



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF FINANCE AND PLANNING
PUBLIC PROCUREMENT REGULATORY AUTHORITY



Standard Tendering Documents

for

Supply and Installation of Plant and Equipment

National and International Competitive Tendering

Public Procurement Regulatory Authority
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February, 2022

Preface

Supply and Installation of Plant and Equipment under public financed projects are carried out in accordance with policies and procedures laid down in the Public Procurement Act Cap. 410 and the Public Procurement Regulations, 2013.

This Standard Tendering Document (STD) has been prepared by the Public Procurement Regulatory Authority (PPRA) in collaboration with the Office of the Attorney General (OAG) and other professional bodies for use by Procuring Entities (PEs) in the procurement of plants and equipment through National, International Competitive Tendering (ICT) and other procedures as appropriate.

The procedures and practices presented in this document have been developed through broad national and international experience and are mandatory for use in public projects that are financed in whole or in part by public funds in accordance with the provisions of the Public Procurement Act and its Regulations.

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List of Abbreviations

ADC	Attorney General Chamber
Cap	Chapter
ES	Environmental and Social
FY	Financial Year
GCC	General Conditions of Contract
ICT	International Competitive Tendering
IFT	Invitation for Tenders
ITT	Instruction to Tenderers
JV	Joint Venture
JVCA	Joint Venture, Consortium, or Association
NCT	National Competitive Tendering
PE	Procuring Entity
PPAA	Public Procurement Appeals Authority
PPRA	Public Procurement Regulatory Authority
SCC	Special Conditions of Contract
SEA	Sexual Exploitation and Abuse
SH	Sexual Harassment
STD	Standard Tender Document
TDS	Tender Data Sheet
TANePS	Tanzania National e-Procurement System

Guidance Notes on the Use of this Standard Tender Document

These guidance notes have been prepared by the Public Procurement Regulatory Authority (PPRA) to assist Procuring Entities (PEs) and Tenderers to understand the content and the provisions of the Standard Tendering Document – Procurement of Supply and Installation of Plant and Equipment under both National and International Competitive methods and other procedures as appropriate. The PE should also refer to the Public Procurement Act Cap. 410 and the Public Procurement Regulations, 2013.

This Standard Tendering Document for Supply and Installation of Plant and Equipment apply when a pre-qualification process has or has not taken place (provided alternative documents should be selected as applicable).

Normally, this document should be used when (i) the value of the plant and equipment portion represents the major part of the estimated contract value, or (ii) the nature and complexity of the plant and equipment is such that the facilities cannot safely be taken over by the Procuring Entity without elaborate testing, pre-commissioning, commissioning and acceptance procedures being followed. This document is intended to be used where the Supplier/Contractor is responsible for each activity required for completion of the facilities, e.g., design, manufacture, delivery, installation, testing, commissioning, training, etc. However, these conditions may be adapted for use for single responsibility contracts where some activities, such as parts of the preliminary design or site preparation works, are done by others.

The revised tendering document for Supply and Installation of Plant and Equipment differs with the structure of the old document in the sense that, the revised document has a dedicated section (Section IV) for the Qualification and Evaluation criteria which is no longer included in the Tender Data Sheet. In addition, there are two options for the newly introduced Section IV (one to be used when there has been prequalification and another when not). Also, the forms have been separated into Tendering Forms (Section V) and Contract Forms (Section X) to avoid confusion as to whom (the PE or the Tenderer/Contractor) should complete which forms.

The STD is based upon internationally acceptable model formats, which have been adapted to suit the particular needs of procurement within Tanzania. The STD is divided into three parts and has ten (10) sections, of which Section II- Instruction to Tenders and Section VIII-General Conditions of Contract - must not be altered or modified under any circumstances.

The way in which a PE addresses its specific needs is through the information provided under Section III – Tender Data Sheet and Section IX-Special Conditions of Contract as well as in the detailed requirements of the procurement in Section VII-Employer's Requirements.

This STD, when properly completed will provide all the information that a Tenderer needs in order to prepare and submit a tender. This should provide a sound basis on which a PE can fairly, transparently and accurately carry out an evaluation process on the Tenders submitted by the Tenderers.

Parts and Sections of the STD and how a PE should use them when preparing a particular tender document for Supply and Installation of Plant and Equipment as describe hereunder;

PART 1 – TENDERING PROCEDURES

Section I. Invitation for Tender

This Section provides relevant information that enables potential tenderers to decide whether or not to participate in the Tender process. The Invitation for Tenders (IFT) shall include, specific details such as the name of the PE, scope of service to be provided and deadline for tender submission. Likewise, information on how the Tendering documents are to be obtained by prospective tenderers and the minimum level of experience required by tenderers to be eligible should be furnished in the IFT. The final document should contain neither blank spaces nor options. The Invitation for tenders will cease to have effect once a prospective tenderer has accessed the tendering document.

Section II Instructions to Tenderers (ITT)

This section provides information to help tenderers to prepare responsive tenders. It provides information on constituent of the Tender document, preparation and submission of tenders, opening and evaluation of tenders, the award of contract and on submitting complaints regarding the Tender process. **The Section contains provisions that are to be used without modification.** The Instructions to Tenderers will not be part of the Contract and will cease to have effect once the Contract is signed.

Section III. Tender Data Sheet (TDS)

This Section includes provisions that are specific to each procurement and that supplement Section II, (Instructions to Tenderers). Amendments, if any, to the **ITT** should be made through the **TDS**. If duplication of a subject is inevitable in the different sections of the document, care must be exercised to avoid contradiction between clauses dealing with the same matter. All italicized spaces in the **TDS** should be filled out by the PE prior to issuance of the Tendering documents **No entry should be made in the TDS if it is not cross referenced in the ITT.**

Section IV (a). Qualification and Evaluation Criteria *(Following Pre-Qualification)*

This Section specifies the criteria to determine the lowest evaluated Tender and to ascertain the continued qualification of the Tenderer to perform the contract.

Section IV (b). Qualification and Evaluation Criteria *(alternative Section IV to be used when Prequalification has not taken place before Tendering)*

This Section includes the criteria to determine the lowest evaluated Tender and the qualifications of the Tenderer to perform the contract.

Section V: Tendering Forms

This Section includes the forms which are to be completed and submitted by the Tenderer as part of its tender. This section also contains the undertaking to be made by each Tenderer on anti-bribery policy/code of conduct and compliance programme.

Section VI. Eligible Countries

This Section contains information regarding eligible countries.

PART 2 – PROCURING ENTITY’S REQUIREMENTS**Section VII. Schedule of Requirements**

This Section contains the Specification, the Drawings, and supplementary information that describe the Plant and Installation Services to be procured. The Procuring Entity’s Requirements may also include the environmental and social (ES) requirements (including requirements relating to Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) which are to be satisfied by the Contractor in supplying and installing the procured plant and equipment.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**Section VIII. General Conditions of Contract (GCC)**

This Section contains the general clauses to be applied to all contracts. The General Conditions of Contract (GCC) form a complete document expressing all the rights and obligations of the parties during the execution of the contract. **The text of the clauses in this Section shall not be modified.**

Section IX. Special Conditions of Contract (SCC)

This Section consists of Contract Data and Specific Provisions which contains clauses specific to each contract. The contents of this Section modify or supplement the GCC. All italicized spaces **in the SCC** should be filled out by the PE prior to

issuance of the tendering documents. **No entry should be made in the SCC if it is not cross referenced in the GCC.**

Section X: Contract Forms

This Section contains forms which, once completed and submitted, will form part of the contract. The forms for Performance Security or Securing Declaration shall be completed and submitted by the successful tenderer before signing the contract, and when advance payment is required, Advance Payment Security shall be completed and submitted after contract signature. The Section also contains the Letter of Intention to Award the Contract, which shall not form part of the contract.

