDP amount upon issuance of the ***Taking-Over/Completion Certificate***.

iv) ***Five percent (5%)*** of the total or pro rata DDP amount upon issuance of the Operational Acceptance Certificate i.e. upon expiry of ***Twelve 12 months Defects liability period.***

b) <u>Schedule No. 3. Design Services</u>

In respect of design services, the following payments shall be made:

Hundred percent (100%) of the Total or Pro rata design services amount upon acceptance of design works by the Project Manager within ***Forty-five (45) days*** after receipt of Invoices together with ***Other required and related documents.***

c) <u>Schedule No. 4. Installation and Other Services</u>

In respect of installation and other services, the following payments shall be made:

i) ***Ninety percent (90%)*** of the measured value of work performed by the Contractor, as identified in the said Program of works, during the preceding month, as evidenced by the Employer's authorization of the Contractor's application, will be made within ***Forty-five days (45) days*** after receipt of Invoice together with O***ther required and related documents***.

ii) ***Five percent (5%)*** of the total or pro rata value of installation and other services performed by the Contractor as evidenced by the Employer's authorization of the Contractor's applications, after ***Issuance of the Completion Certificate, within Forty-five (45) days*** after receipt of Invoice together with other required and related documents.

iii) ***Five percent (5%)*** of the total or pro rata value of Installation and other services performed by the Contractor as evidenced by the Employer's authorization of the Contractor's applications, upon issuance of the Operational Acceptance Certificate /upon expiry of 12 months defects liability period, within ***Forty-five (45) days*** after receipt of invoice together with other required and related documents.

<u>Payment Procedures</u>

The procedures to be followed in applying for certification and making payments shall be as follows:

Telegraphic transfer: schedule 1, 2, 3 and 4

Payments shall be made promptly by KPLC and shall be within ***Forty five (45) days*** from delivery and submission of invoice together with other required and related documents or as otherwise prescribed in the contract.

	Payments shall be primarily be through KPLC's cheque or real time gross settlement (RTGs) or telegraphic transfer. A copy of a valid performance security, stamped, certified as authentic by KPLC shall form part of the documents to be presented to KPLC before any payments is made. The payment terms shall be strictly on Delivered and Duty Paid (DDP) basis **<u>Contractors who request for a Letter of Credit (hereinafter abbreviated as (LC):</u>** a) Shall meet all the LC Costs. Indicative costs levied by the issuing banks are; - Opening/issuance charges (0.25% per quarter), acceptance/issuance charges (0.25% per quarter), settlement charges (0.25% flat), confirmation charges (0.25% flat) (where required) or as per the confirming bank's rate, and any amendment charges. b) Any extension and or amendment charges and any other costs that may result from the contractor's delays, requests, mistakes or occasioned howsoever by the contractor shall be to the beneficiary's rates. c) The maximum number of extensions and amendments to the ***Contract LC shall be limited to two (2)*** d) Should the contractor require a confirmed LC, then all confirmation and any other related charges levied by both the contractor's and KPLC's bank be to the beneficiary's account. e) The ***LC shall be opened only for Schedule No.1 plant and equipment supplied from Abroad and shall be within the Validity period of the contract.*** f) A copy of the performance security, stamped and certified as authentic by KPLC, whose expiry date should not be less than ***Sixty (60) days from the LC expiry date shall form part of the documents to be presented to the bank before any payment is effected.*** KPLC shall have the sole discretion to accept or decline any contractor's payment request through letters of credit without giving any reason for such decline. Payment to the Contractor of the amounts due in each currency shall be made into the following bank accounts: [***insert bank account details at the time of contract signing***]
Delayed payment Interest GCC 14.8	Applicable ***Interest rate for Interim Certificate payment*** delayed for more than S***ixty (60) day*** shall be ***0.005%*** of the ***Delayed Interim Certificate Value per day*** up to a maximum of ***Ten percent (10 %)*** of its value.
Arbitration **GCC 20.4.1**	All disputes shall be referred to ***National Arbitration proceedings*** in accordance to arbitration laws of Kenya. Place of arbitration shall be **within Kenya** agreeable by b**oth parties**
Change in Contract Element and Facility **GCC 21.2.2**	Contractor shall ***NOT be Entitled*** of any Reimbursement payment and or claim for preparation of ***Change Proposal request originating from*** *KPLC*