Part 1 – Tendering Procedures

SECTION I: INVITATION FOR TENDERS

[Insert Name of Procuring Entity (PE)]

[Insert logo]

Tender No. [Insert tender No.]

for

[Insert title or brief description of the goods and services]

Invitation for Tenders

Date: [insert date]

1. This Invitation for Tenders follows the General Procurement Notice for this Project which appeared in the Tanzania National Electronic Procurement System (TANePS) dated [insert dates of publication of GPN]
2. The Government of the United of Tanzania has set aside funds for the operation of the [insert the name of the PE] during the financial year [insert the year under financing]. It is intended that part of the proceeds of the fund will be used to cover eligible payment under the contract for the [insert the name of the contract]

or

The [insert name of PE] received/has applied for/intends to apply for a [loan/credit/grant] from the [name of financing institution] towards the cost of [insert name of project], and it intends to apply part of the proceeds of this [loan/credit/grant] to cover eligible payments under the contract for [insert name of the contract].

3. The [Insert the name of the PE] now invites tenders from eligible [insert national if exclusive preference is applicable] contractors registered or capable of being registered in [Insert Classes of contractors] for carrying out the [insert brief description of the goods supplied and installed].

Or if prequalification has been conducted use the version below.

The [insert name of the PE] now invites tenders from prequalified eligible Tenderers for the supply and installation of [insert brief description of the goods supplied and installed]

4. Tendering will be conducted through the [insert method of procurement] specified in the Public Procurement Regulations, Government Notice No.446 of 2013 as amended in 2016 and is open to all Tenderers as defined in the Regulations unless otherwise stated in the Tender Data Sheet (TDS).

5. Interested eligible Tenders may obtain further information from and inspect the tendering documents through TANEPS. A complete set of tendering document in *[insert language of the tender documents]* may be accessed through TANEPS.
6. Tenderers are required to register on the TANEPS and pay tender participation fee indicated in the TANEPS to able to participate in this tendering process.
7. All tenders must be accompanied by a Tender Security *[if Tender Security is required]* in an acceptable form in the amount of *[insert the amount in local currency]* or freely convertible currencies in case of foreign Tenderers.

OR

All Tenders must be accompanied by a Tender securing declaration in the format provided in the tendering documents unless otherwise stated in the **TDS**.

8. All tenders must be properly filled in and submitted through TANEPS at or before *[insert time and date]* Tenders will be opened promptly thereafter through TANEPS
9. Tenders not received through TANEPS shall not be accepted for evaluation irrespective of the circumstances. Opening details will be available to the public through TANEPS

[Insert the title of the Accounting Officer and address of the PE]

SECTION II: INSTRUCTIONS TO TENDERERS (ITT)

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A. INTRODUCTION

1. Scope of Tender and Tendering Method	1.1	The Procuring Entity (PE) indicated in the Tender Data Sheet (TDS) invites tenders for the supply and installation of plants and equipment as specified in the TDS and Section VII, Procuring Entity's Requirements. The successful Tenderer will be expected to supply and installing the goods within the period stated in the TDS from the start date (s) specified in the TDS . The duration of contract shall be specified in the TDS .
	1.2	Tendering will be conducted through the method of procurement indicated in TDS and is open to all Tenderers who meet the eligibility criteria stated in ITT3 [Eligible Tenderers]
	1.3	Unless otherwise stated, throughout this tendering document definitions and interpretations shall be as prescribed in GCC
2. Source of Funds	2.1	The Government of Tanzania has set aside funds for the operations of the PE named in the TDS during the Financial Year indicated in the TDS . It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the supply and installation of goods as described in the TDS . Or The Government of the of Tanzania through PE named in the TDS has received/has applied for/intends to apply for a [loan/credit /grant] from the financing institution named in the TDS towards the cost of the project described in the TDS , and it intends to apply part of the proceeds of this [loan/credit/grant] to payments under the contract described in the TDS .
	2.2	Payments will be made directly by the PE (or by financing institution specified in the TDS upon request by the PE to so pay) for each call-off order and will be subject in all respects to the terms and conditions of the resulting contract placed by the PE.
3. Eligible Tenderers	3.1	The invitation for Tenders (IFT) is open to all tenderers except where it is specified in the TDS . A Tenderer may be a natural person, private Entity, public or semi-public owned enterprise, subject to ITT 3.5 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association (herein referred to as JVCA).
	3.2	In the case of a JVCA, all members shall be jointly and severally liable for the execution of the contract in accordance with the contract terms. The JVCA shall nominate a Lead Member who shall have the authority to conduct all business for and on behalf of any and all the members of the JVCA during the tendering process and, in the event the JVCA is awarded the Contract, during contract execution. Unless specified in the TDS , there is

		no limit on the number of members in a JVCA.
	3.3	The appointment of a Lead Member in the JVCA shall be confirmed by submission of a valid Power of Attorney to the PE.
	3.4	Any agreement that forms a JVCA shall be required to be submitted as part of the tender and shall be attested.
	3.5	Any Tender from a JVCA shall indicate the part of proposed contract to be performed by each party and each party shall be evaluated or post qualified with respect to its contribution only and the responsibilities of each party and shall not be substantially altered without prior written approval of the PE.
	3.6	National Tenderers shall satisfy all relevant licensing and/or registration requirements with the appropriate statutory bodies in Tanzania. Foreign Tenderers are exempted from this requirement but where selected as having submitted the lowest evaluated Tender the successful Tenderer shall register with the appropriate statutory body and shall be required to submit evidence of registration as an approved Service Provider in Tanzania before signing the Contract.
	3.7	<p>A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:</p> <ul style="list-style-type: none"> a) Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the PE to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the goods to be purchased under this Invitation for Tenders. b) have controlling shareholders in common; or c) receive or have received any direct or indirect subsidy from any of them; or d) have the same legal representative for purposes of this Tender; or e) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the PE regarding this Tendering process; or f) submit more than one Tender in this tendering process, However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderers and subcontractors simultaneously; or g) Participated as a consultant in the preparation of the design or technical specifications of the supplies and

		related installations that are the subject of the Tender.
	3.8	<p>A Tenderer may be ineligible if –</p> <ul style="list-style-type: none"> a) such Tenderer is declared bankrupt or, in the case of company or firm, insolvent; b) payments in favour of the person, company or firm is suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with the national laws, in the total or partial loss of the right to administer and dispose of its property; c) legal proceedings are instituted against such person, company or firm involving an order suspending payments and which may result, in accordance with the national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of the property; d) the Tenderer is convicted, by a final judgment, of any offence involving professional conduct; e) the Tenderer is debarred and blacklisted or ineligible in accordance with Public Procurement Act or ineligible from participating in public procurement for corrupt, coercive, fraudulent or obstructive practices, failure to abide with a Tender Securing Declaration, breach of a procurement contract, making false representation about his qualifications during tender proceeding or other grounds as may be deemed necessary by the Authority; or f) A Tenderer is from an ineligible Country as specified under Section VI [Ineligible Country] of this tendering document
	3.9	Public or Semi-public owned enterprises in the United Republic of Tanzania may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration boards or authorities and if they are not a dependent agency of the Government.
	3.10	Tenderers shall provide to the PE evidence of their eligibility, proof of compliance with the necessary legal, technical and financial requirements and their capability and, adequacy of resources to carry out the contract effectively.
	3.11	Tenderers shall submit proposals relating to the nature, conditions and modalities of sub-contracting wherever the sub-contracting of any elements of the contract amounting to the more than ten (10%) percent of the tender price is envisaged.