SECTION IX -CONTRACT FORMS

FORM NO 1: NOTIFICATION OF INTENTION TO AWARD

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

FORMAT

1. For the attention of Tenderer's Authorized Representative

i) Name: *[insert Authorized Representative's name] ii)* Address: *[insert Authorized Representative's Address]*

iii) Telephone: *[insert Authorized Representative's telephone/fax numbers] iv)* Email Address: *[insert Authorized Representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]

2. Date of transmission: [*email*] on [*date*] (local time)

This Notification is sent by (*Name and designation*) _____

3. Notification of Intention to Award

i) Procuring Entity: *[insert the name of Kenya Power] ii)* Project: *[insert name of project]*

iii) Contract title: *[insert the name of the contract] iv)* Country: *[insert country where ITT is issued]*

v) ITT No: *[insert ITT reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period, you may:

4. Request a debriefing in relation to the evaluation of your tender

Submit a Procurement-related Complaint in relation to the decision to award the contract. a) The successful tenderer

i) Name of successful Tender___

ii) Address of the successful Tender ____

iii) Contract price of the successful Tender Kenya Shillings _____

(in words)

b) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

SNo	Name of Tender	Tender Price as read out	Tender's evaluated price (Note a)	One Reason why not evaluated
1				
2				
3				
4				
5				

(Note a) State NE if not evaluated

How to request a debriefing

a) DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (*local time*).

b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.

c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

i) Attention: [*insert full name of person, if applicable*] ii) Title/position: [*insert title/position*] ii) Agency: [*insert Kenya Power]* iii) Email address: [*insert email address*]

d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*] (local time).

b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

i) Attention: [*insert full name of person, if applicable*] ii) Title/position: [*insert title/position*] iii) Agency: [*insert Kenya Power*] iv) Email address: [*insert email address*]

c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received,

a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website info@ppra.go.ke or complaints@ppra.go.ke.

You should read these documents before preparing and submitting your complaint.

e) There are four essential requirements:

i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.

ii) The complaint can only challenge the decision to award the contract. iii) You must submit the complaint within the period stated above.

iv) You must include, in your complaint, all of the information required to support your complaint.

7. Standstill Period

i) DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).

ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.

iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

If you have any questions regarding this Notification please do not hesitate to contact us. On behalf of Kenya Power :

Signature: **Name:** _____

Title/position: **Telephone:** **Email:** _____

FORM NO. 2 - REQUEST FOR REVIEW

FORM FOR REVIEW (r.203 (1)

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO…….OF…….20……...

BETWEEN ……APPLICANT

AND

……RESPONDENT (Procuring Entity)

Request for review of the decision of the…… (Name of Kenya Power of ……dated the…day of …….20…….in the matter of Tender No……..…of ……..20….. for .....(Tender description).

REQUEST FOR REVIEW

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

1.

2.

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

1.

2.

SIGNED ……(Applicant) Dated on…….day of ……/…20……

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on……day of ……....20….……

SIGNED

Board Secretary

FORM NO 3: LETTER OF AWARD

[letterhead paper of Kenya Power] [date]

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

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by …… (*Kenya Power)*.

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature:.....

Name and Title of Signatory:.....

Kenya Power .....

Attachment: *Contract Agreement*.....

FORM NO 4: CONTRACT AGREEMENT

THIS AGREEMENT made the_____day of , 20___, _____ between _____of _____ (hereinafter "the Procuring Entity"), of the one part, and _____of _____(hereinafter "the Contractor"), of the other part:

WHEREAS Kenya Power desires that the Works known as _____ should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

Kenya Power and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall constitute the Contract between KPLC and the Contractor and each shall be read and construed as an integral part of the Contract: -

a) the Letter of Acceptance
b) this Contract Agreement
c) the Letter of Tender
d) the Special Conditions of Contract
e) the General Conditions of Contract
f) the Price Schedules submitted by the Contractor and agreed upon with KPLC.
g) the Volume II of tender documents (Equipment and Work Specifications/requirements)
h) the Volume II of tender document attachments/Annexes (Drawings and equipment specifications)
i) the tender Clarifications/Amendments
j) the Project Scope/ BOQ details
k) the Tender Form signed by the Contractor
l) the Declaration Form signed by the Contractor
m) the Equipment manufacturer's 12months Warranty
n) Minutes for Contract Clarification
o) Any other documents forming part of the Employer's Requirements

3.In consideration of the payments to be made by Kenya Power to the Contractor as specified in this Agreement, the Contractor hereby covenants with Kenya Power to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

3. Kenya Power hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein; the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the Laws of Kenya on the day, month and year specified above.