	3.12	<p>Firms shall be excluded if:</p> <ul style="list-style-type: none"> a) as a matter of law or official regulation, the United Republic of Tanzania prohibits commercial relations with that country, provided that the PE is satisfied that such exclusion does not preclude effective competition for the supply of goods or related services required; or b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the United Republic of Tanzania prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.
4. Eligible Plant, Equipment, and Services	4.1	All supplies and related installations to be supplied under the contract shall have their origin in eligible source countries, and all expenditures made under the contract will be limited to such goods and services. For purpose of this Tender, ineligible country is stated in the TDS .
	4.2	For the purposes of this clause, the term “goods” includes commodities, raw materials, machinery, equipment and industrial plants, and “related services” include services such as insurance, installation, training and initial maintenance.
	4.3	For purposes of this clause, “origin” means the place where the goods are mined, grown, cultivated, produced, manufactured, or processed, or through manufacture, procession, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components or the place from which the related services are supplied.
	4.4	The nationality of the firm that produces, assembles, distributes, or sells the goods and services shall not determine their origin.
	4.5	If so required in the TDS , the Tenderer shall demonstrate that it has been duly authorized by the manufacturer of the goods to supply in the United Republic of Tanzania, the goods indicated in its tender.
	4.6	To establish the eligibility of the supplies of Equipment and Machinery related services the Tenderer shall fill the Country of origin declarations in the price schedule including the form of tender.
5. One tender per Tenderer	5.1	A Tenderer shall submit only one tender, in the same tendering process, either individually or as a partner in a joint venture.
	5.2	No Tenderer can be a subcontractor while submitting a tender individually or as a partner of a joint venture in the same tendering process.
	5.3	A Tenderer, if acting in the capacity of subcontractor in any tender, may participate in more than one tender but only in that

		capacity.
	5.4	A Tenderer who submits or participates in more than one tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals in which the Tenderer has participated to be disqualified
6. Cost of Tendering	6.1	The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the PE shall in no case be responsible or liable for those costs, except where the PE is ordered by the Public Procurement Appeals Authority (PPAA) to compensate the Tenderer following a successful Tenderer's appeal of the procurement proceedings.
7. Site Visit and Pre-Tender Meeting	7.1	The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the site on which service(s) are to be provided and obtain for itself all information that may be necessary for preparing the tender and entering into a Contract for supply and installing of the goods. The costs of visiting the Site shall be at the Tenderer's own expense.
	7.2	The PE may conduct a site visit and a pre-Tender meeting whose purpose shall be to clarify issues and to answer questions on any matter that may be raised at that stage.
	7.3	The Tenderer's designated representative is invited to attend a site visit and/or pre-tender meeting which, if convened, will take place at the venue and time stipulated in the TDS . Non-attendance at the site visit and pre-tender meeting will not be a cause for disqualification of a Tenderer
	7.4	The Tenderer may submit questions (if any) through TANEPS to the PE before the pre-Tender meeting. PE may respond to questions during the meeting however, all questions raised and their responses will be transmitted in accordance with ITT 7.6 and time stipulated in the TDS .
	7.5	Minutes of the pre-tender meeting, if applicable, including questions raised by the Tenderers without identifying the source and the responses given, together with any responses prepared after the meeting will be transmitted within three (3) working days to all participating Tenderers through TANEPS. Any modification of the Tendering Documents listed in ITT 8.1 [Content of Tendering Documents] that may become necessary as a result of the pre-tender meeting shall be made by the PE exclusively through the issue of an Addendum pursuant to ITT 10.2 [Amendments of the Tendering Documents] and not through the minutes of the pre-tender meeting.

B. THE TENDERING DOCUMENTS

8. Content of Tendering Documents	8.1	<p>The tendering documents are those stated below and should be read in conjunction with any addenda issued in accordance with ITT10.2 [Amendment of tendering documents]:</p> <p>PART1: TENDERING PROCEDURES</p> <p>Section II Instructions to Tenderers (ITT)</p> <p>Section III Tender Data Sheet (TDS)</p> <p>Section IV Qualification and Evaluation Criteria</p> <p>Section V Tendering Forms</p> <p>Section VI Eligible Countries</p> <p>PART 2: PROCURING ENTITIY'S REQUIREMENTS</p> <p>Section VII Schedule of Requirements</p> <p>PART 3: CONDITIONS OF CONTRACT AND CONTRACT FORMS</p> <p>Section VIII General Conditions of Contract (GCC)</p> <p>Section IX Special Conditions of Contract (SCC)</p> <p>Section X Contract Forms</p>
	8.2	<p>The Invitation for Tenders (Section I) issued by the PE is not part of the Tendering Documents and is included as reference only. In case of discrepancies between the Invitation for Tender and the Tendering Documents listed in ITT 8.1 above, the said tendering documents will take precedence.</p>
	8.3	<p>The PE is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from TANEPS.</p>
	8.4	<p>The Tenderer is expected to examine all instructions, forms, terms, specifications and other information in the Tendering Documents. Failure to furnish all information required by the tendering documents or submission of a Tender not substantially responsive to the Tendering Documents in every respect will be at the Tenderer's risk and may result in rejection of its tender.</p>
9. Clarification of Tendering Documents	9.1	<p>A prospective Tenderer requiring any clarification of the tendering documents may notify the PE in in writing through TANEPS no later than the seven (7) days prior to the deadline for the submission of tenders prescribed in ITT 23.1 [Deadline for Submission of Tenders] for open competitive tendering methods and in case of other tendering methods,</p>

		three (3) days prior to the deadline.
	9.2	The PE will within three (3) working days after receiving the request for clarification respond and publish responses, including a description of the inquiry, but without identifying its source, through TANePS provided that such request is received within the time prescribe under ITT 9.1
	9.3	Should the PE deem it necessary to amend the Tendering Documents as a result of a clarification, it shall do so following the procedure under ITT 10 .
10. Amendment of Tendering Documents	10.1	Before the deadline for submission of tenders, the PE, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may modify the Tendering documents by issuing addenda.
	10.2	Any addendum thus issued shall be part of the Tendering Documents pursuant to ITT 8.1 [Content of Tendering Document] and shall be communicated through TANePS to participating tenderers.
	10.3	In order to allow prospective Tenderers reasonable time to take an addendum into account in preparing their tenders, the PE, at its discretion, may extend the deadline for the submission of tenders, pursuant to ITT23.2 [Deadline for Submission of Tenders].

C. PREPARATION OF TENDERS

11. Language of Tender	11.1	<p>The Tender prepared by the Tenderer, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the PE shall be written in the language specified in the TDS.</p> <p>Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages in the Language of the Tender, in which case, for purposes of interpretation of the Tender, the translation shall govern.</p>
12. Documents Constituting the Tender	12.1	<p>The Tender prepared and submitted by the Tenderer shall constitute the following components:</p> <ol style="list-style-type: none"> a) Form of Tender and a Price Schedule completed in accordance with ITT15 [Form of Tender], ITT16 [Tender Prices], and ITT17 [Tender Currencies]; b) Documentary evidence established in accordance with ITT14 [Documents Establishing Eligibility and Qualifications of the Tenderer] that the Tenderer is eligible to Tender and is qualified to perform the contract if its Tender is accepted;

		<p>c) Documentary evidence established in accordance with ITT14.3 [Documents Establishing Eligibility and Qualifications of the Tenderer] that the Tender has been authorized by the manufacturer to supply the goods into the United Republic of Tanzania, where required and where the supplier is not the manufacturer of those goods</p> <p>d) Documentary evidence established in accordance with ITT13 [Documents Establishing Eligibility of Supplies and Related Installations and Conformity to Tendering Documents] that the goods and ancillary services to be supplied by the Tenderer are eligible goods and services and conform to the Tendering documents;</p> <p>e) Tender security or Tender Securing Declaration furnished in accordance with ITT19 [Tender Security or Tender Securing Declaration];</p> <p>f) Dully Notarized Power of Attorney (in the format provided in Section V – Tendering Forms) authorizing signatory of the Tender to commit the Tenderer, in accordance with ITT21 [Format and Signing of Tender</p> <p>g) Any information, other than the documents under ITT 12.1(a) – (f) above required to be completed and submitted by Tenderers, as specified in the TDS.</p>
<p>13. Documents Establishing Eligibility of Supplies and Related Installations and Conformity to Tendering Documents</p>	<p>13.1</p>	<p>Pursuant to ITT12 [Documents Constituting the Tender], the Tenderer shall furnish, as part of its Tender, documents establishing the eligibility and conformity to the Tendering documents of all supplies and related installations which the Tenderer proposes to supply under the contract.</p>
	<p>13.2</p>	<p>The documentary evidence of the eligibility of the goods and related installation shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.</p>
	<p>13.3</p>	<p>The documentary evidence of conformity of the supplies and related installations to the Tendering documents may be in the form of literature, drawings, and data, and shall consist of:</p> <p>a) a detailed description of the essential technical and performance characteristics of the Goods;</p> <p>b) an item-by-item commentary on the PE’s Technical Specifications demonstrating substantial responsiveness of the Goods and Services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications;</p>

		c) any other procurement specific documentation requirement as stated in the TDS .
	13.4	The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period as specified in the TDS following commencement of the use of the goods by the PE.
	13.5	For purposes of the commentary to be furnished pursuant to ITT13.3(c) above, the Tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the PE in its Technical Specifications, are intended to be descriptive only and not restrictive. The Tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the PE's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.
	13.6	The required documents and other accompanying documents must be in the language of the tender. In case any other language than the language of the tender is used the pertinent translation into the language of the tender shall be attached to the original version.
14. Documents Establishing Eligibility and Qualifications of the Tenderer	14.1	Pursuant to ITT12 [Documents Constituting the Tender], the Tenderer shall furnish, as part of its tender, documents establishing the Tenderers eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.
	14.2	The documentary evidence of the Tenderers eligibility to Tender shall establish to the PE's satisfaction that the Tenderer, at the time of submission of its Tender, is from an eligible country as defined under ITT4 [Eligible Plant, Equipment and Services].
	14.3	The documentary evidence of the Tenderers qualifications to perform the contract if its Tender is accepted shall establish to the PE's satisfaction: <ul style="list-style-type: none"> a) that, in the case of a Tenderer offering to supply goods under the contract which the Tenderer did not manufacture or otherwise produce, the Tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods in the United Republic of Tanzania; b) the Tenderer has the financial, technical, and production capability necessary to perform the Contract, meets the qualification criteria specified in Section IV – Qualification and Evaluation Criteria. If a

		<p>pre-qualification process has been undertaken for the Contract, the Tenderer shall, as part of its Tender, update any information submitted with its pre-qualification as specified in Section IV – Qualification and Evaluation Criteria.</p> <p>c) that, in the case of a Tenderer not doing business within the United Republic of Tanzania, the Tenderer is or will be (if awarded the contract) represented by an Agent in that country equipped, and able to carry out the Supplier’s maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and</p> <p>d) that the Tenderer meets the qualification criteria specified in Section IV– Qualification and Evaluation Criteria.</p>
	14.4	<p>When tendering for more than one Contract under the slice and package arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the slices or lots being applied for in regard to: -</p> <p>a) average annual turnover;</p> <p>b) particular experience including key production rates;</p> <p>c) financial means, etc.;</p> <p>d) personnel capabilities; and</p> <p>e) equipment capabilities.</p>
15. Form of Tender	15.1	<p>The Tenderer shall fill the Form of Tender furnished in the Tendering documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.</p>
16. Tender Prices and Discounts	16.1	<p>Unless otherwise specified in the Technical Specifications, Tenderers shall quote for the entire facilities on a “single responsibility” basis such that the total Tender price covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the Tendering documents in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation and completion of the facilities. This includes all requirements under the Contractor’s responsibilities for testing, pre-commissioning and commissioning of the facilities and, where so required by the Tendering documents, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the Tendering documents, all in accordance with the requirements of the General Conditions of Contract. Items against which no price is entered by the Tenderer will not be paid for by the PE</p>

		when executed and shall be deemed to be covered by the prices for other items.
	16.2	Tenderers are required to quote the price for the commercial, contractual and technical obligations outlined in the Tendering documents. If a Tenderer wishes to make a deviation, such deviation shall be listed in Attachment 6 of its Tender. The Tenderer shall also provide the additional price, if any, for withdrawal of the deviations.
	16.3	Tenderers shall give a breakdown of the prices in the manner and detail called for in the Price Schedules included in Section V, Tendering Form.
	16.4	<p>Depending on the scope of the Contract, the Price Schedules may comprise up to the six (6) schedules listed below. Separate numbered Schedules included in Section V, Tendering Forms, from those numbered 1-4 below, shall be used for each of the elements of the Plant and Installation Services. The total amount from each Schedule corresponding to an element of the Plant and Installation Services shall be summarized in the schedule titled Grand Summary, (Schedule 5), giving the total tender price(s) to be entered in the Letter of Bid.</p> <p>Schedule No. 1 Plant (including Mandatory Spare Parts) Supplied from Abroad</p> <p>Schedule No. 2 Plant (including Mandatory Spare Parts) Supplied from within the PE's Country</p> <p>Schedule No. 3 Design Services</p> <p>Schedule No. 4 Installation Services</p> <p>Schedule No. 5 Grand Summary (Schedule Nos. 1 to 4)</p> <p>Schedule No. 6 Recommended Spare Parts</p> <p>Tenderers shall note that the plant and equipment included in Schedule Nos. 1 and 2 above exclude materials used for civil, building and other construction works. All such materials shall be included and priced under Schedule No. 4, Installation Services.</p>
	16.5	<p>In the Schedules, tenderers shall give the required details and a breakdown of their prices as follows:</p> <p>(a) Plant to be supplied from abroad (Schedule No. 1): The price of the plant shall be quoted on CIP-named place of destination basis as specified in the TDS.</p> <p>(b) Plant manufactured within the United Republic of Tanzania (Schedule No. 2):</p> <p>(i) The price of the plant shall be quoted on an EXW Incoterm basis (such as "ex-works," "ex-</p>

		<p>factory,” “ex-warehouse” or “off-the-shelf,” as applicable),</p> <p>(ii) Sales tax and all other taxes payable in the United Republic of Tanzania on the plant if the contract is awarded to the Tenderer.</p> <p>(c) Design Services (Schedule No. 3).</p> <p>(d) Installation Services shall be quoted separately (Schedule No. 4) and shall include rates or prices for local transportation to named place of final destination as specified in the TDS, insurance and other services incidental to delivery of the plant, all labor, contractor’s equipment, temporary works, materials, consumables and all matters and things of whatsoever nature, including operations and maintenance services, the provision of operations and maintenance manuals, training, etc., where identified in the Tendering Document, as necessary for the proper execution of the installation and other services, including all taxes, duties, levies and charges payable in the PE’s country as of twenty-eight (28) days prior to the deadline for submission of tenders.</p> <p>(e) Recommended spare parts shall be quoted separately (Schedule 6) as specified in either subparagraph (a) or (b) above in accordance with the origin of the spare parts.</p>
	16.6	The current edition of Incoterms, published by the International Chamber of Commerce shall govern.
	16.7	The prices shall be either fixed or adjustable as specified in the TDS .
	16.8	In the case of Fixed Price, prices quoted by the Tenderer shall be fixed during the Tenderer’s performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and rejected.
	16.9	In the case of Adjustable Price as stipulated in the TDS , prices quoted by the Tenderer shall be subject to adjustment during performance of the contract to reflect changes in the cost elements such as labor, material, transport and contractor’s equipment in accordance with the procedures specified in the Adjustable Price Appendix to the Contract Agreement. A tender submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero. Tenderers are required to indicate the source of labor and material indices in the corresponding Form in Section IV, Tendering Forms.