Signed and sealed by (for Kenya Power)

Signed and sealed by (for the Contractor).

_____

FORM NO. 5: PERFORMANCE SECURITY

[Option 1 - Unconditional Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____ *[insert name and Address of* Procuring Entity*]* **Date:**

_____*[Insert date of issue]*

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

1. We have been informed that__(hereinafter called "the Contractor") has entered into Contract No. dated _____ _____ _____with (*Kenya Power*)_____(Kenya Power as the Beneficiary), for the execution of _____ (hereinafter called "the Contract").

2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____

(*in words*),[5] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

4. This guarantee shall expire, no later than the …. Day of ……, 2...…[6], and any demand for payment under it must be received by us at the office indicated above on or before that date.

5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

[Name of Authorized Official, signature(s) and seals/stamps].

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

[5] *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency of the Contract or a freely convertible currency acceptable to the Beneficiary.*

[6] *Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. Kenya Power should note that in the event of an extension of this date for completion of the Contract, Kenya Power would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

FORM NO. 8 - RETENTION MONEY SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: …….. *[Insert name and Address of* Procuring Entity*]*
Date: …….. *[Insert date of issue]*
Advance payment guarantee no. *[Insert guarantee reference number]*
Guarantor: [*Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Contractor") has entered into Contract No. *[insert reference number of the contract]* dated _____ with the Beneficiary, for the execution of _____ *[insert name of contract and brief description of* Works*]*
(hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of [insert the second half of the Retention Money] is to be made against a Retention Money guarantee.
3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (*[insert amount in words* _____ *])*[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its account number at _____ *[insert name and address of Applicant's bank]*.
5. This guarantee shall expire no later than the …..... Day of …..……, 2.....…[2], and any demand for payment under it must be received by us at the office indicated above on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

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

1The Guarantor shall insert an amount representing the amount of the second half of the Retention Money. 2Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. Kenya Power should note that in the event of an extension of this date for completion of the Contract, Kenya Power would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM NO. 9: BENEFICIAL OWNERSHIP DISCLOSURE FORM

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:

- *Directly or indirectly holding 25% or more of the shares.*
- *Directly or in directly holding 25% or more of the voting rights.*
- *Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing Ksh…… of the Tenderer.*

Tender Reference No.:_____[*insert*

Identification no] Name of the Assignment: _____

[insert name of the assignment] to: _____*[insert complete Kenya Power]*

In response to your notification of award dated *[insert date of notification of award]* to furnish additional information on beneficial ownership: *[select one option as applicable and delete the options that are not applicable]*

I) We here by provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	**Directly or indirectly holding 25% or more of the shares (Yes / No)**	**Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)**	**Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing KSJy of the Tenderer (Yes / No)**
[include full name (last, middle, first), nationality, country of residence]			

OR

ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing KSJy of the Tenderer.

OR

We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Tenderer shall provide explanation on why it is unable to identify any Beneficial Owner]

Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding25% or more of the voting rights.

Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing KSJy of the Tenderer]"

Name of the Tenderer: .....[insert complete name of the Tenderer]*

---

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

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

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

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

APPENDIX 2. PRICE ADJUSTMENT

Where the Contract Period (Excluding the defects Liability Period) exceeds eighteen (18) months, it is normal procedure that prices payable to the Contractor may be subject to adjustment during the performance of the Contract to reflect changes occurring in the cost of labor and material components in the event of abnormal inflation. In such cases the tendering document shall include in this Appendix 2 a formula of the following general type, pursuant to *GCC Sub-Clause 13.8.*

Cost Adjustment Formula
If in accordance with *GCC 13.8*, prices shall be adjustable, the following method shall be used to calculate the price adjustment: Prices payable to the Contractor, in accordance with the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components, in accordance with the following formula:

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

in which:
P_1 = adjustment amount payable to the Contractor
P_0 = Contract price (base price)
a = percentage of fixed element in Contract price (a = %)
b = percentage of labor component in Contract price (b= %)
c = percentage of material and equipment component in Contract price (c= %)
L_0, L_1 = labor indices applicable to the appropriate industry in the country of origin on the base date and the date for adjustment, respectively
M_0, M_1= material and equipment indices in the country of origin on the base date and the date for adjustment, respectively

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

Conditions Applicable to Price Adjustment
The Tenderer shall indicate the source of labor and materials indices, source of exchange rates and the base date indices in its Tender as follows:

Item	Source of Indices Used	Base Date Indices

The base date shall be the date fourteen (14) days prior to the tender closing date.
The date of adjustment shall be the mid-point of the period of manufacture or installation of component or Plant.

The following conditions shall apply:

(a) No price increase will be allowed beyond the original delivery date unless covered by an extension of time awarded by KPLC under the terms of the Contract. No price increase will be allowed **for periods of delay for which the Contractor is responsible**. KPLC will, however, be entitled to any price decrease occurring during such periods of delay in addition to liquidated damages.
(b) If the currency in which the Contract price, P0, is expressed is different from the currency of the country of origin of the labor and/or materials indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be: Z0/Z1where,
Z_0 = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price P_0 on the Base date, and
Z_1 = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price P_0 on the Date of Adjustment.
(c) No price adjustment shall be payable on the portion of the Contract price paid to the Contractor as an advance payment.

MANUFACTURER'S AUTHORIZATION FORM AND WARRANTY FORM

(To be Submitted on Manufacturer's/ Principal's/ Producer's Letterhead)

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

WHEREAS WE …… (*name of the manufacturer*) who are established and reputable manufacturers/principal of …….
(*name and description of the services*) having offices or factories at ……*(full address and physical location of offices or factory(ies)* do hereby confirm that ……(*name and address of Supplier*) is authorized by us to transact in the services required against your Tender No **(……)** in respect of the above plants/materials and services

WE HEREBY extend our full guarantee and warranty in accordance with ***Clause 11.1*** of General Conditions of Contract (GCC) for the items offered by the above firm against the Invitation to Tender. This guarantee and warranty period shall commence upon issuance of completion certificate.

DATED THIS…….... DAY OF…….20……

_____
Signature of duly authorized person for and on behalf of the Manufacturer/ Principal.

_____
Name and Capacity of duly authorized person signing on behalf of the Manufacturer/ Principal.

NOTES
Only a competent person in the service of the Manufacturer/ Principal should sign this letter of authorization.

FORM NO. 10: PRE-BID SITE VISIT FORM

TENDER NO:…….

DATE:…….. ……...

Name of Tenderer…….. ……..

Name, position and signature of the Tenderer's staff visiting the site.

Name:……..

Position…….. ……

Qualification ……

Signature…… Tenderer's Official Stamp……

Site Visit conducted by Kenya Power Authorized Officer's

Name ……

Designation ……

Signature……

Stamp……

Form 1: Take-Over/Completion Certificate

Date: _____

Tender No: _____

_____

To: _____

Dear Ladies and/or Gentlemen,

Pursuant to clause 10 of the General Conditions of Contract entered into between yourselves and the Employer dated _____, relating to the _____, we hereby notify you that the following part(s) of the Facilities was complete on the date specified below, and that, in accordance with the terms of the Contract, the Employer hereby takes over the said part(s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the Facilities or part thereof: _____

2. Date of Completion: _____

However, you are required to complete the outstanding items listed in the attachment hereto as soon as practicable.

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

_____

Title
(Project Manager)

Form2: Operational and Acceptance Certificate

Date: ___

Tender No: _____

To: _____

Dear Ladies and/or Gentlemen,

Pursuant to Clause 10.7 of the General Conditions of the Contract entered into between yourselves and the Employer dated _____, relating to the _____, we hereby notify you that the performance Guarantees of the following part(s) of the Facilities were satisfactorily attained on the date specified below.