	16.10	If so indicated in ITT1.1 [Scope of Tender], tenders are being invited for individual lots (contracts) or for any combination of lots (packages). Tenderers wishing to offer any price reduction (discount) for the award of more than one Contract shall specify in their Letter of Bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package, and the manner in which the price reductions will apply
	16.11	Tenderers wishing to offer any unconditional discount shall specify in their Letter of Bid the offered discounts and the manner in which price discounts will apply.
17. Tender Currencies	17.1	<p>The unit rates and prices shall be quoted by the Tenderer entirely in Tanzania shillings or in foreign currencies or both as indicated in the TDS.</p> <p>Prices shall be quoted in the following currencies:</p> <ul style="list-style-type: none"> a) Goods covered under ITT16.5 (a) [Tender Prices and Discounts] to be supplied from abroad shall be quoted entirely in Tanzanian shillings. If the Tenderer wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly, but use no more than three foreign currencies. b) Goods covered under ITT 16.5(b) to be supplied from within the United Republic of Tanzania shall be quoted in Tanzanian shillings unless otherwise specified in the TDS. c) Unless otherwise specified in the TDS, local transportation, insurance and other services incidental to delivery of the goods covered under ITT 16.5(d) and installation services covered under ITT 16.4(d) shall be quoted in either foreign and/or local currency, depending upon the currency in which the costs are to be incurred and in accordance with the provisions of ITT 16.5(a) and (b) above.
	17.2	The rates of exchange to be used by the Tenderer in arriving at the local currency shall be the selling rates for similar transactions established by the Bank of Tanzania (BoT) specified in the TDS prevailing on the date 28 days prior to the latest deadline for submission of Tenders.
	17.3	Tenderers may be required by the PE to clarify their foreign currency requirements and to substantiate that the amounts included in Lump Sum and in the SCC are reasonable and responsive to ITT17.1
18. Tender Validity Period	18.1	Tenders shall remain valid for the period specified in the TDS after the Tender submission deadline prescribed by the PE, pursuant to ITT23 [Deadline for Submission of Tenders]. A Tender valid for a shorter period shall be rejected by the PE

		as non-responsive.
	18.2	In exceptional circumstances, prior to expiry of the original Tender validity period, the PE may request that the Tenderers to extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing through TANEPS. A Tenderer may refuse the request without forfeiting its Tender security or causing to be executed its Tender securing declaration.
	18.3	A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender but will be required to extend the validity of its Tender security or Tender Securing declaration for the period of the extension, and in compliance with ITT19 [Tender Security or Tender Securing Declaration] in all respects.
	18.4	In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price may be adjusted by a factor specified in the request for extension.
19. Tender Security or Tender Securing Declaration	19.1	Pursuant to ITT12 [Documents Constituting the Tender], unless otherwise specified in the TDS , the Tenderer shall furnish as part of its tender, a Tender Security in original form and in the amount and currency specified in the TDS or Tender Securing Declaration as specified in the TDS in the format provided in Section V- Tendering Forms
	19.2	The Tender security or Tender securing declaration is required to protect the PE against the risk of Tenderers conduct which would warrant the security's forfeiture, pursuant to ITT 19.9.
	19.3	The Tender security shall be denominated in the currency of the Tender or in another freely convertible currency as stipulated in TDS , and shall be in one of the following forms: <ul style="list-style-type: none"> a) a bank guarantee, an irrevocable letter of credit issued by a reputable bank, or an insurance bond issued by a reputable insurance of their choice located in any eligible country, in the form provided in the Tendering Documents Tendering or another form acceptable to the PE and valid for twenty-eight (28) days beyond the end of the validity of the Tender. This shall also apply if the period for Tender validity is extended. In either case, the form must include the complete name of the Tenderer; or, b) a cashier's or certified check. c) another security if indicated in the TDS
	19.4	The Tender security or Tender Securing Declaration shall be in accordance with the Form of the Tender security included in Section V – Tendering Forms or another form approved by

		the PE prior to the Tender submission
	19.5	The Tender security shall be payable promptly upon written demand by the PE in case any of the conditions listed in ITT 19.9 are invoked.
	19.6	Any Tender not accompanied by a Tender Security or Tender Securing Declaration in accordance with ITTs 19.1 and 19.3 shall be rejected by the PE as non-responsive, pursuant to ITT29 .
	19.7	Unsuccessful Tenderers' Tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of Tender validity prescribed by the PE pursuant to ITT18 [Tender Validity Period].
	19.8	The successful Tenderers' Tender Security will be discharged upon the Tenderer furnishing the performance security, the Environmental and Social (ES) Security pursuant to ITT41 [Performance Security], and signing the contract pursuant to ITT42
	19.9	The Tender Security or the Tender Securing Declaration of a JVCA shall be in the name of the JVCA that submits the tender. If the JVCA has not been constituted into a legally-enforceable JVCA, at the time of tendering, the Tender Security or the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent mentioned in ITT 3.1 [Eligible Tenders].
	19.10	In the case of Tender Security, it shall be forfeited if ; <ul style="list-style-type: none"> a) a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Tender Form except as provided for in ITT23.2 [Deadline for Submission of Tenders]; or b) does not accept the correction of errors pursuant to ITT 30 [Correction of Errors]; or c) successful Tenderer, if the Tenderer fails: (i) to furnish performance security, and if required in TDS, the Environmental and Social (ES) Security in accordance with ITT 41 [Performance Security] (ii) to sign the contract in accordance with ITT42 [Signing of Contract];
	19.11	In the case of Tender Securing Declaration, It shall be executed if ; <ul style="list-style-type: none"> (a) a the Tenderer withdraws its tender, except as provided in ITTs 18.2 [Tender Validity Period]; or (b) in the case of a successful Tenderer, if the Tenderer fails: (i) to furnish performance security in accordance

		with ITT41 [Performance Security] and if required in TDS , or (ii) fails to sign the contract in accordance with ITT42 [Signing of Contract].
	19.12	The failure of a Tenderer to abide to the terms of Tender Securing Declaration shall be reported to the Public Procurement Regulatory Authority (PPRA) for debarment for a period which they shall determine. A Tenderer debarred by PPRA shall be ineligible to participate in public procurement during the period of debarment
20. Alternative Tenders by Tenderers	20.1	Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderers technical design as indicated in the specifications, Drawings and Schedule of Requirements. Alternatives will not be considered, unless specifically allowed for in the TDS . If so allowed, ITT 20.2 and 20.3 shall prevail.
	20.2	Where permitted, alternative Tenders do not need to conform precisely to the Schedule of Requirements, but must – <ul style="list-style-type: none"> a) meet the objectives and/or performance requirements prescribed in the Schedule of Requirements; b) be substantially within any delivery or completion schedule, budget or other performance parameters stated in the solicitation document; and c) clearly state the benefits of the alternative Tender over any solution which conforms precisely to the Schedule of Requirements, in terms of technical performance, price, operating costs or any other benefit.
	20.3	A Tenderer may submit both a main Tender which conforms precisely to the Schedule of Requirements and an alternative Tender.
	20.4	Where a Tenderer submits more than one Tender, each Tender shall be submitted as a completely separate Tender and shall conform to the instructions for preparation and submission of Tenders in its own right, without any reliance on any other Tender. In particular, each Tender shall be separately signed, authorized, sealed, labeled and submitted in accordance with the instructions for submission of Tenders and shall be accompanied by a separate Security, if so required. Such Tenders shall be labeled “Main Tender” and “Alternative Tender”.
	20.5	When alternatives to the Time Schedule are explicitly invited, a statement to that effect will be included in the TDS , and the method of evaluating different time schedules will be described in Section IV, Evaluation and Qualification Criteria

	20.6	When tenderers are invited in the TDS to submit alternative technical solutions for specified parts of the facilities, such parts shall be described in Section VII, Employer's Requirements. Technical alternatives that comply with the performance and technical criteria specified for the Plant and Installation Services shall be considered by the PE on their own merits, pursuant to ITT32 [Evaluation and Comparison of Tenders].
	20.7	The evaluation of alternative Tenders shall use the same methodology, criteria and weights as the evaluation of main Tenders, except that the detailed technical evaluation shall take into account only the objectives and/or performance requirements prescribed in the Schedule of Requirements.
21. Format and Signing of Tender	21.1	The Tenderer shall prepare documents comprising the Tender as described in ITT 12 [Documents Constituting the Tender]
	21.2	The tender shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer and the authorization documents shall be submitted together with the tender indicating names and position of each signatory as specified in the TDS .
	21.3	The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this tender and to contract execution if the Tenderer is awarded the contract