1. Description of the Facilities or part thereof: _____

2. Date of Operational Acceptance: _____

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

_____

Title
(Project Manager)

Form3: Request for Change Proposal

(Employer's Letterhead)

To: _____ Date: _____

Attention: _____

Contract Name: _____

Contract Number: _____

Dear Ladies and/or Gentlemen:

With reference to the captioned Contract, you are requested to prepare and submit a Change Proposal for the Change noted below in accordance with the following instructions within _____ days of the date of this letter _____.

1. Title of Change: _____
2. Change Request No. _____
3. Originator of Change: Employer: _____
   Contractor (by Application for Change Proposal No. _____:
4. Brief Description of Change: _____
5. Facilities and/or Item No. of equipment related to the requested Change: _____
6. Reference drawings and/or technical documents for the request of Change:

Drawing No./Document No.	Description

7. Detailed conditions or special requirements on the requested Change: _____
8. General terms and Conditions:

(a) Please submit your estimate to us showing what effect the requested Change will have on the Contract Price.

(b) Your estimate shall include your claim for the additional time, if any, for completion of the requested Change.

(c) If you have any opinion negative to the adoption of the requested Change in connection with the conformability to the other provisions of the Contract or the safety of the Plant or Facilities, please inform us of your opinion in your proposal of revised provisions.

(d) Any increase or decrease in the work of the Contractor relating to the services of its personnel shall be calculated.

(e) You shall not proceed with the execution of the work for the requested Change until we have accepted and confirmed it in writing.

_____
(Employer's Name)

_____
(Signature)

_____
(Name of signatory)

_____
(Title of signatory)

Form 4: Estimate for Change Proposal

(Contractor's Letterhead)

To: _____ Date: _____

Attention: _____

Contract Name: _____

Contract Number: _____

Dear Ladies and/or Gentlemen:

With reference to your Request for Change Proposal, we are pleased to notify you of the approximate cost of preparing the below-referenced Change Proposal in accordance with General Condition of Contract. We acknowledge that your agreement to the cost of preparing the Change Proposal, in accordance with GCC is required before estimating the cost for change work.

1. Title of Change: _____

2. Change Request No./Rev.: _____

3. Brief Description of Change: _____

4. Scheduled Impact of Change: _____

5. Cost for Preparation of Change Proposal-(N/A)

(a)	**Engineering**		**(Amount)**
(i)	Engineer	_____ hrs x _____ rate/hr =	_____
(ii)	Draftsperson	_____ hrs x _____ rate/hr =	_____
	Sub-total	_____ hrs	_____
	Total Engineering Cost		_____
(b)	Other Cost		_____
	Total Cost (a) + (b)		_____

_____
(Contractor's Name)

_____
(Signature)

_____
(Name of signatory)

_____
(Title of signatory)

Form 5: Acceptance of Estimate

(Employer's Letterhead)

To: _____ Date: _____

Attention: _____

Contract Name: _____
Contract Number: _____

Dear Ladies and/or Gentlemen:

We hereby accept your Estimate for Change Proposal and agree that you shall proceed with the preparation of the Engineering design for the change Proposal

1. Title of Change: _____
2. Change Request No./Rev.: _____
3. Estimate for Change Proposal No./Rev.: _____
4. Acceptance of Estimate No./Rev.: _____
5. Brief Description of Change: _____

Other Terms and Conditions: In the event that we decide not to order the Change accepted, you shall be entitled to compensation for the cost of preparation of Change Proposal described in your Estimate for Change Proposal in accordance with the General Conditions of contract.

_____
(Employer's Name)

_____
(Signature)

_____
(Name and Title of signatory)

Form 6: Change Proposal

(Contractor's Letterhead)

To: _____ Date: _____

Attention: _____

Contract Name: _____
Contract Number: _____

Dear Ladies and/or Gentlemen:

In response to your Request for Change Proposal No. _____, we hereby submit our proposal as follows:

1. Title of Change: _____

2. Change Proposal No./Rev.: _____

3. Originator of Change: Employer: /_____

   Contractor: _____

4. Brief Description of Change: _____

5. Reasons for Change: _____

6. Facilities and/or Item No. of Equipment related to the requested Change: _____

7. Reference drawings and/or technical documents for the requested Change:

Drawing/Document No.	Description

8. Estimate of increase/decrease to the Contract Price resulting from Change Proposal

	Description	(Amount)
(a)	Direct material	_____
(b)	Major construction equipment	_____
(c)	Direct field labor (Total _____ hrs)	_____
(d)	Subcontracts	_____
(e)	Indirect material and labor	_____
(f)	Site supervision	_____
(g)	Head office technical staff salaries	