D. SUBMISSION OF TENDERS

22. Submission of Tenders	22.1	All tenders shall be submitted through TANePS. Tenders submitted through TANePS shall be considered to be true and legal version, duly authorized and duly executed by the Tenderer and intended to have binding legal effect. The tenderer shall properly name his soft copies of documents before submission through TANePS.
	22.2	The tender shall bear e-signature or digital signatures, where applicable for identity and authentication purposes and the identity of the Tenderer may be verified with a follow-up due diligence process.
	22.3	Tenders submitted through TANePS shall be received in full prior to the closing time and the Tenderers shall receive an acknowledgement of receipt of their tenders or amendment through the system.
	22.4	Tenderers must ensure the integrity, completeness and authenticity of their submission; and in case of electronic records entered online and files containing the tender being unreadable for any reason, the tender submitted shall not be

		considered.
23. Deadline for Submission of Tenders	23.1	Tenders shall be received by the PE through TANEPS in a manner specified under ITT 22 [Submission of Tender] not later than the date and time specified in the TDS and TANEPS .
	23.2	The PE may, in exceptional circumstances and at its discretion extend the deadline for the submission of Tenders by amending the Tendering documents in accordance with ITT10 [Amendment of Tendering Documents], in which case all rights and obligations of the PE and Tenderers previously subject to the deadline will thereafter be subject to the new deadline.
24. Late Tenders	24.1	TANEPS does not allow a Tenderer from submitting a tender after the deadline for submission of tenders in accordance with ITT 23 [Deadline for Submission of Tenders].
25. Modification, Substitution and Withdrawal of Tenders	25.1	A Tenderer may modify or substitute or withdraw its Tender after it has been submitted to the PE through TANEPS, provided that such modification or substitution or withdraw is made prior to the deadline for submission of Tenders prescribed in ITT23.1 [Deadline for Submission of Tenders]. Tenderers shall receive an acknowledgement of receipt of any amendment of its submitted tender through the system.
	25.2	The Tenderers modification, substitution or withdrawal notice shall be prepared, and submitted through TANEPS in accordance with the provisions of ITT21 [Format and Signing of Tender]
	25.3	Tenders may only be modified by withdrawal of the original Tender and submission of a replacement Tender in accordance with ITT25.1. Modifications submitted in any other way shall not be taken into account in the evaluation of Tenders.
	25.4	Tenderers may only offer discounts to or otherwise modify the prices of their Tenders by substituting Tender modifications in accordance with this clause or included in the original Tender submission.
	25.2	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. Withdrawal of a Tender during this interval shall result in the Tenderers forfeiture of its Tender Security or execution of the Tendering Securing Declaration, pursuant to the ITT19.9 [Tender Security or Tender Securing Declaration]

E. OPENING AND EVALUATION TENDERS

26. Opening of Tenders	26.1	The opening shall be done by Tender Opening Committee. The tender opening records shall be made available in the appropriate section of the TANEPS.
	26.2	A Tenderer or any other person with interest in the tender process can access tender opening records on the appropriate section of TANEPS.
	26.3	No tender shall be rejected at tender opening.
27. Confidentiality	27.1	Information relating to the examination, clarification, evaluation, and comparison of tenders, and the recommendations for the award of a contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the notice of intention to award the contract to the successful Tenderer has been issued.
	27.2	Any effort by a Tenderer to influence the PE processing of Tenders or award decisions may result in the rejection of its Tender.
28. Clarification of Tenders	28.1	To assist in the examination, evaluation and comparison of tenders and post-qualification of the Tenderers, the PE may, at its discretion, ask any Tenderer for a clarification of its tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the PE shall not be considered.
	28.2	The request for clarification shall be communicated through TANEPS and the Tenderers shall respond through TANEPS or where this is not applicable under TANEPS environment, through email address specified in the TDS . No change in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the PE in the evaluation of Tenders in accordance with ITT30 [Correction of Errors]
	28.3	From the time of Tender opening to the time of Contract award if any Tenderer wishes to contact the PE on any matter related to the Tender it should do so through TANEPS or where this is not applicable under TANEPS environment, through email address specified in the TDS
29. Preliminary Evaluation of Tenders	29.1	Prior to the detailed evaluation of Tenders, the PE will determine whether each Tender <ul style="list-style-type: none"> (a) meets the eligibility criteria defined in ITT3 [Eligible Tenderer] & ITT4 [Eligible Plant, Equipment and Services]; (b) has been properly signed;

		<p>(c) is accompanied by the required securities; and</p> <p>(d) is substantially responsive to the requirements of the Tendering documents.</p> <p>The PE's determination of a Tender's responsiveness will be based on the contents of the Tender itself.</p>
	29.2	<p>A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation, omission or reservation. A material deviation or reservation is one that:-</p> <ul style="list-style-type: none"> a) affects in any substantial way the scope, quality, or performance of the Service(s); b) limits in any substantial way, inconsistent with the Tendering documents, the PE's rights or the Tenderers obligations under the Contract; or c) if rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders. <p>For the purpose of this section, the following definitions apply</p> <p>“Deviation” is a departure from the requirements specified in the Tendering Document;</p> <p>“Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Tendering Document; and</p> <p>“Omission” is the failure to submit part or all of the information or documentation required in the Tendering Document.</p>
	29.3	<p>The PE will confirm that the documents and information specified under ITT12 [Documents Constituting the Tender], ITT13 [Documents Establishing Eligibility of Supplies and Related Installations and Conformity to Tendering Documents] and ITT14 [Documents Establishing Eligibility and Qualifications of the Tenderer] have been provided in the Tender. If any of these documents or information is missing or is not provided in accordance with the Instructions to Tenderers, the tender shall be rejected.</p>
	29.4	<p>The PE may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer.</p>
	29.5	<p>Provided that a Tender is substantially responsive, the PE may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify non-material non-conformities in the Tender</p>

		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
	29.6	Provided that a Tender is substantially responsive, the PE shall rectify quantifiable non-material 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. The adjustment shall be made using the method specified in Section IV, Qualification and Evaluation Criteria.
	29.7	If a Tender is not substantially responsive, it will be rejected by the PE, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.
	29.8	<p>Material deviations to commercial terms and conditions, which justify rejection of a tender shall include the following:</p> <ul style="list-style-type: none"> a) failure to sign the tender form and price schedules by the authorized person or persons; b) failure to satisfy eligibility requirements; c) failure to submit a tender security as specified in the tendering documents; d) failure to satisfy the tender validity period; e) inability to meet the critical delivery schedule or work schedule clearly specified in the tendering documents, where such schedule is a crucial condition with which tenderers must comply; f) failure to comply with minimum experience criteria as specified in the tendering documents; g) conditional tenders such as conditions in a tender which limit the tenderer's responsibility to accept an award; h) inability to accept the price adjustment formulae of the tendering documents; i) stipulating price adjustment when fixed price tenders were invited; j) subcontracting in a substantially different amount or manner than that permitted; k) failure to submit major supporting documents required by the tendering documents to determine substantial responsiveness of a tender.