Process engineer	_____ hrs @ _____	rate/hr	_____
Project engineer	_____ hrs @ _____	rate/hr	_____
Equipment engineer	_____ hrs @ _____	rate/hr	_____
Procurement	_____ hrs @ _____	rate/hr	_____
Draftsperson	_____ hrs @ _____	rate/hr	_____
Total	_____ hrs		_____

(h) Extraordinary costs (computer, travel, etc.) _____

(i) Fee for general administration, _____ % of Items _____

(j) Taxes and customs duties _____

Total lump sum cost of Change Proposal _____
(Sum of items (a) to (j))

Cost to prepare Estimate for Change Proposal _____
(Amount payable if Change is not accepted)

9. Additional time for Completion required due to Change Proposal

10. Effect on the Functional Guarantees

11. Effect on the other terms and conditions of the Contract

12. Validity of this Proposal: within *[Number]* days after receipt of this Proposal by the Employer

13. Other terms and conditions of this Change Proposal:

(a) You are requested to notify us of your acceptance, comments or rejection of this detailed Change Proposal within _____ days from your receipt of this Proposal.

(b) The amount of any increase and/or decrease shall be taken into account in the adjustment of the Contract Price.

(c) Contractor's cost for preparation of this Change Proposal

_____
(Contractor's Name)

_____
(Signature)

_____
(Name of signatory)

_____
(Title of signatory)

Form 7: Change Order

(Employer's Letterhead)

To: _____ Date: _____

Attention: _____

Contract Name: _____
Contract Number: _____

Dear Ladies and/or Gentlemen:

We approve the Change Order for the work specified in the Change Proposal (No. _____), and agree to adjust the Contract Price, Time for Completion and/or other conditions of the Contract in accordance with General Conditions of contract.

1. Title of Change: _____
2. Change Request No. /Rev.: _____
3. Change Order No. /Rev.: _____
4. Originator of Change: Employer: _____
   Contractor: _____
5. Authorized Price:

   Ref. No.: _____ Date: _____

   Foreign currency portion _____ plus Local currency portion _____
6. Adjustment of Time for Completion

   None_____Increase _____ days Decrease _____ days
7. Other effects, if any

Authorized by: _____ Date: _____
(Employer)

Accepted by: _____ Date: _____
(Contractor)

Form 8: Pending Agreement Change Order

(Employer's Letterhead)

To: _____ Date: _____

Dear Ladies and/or Gentlemen:

We instruct you to carry out the work in the Change Order detailed below in accordance with the General Conditions of contract.

1. Title of Change: _____
2. Employer's Request for Change Proposal No. /Rev.: _____dated: _____
3. Contractor's Change Proposal No. /Rev.: _____ dated: _____
4. Brief Description of Change: _____
5. Facilities and/or Item No. of equipment related to the requested Change: _____
6. Reference Drawings and/or technical documents for the requested Change:

Drawing/Document No.	Description

7. Adjustment of Time for Completion:
8. Other change in the Contract terms:
9. Other terms and conditions:

_____
(Employer's Name)

_____
(Signature)

_____
(Name of signatory)

_____
(Title of signatory)

Form 9: Application for Change Proposal

(Contractor's Letterhead)

To: _____ Date: _____

Attention: _____

Contract Name: _____

Contract Number: _____

Dear Ladies and/or Gentlemen:

We hereby propose that the below-mentioned work be treated as a Change in the Facilities.

1. Title of Change: _____
2. Application for Change Proposal No./Ref._____. dated: _____
3. Brief Description of Change: _____
4. Reasons for Change:
5. Order of Magnitude Estimation (in the currencies of the Contract):
6. Scheduled Impact of Change:
7. Effect on Functional Guarantees, if any:
8. Appendix:

_____
(Contractor's Name)

_____
(Signature)

_____
(Name of signatory)

_____
(Title of signatory)