	29.9	<p>All tenders shall be checked for substantial responsiveness to the technical requirements of the tendering documents in particular, to confirm that all requirements of Section VIII, Employer’s Requirements have been met without any material deviation, reservation, or omission. Non-conformity to technical requirements, which are justifiable grounds for rejection of a tender includes the following:</p> <ul style="list-style-type: none"> a) failure to tender for the required scope of plant and installation services as instructed in the tendering documents and where failure to do so has been indicated as unacceptable; b) failure to quote for a major item in the package; c) failure to meet major technical requirements, such as offering completely different types of equipment or materials from the types specified, plant capacity well below the minimum specified, equipment not able to perform the basic functions for which it is intended; d) presentation of absolutely unrealistic and inadequate implementation plans and schedules regarding performance, technical or service factors.
30. Correction of Errors	30.1	<p>Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected by the Employer as follows: -</p> <ul style="list-style-type: none"> a) if there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected, unless in the opinion of the PE there is an obvious misplacement of the decimal point in the unit price, in which the total price as quoted shall govern and the unit price shall be corrected; b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected; and c) where there is a discrepancy between the amounts in figures and in words, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
	30.2	<p>The amount stated in the Tender will be adjusted by the PE in accordance with the above procedure for the correction of errors and, with the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and where Tender Security was submitted, it shall</p>

		be forfeited in accordance with ITT19 [Tender Security or Tender Securing Declaration]
31. Conversion to Single Currency	31.1	To facilitate evaluation and comparison, the PE will convert all Tender prices expressed in the amounts in various currencies in which the Tender price is payable in Tanzanian shillings at the selling exchange rate established for similar transactions by the BoT twenty eight (28) days prior to the date specified for opening of tenders
32. Detailed Evaluation and Comparison of Tenders	32.1	The PE shall use the criteria and methodologies indicated in this Clause. No other evaluation criteria or methodologies shall be permitted.
		<u>Technical Evaluation</u>
	32.2	<p>The PE will carry out a detailed technical evaluation of the tenders not previously rejected to determine whether the technical aspects are in compliance with the Tendering Document. The tender that does not meet minimum acceptable standards of completeness, consistency and detail, and the specified minimum (or maximum, as the case may be) requirements for specified functional guarantees, will be rejected for non-responsiveness. In order to reach its determination, the PE will examine and compare the technical aspects of the tenders on the basis of the information supplied by the Tenderers, taking into account the following:</p> <ul style="list-style-type: none"> (a) overall completeness and compliance with the Employer's Requirements; conformity of the Plant and Installation Services offered with specified performance criteria, including conformity with the specified minimum (or maximum, as the case may be) requirement corresponding to each functional guarantee, as indicated in the Specification and in Section IV- Qualification and Evaluation Criteria; suitability of the Plant and Installation Services offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the tender; (b) type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services; and © other relevant factors, if any, listed in Section IV- Qualification and Evaluation Criteria;
	32.3	Where alternative technical tenders have been allowed in accordance with ITT20 [Alternative Tender by Tenderers], and offered by the Tenderer, the PE will make a similar evaluation of the alternatives. Where alternatives have not been allowed

		but have been offered, they shall be ignored.
		<u>Economic Evaluation</u>
	32.4	<p>To evaluate a Tender, the PE shall consider the following:</p> <ul style="list-style-type: none"> (a) the Tender price, excluding provisional sums and the provision, if any, for contingencies in the Price Schedules; (b) price adjustment for correction of arithmetic errors in accordance with ITT 30.1 [Correction of Errors] (c) price adjustment due to discounts offered in accordance with ITT 16.9 or ITT16.10 [Tender Prices and Discounts]; (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITT 29.6 [Preliminary Examination of Tenders]; (e) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITT 31 [Conversion to Single Currency]; and (f) the evaluation factors indicated in Section IV, Qualification and Evaluation Criteria.
	32.5	If price adjustment is allowed in accordance with ITT 16.7 [Tender Prices and Discounts], the estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in tender evaluation.
	32.6	If this Tendering Document allows Tenderers to quote separate prices for different lots (contracts), and the award to a single Tenderer of multiple lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid, is specified in Section III, Evaluation and Qualification Criteria
	32.7	If the tender, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Tenderer to produce detailed price analyses for any or all items of the Price Schedules, to demonstrate the internal consistency of those prices with the methods and time schedule proposed. After evaluation of the price analyses, taking into consideration the terms of payments, the Employer may require that the amount of the performance security be increased at the expense of the Tenderer to a level sufficient to protect the Employer against financial loss in the event of default of the successful Tenderer under the Contract

	32.8	The PE shall compare all substantially responsive tenders in accordance with ITT 34.4 [Determination of Lowest Evaluated Tender] to determine the lowest evaluated tender.
33. National and Exclusive Preference	33.1	If the TDS so specifies, the PE will grant a margin of preference to goods manufactured in the United Republic of Tanzania for the purpose of Tender comparison, in accordance with the procedures outlined in subsequent paragraphs, provided the Tenderer shall have established to the satisfaction of the PE that its Tender complies with the criteria specified in ITT 14.3 [Documents Establishing Eligibility and Qualifications of the Tenderer].
	33.2	The Procuring Entity shall, in applying margin of preference, use the Authority's register of Tenderers and other statutory Professional bodies in United Republic to determine whether or not Tenderers are qualified for the margin of preference.
	33.3	A JVCA between a foreign and local firm shall also be eligible to participate in the exclusive preference scheme in accordance with Ninth Schedule of GN 446 of 2013
	33.4	The PE will first review the Tenders to confirm the appropriateness of, and to modify as necessary, the Tender group classification to which Tenderers assigned their Tenders in preparing their Forms of Tender and Price Schedules, pursuant to ITTs 15 [Form of Tender] and 16 [Tender Prices].
	33.5	Alternative tenders, where solicited or permitted, will be evaluated separately in accordance with the provisions of ITT 20 [Alternative Tenders], and shall be subject to margin of preference in accordance with ITT 33.1
34. Determination of Lowest Evaluated Tender	34.1	The Tender with lowest evaluated price from amongst those which are eligible, complaint and substantially responsive shall be the lowest evaluated Tender.
35. Post-qualification of Tenderer	35.1	The PE shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive bid is eligible and meets the qualifying criteria specified in Section IV, Qualification and Evaluation Criteria.
	35.2	The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT14 [Documents Establishing Eligibility and Qualifications of the Tenderer]
	35.3	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 the PE shall proceed to the next lowest evaluated tender to make

		a similar determination of that Tenderer's qualifications to perform satisfactorily.
	35.4	<p>Where the tender price of the lowest evaluate tenderer is considered to be abnormally low, the PE shall perform price analysis as part of the post-qualification. The following process shall apply:</p> <ul style="list-style-type: none"> (a) The PE may reject a tender if the PE has determined that the price in combination with other constituent elements of the tender is abnormally low in relation to the subject matter of the procurement (scope of works or services) and raise concerns with the PE as to the ability of the tenderer that presented that tender to perform the contract. (b) Before rejecting an abnormally low tender the PE shall: request the tenderer an explanation of the tender or of those parts which it considers contribute to the tender being abnormally low; take account of the evidence provided in response to a request in writing or in electronic forms that provide record of the content of communication; and subsequently verify the tender or parts of the tender being abnormal (c) The decision of the PE to reject a tender and reasons for the decision shall be recorded in the procurement proceedings and promptly communicated to the tenderer concerned; (d) Neither the Authority nor the PE shall incur liability solely by rejecting abnormally tender; and <p>An abnormally low tender means, in the light of the PE's estimate and of all the tenders submitted, the tender appears to be abnormally low by not providing a margin for normal levels of profit.</p>
	35.5	A PE may seek independent references of a tenderer and the results of reference checks may be used in determining award of contract.
	35.6	In case of a foreign company, a PE shall seek independent reference of legal existence of a tenderer from Tanzania diplomatic missions abroad or from any other reliable source.
	35.7	The capabilities of the vendors and subcontractors proposed in Attachment 5 to the Tender to be used by the lowest evaluated Tenderer will also be evaluated for acceptability. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a vendor or subcontractor be determined to be unacceptable, the Tender will not be rejected, but the Tenderer will be required to substitute an acceptable vendor or subcontractor without any change to the tender price.

F. AWARD OF CONTRACT

36. Criteria of Award	36.1	<p>Subject to ITT 32 [Evaluation and Comparison of Tenders] and ITT 34 [Determination of Lowest Evaluated Tender], The PE will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:</p> <ul style="list-style-type: none"> a) eligible in accordance with the provisions of ITT 3, and b) qualified to perform the Contract satisfactorily c) successful negotiations have been concluded, if any.
	36.2	<p>If, pursuant to ITT 14.4[Documents Establishing Eligibility and Qualifications of the Tenderer], this Contract is being let on lots basis, the lowest evaluated Tender price will be determined when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderers for award of more than one Contract.</p>
37. Negotiations	37.1	<p>Negotiations may be undertaken with the lowest evaluated Tenderer relating to the following areas:</p> <ul style="list-style-type: none"> a) a minor alteration to the technical details of the statement of requirements or specifications; b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the tendering documents; c) a minor amendment to the SCC; d) finalizing payment arrangements; e) delivering arrangements; f) the methodology or staffing g) clarifying details that were not apparent or could not be finalized at the time of Tendering. h) reduction of Tender Price to match the PEs Estimate, and commensurate with the market prices and provided such reduction shall not make the tender abnormally low in accordance ITT 35.2 [Post-qualification of Tenderers]
	37.2	<p>Where negotiation fails to result into an agreement, the PE may invite the next ranked Tenderer for negotiations. Where negotiations are commenced with the next ranked Tenderer, the PE shall not reopen earlier negotiations.</p>

38. Procuring Entities' Right to Accept Any Tender and to Reject Any or All Tenders	38.1	Notwithstanding ITT 36 [Criteria of Award] The PE reserves the right to accept or reject any tender, and to annul the Tendering process and reject all Tenders at any time prior to contract award, without thereby incurring any liability to the affected Tenderer(s).
	38.2	Notice of the rejection of all Tenders shall be given promptly to all Tenderers that have submitted Tenders through TANEPS.
	38.3	The PE shall upon request from any Tenderer communicate the grounds for rejection of its tender(s) but is not obliged to justify those grounds.
39. Procuring Entities' Right to Vary Quantities at the Time of Award	39.1	The PE reserves the right at the time of Contract award to increase or decrease by the percentage indicated in the TDS , the quantity of goods and services beyond that originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.
40. Notification of Award	40.1	Prior to awarding of the contract, the PE shall issue a notice of intention to award the contract in the format provided in Section V [Tendering Forms], The notice shall be issued through TANEPS to all Tenderers who participated in the Tender in question giving them Seven (7) working days within which to submit complaints to the PE thereof, if any.
	40.2	Where no complaints have been lodged, the Tenderer whose Tender has been accepted will be notified through TANEPS of the award by the PE prior to expiration of the Tender validity period. The Letter of Acceptance will state the sum that the PE will pay the successful Tenderer in consideration for the execution of the scope of works as prescribed by the Contract (hereinafter and in the Contract called "Contract Price).
	40.3	The notification of award will be part of the documents forming the Contract, subject to the Tenderer furnishing evidence of registration with relevant statutory bodies within the country and furnishing the Performance Security in accordance with ITT41 [Performance Security] and signing the Contract in accordance with ITT 42.2 [Signing of Contract]
41. Performance Security	41.1	Within fourteen (14) working days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the PE a Performance Security and if required in the TDS , the Environmental and Social (ES) Performance Security shall be delivered in accordance with the General Conditions of Contract in the amount stipulated in the TDS and SCC , denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

	41.2	<p>In case of Performance Security, it shall be in the form specified in the TDS and SCC, and shall be in any of the following :</p> <p>(a) cash, certified cheque, cashier's or manager's cheque, or bank draft;</p> <p>(b) irrevocable letter of credit issued by a reputable commercial bank or in the case of an irrevocable letter of credit issued by a foreign bank, the letter shall be confirmed or authenticated by a reputable local bank;</p> <p>(c) bank guarantee confirmed by a reputable local bank or, in the case of a successful foreign tenderer, bonded by a foreign bank; or</p> <p>(d) surety bond callable upon demand issued by any reputable surety or insurance company.</p> <p>Any Performance Security submitted shall be enforceable in the United Republic of Tanzania.</p>
	41.4	<p>Failure of the successful Tenderer to comply with the requirements of ITT 41.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Tender security or execution of the Tender securing declaration and any other remedy the PE may take under the Contract and the PE may resort to awarding the Contract to the next ranked Tenderer or call for new Tenders</p>
42 Signing the Contract	42.1	<p>Promptly after notification of award, the PE shall send the successful Tenderer the draft Contract, incorporating all terms and conditions as agreed by the parties to the contract.</p>
	42.2	<p>Within Fourteen (14) working days after furnishing the performance security, the successful Tenderer and the PE shall sign the contract.</p>
	42.3	<p>Upon parties signing the Contract, the PE will promptly notify unsuccessful Tenderers, the name of the winning Tenderer and the Contract amount and will discharge the Tender security or Tender securing declaration of the Tenderers pursuant to ITT 19.7 [Tender Security or Tender Securing Declaration].</p>
43. Advance Payment	43.1	<p>The PE will provide an Advance Payment on the Contract Price if stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the TDS.</p>
	43.2	<p>The Advance Payment request shall be accompanied by an Advance Payment Security (Guarantee) in the form provided in Section XI, Contract Forms. For the purpose of receiving the Advance Payment, the Tenderer shall make an estimate of, and include in its Tender, the expenses that will be incurred in order to commence supply and installation. These expenses will relate to the purchase of equipment, machinery,</p>

		materials, and on the engagement of labour during the first month beginning with the date of the PE’s “Notice to Commence” as specified in the Conditions of Contract.
44. Dispute Avoidance and Resolution Board	44.1	<p>The PE proposes the person named in the TDS to be appointed as Sole Member of Dispute Avoidance and Resolution Board (DARB) under the Contract. If the Tenderer disagrees with this proposal, the Tenderer should so state in the Tender. If, in the Letter of Acceptance, the PE has not agreed on the appointment of the Sole Member of DARB, the Adjudicator shall be appointed by the Appointing Authority named in the TDS and designated in the Special Conditions of Contract at the request of either party</p> <p>OR</p> <p>The PE proposes three names shown in the TDS and SCC, and whose CVs are appended, to be members of Dispute Avoidance and Resolution Board. The Tenderer, shall in his Form of Tender, propose three names as well. If the names are not agreed, the Appointing Authority named in the TDS shall be consulted to appoint members of Dispute Avoidance and Resolution Board¹.</p>
45. Fraud Corruption, Coercion, Collusion, Fraudulent and Obstruction Practices	45.1	<p>31) The Government requires that Procuring entities (including beneficiaries of Government funded projects and procurement) as well as Tenderers or Suppliers or Contractors under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Government defines, for the purpose of this provision, the terms set forth below as follows: -</p> <p>“corrupt practice” means the offering, giving receiving or soliciting of anything of value to influence the action of a public officer in the procurement process or contract execution;</p> <p>“coercive practice” means impairing or harming, or threatening to impair or harm directly or indirectly, any party or the property of the party for the purpose of influencing improperly the action or that party in connection with public procurement or in furtherance of corrupt practice or fraudulent practice;</p> <p>“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Government or a public body and includes collusive practices among tenderers, prior to or after submission</p>

¹ For Large Contracts it may be desirable to use Dispute Avoidance and Resolution Board instead of an Adjudicator.

		<p>designed to establish tender prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;</p> <p>“obstructive practice” means acts intended to materially impede access to required information in exercising a duty under this Act.</p> <p>b) The PE will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt, coercive, collusive, fraudulent or obstructive practices in competing for the contract;</p> <p>c) PPRA will Declare a firm ineligible for a period of ten years, to be awarded a public-financed contract if it at any time it determines that the firm has engaged in corrupt, coercive, collusive, fraudulent or obstructive practices in competing for, or in executing, a public – financed contract</p>
	45.2	The Government of Tanzania reserves the right, where a firm has been found by a foreign country, international organization or other foreign organization to have engaged in corrupt, coercive, collusive, fraudulent or obstructive practices, to declare that such a firm is ineligible, for a period of ten years to be awarded a public financed Contract in the United Republic of Tanzania.
	45.3	Any communication between the Tenderer and the PE related to matters of alleged fraud or corruption must be made in writing or in electronic forms that provide record of the content of communication.

G. REVIEW OF PROCUREMENT DECISIONS

46. Right to Review	46.1	A Tenderer who claims to have suffered or that may suffer any loss or injury as a result of breach of a duty imposed on a PE by the Act or these Regulations in the course of these procurement proceedings may seek a review in accordance with the procedure set out hereunder this Section.
47. Time Limit on Review	47.1	The Tenderer shall submit an application for review within seven (7) working days of him becoming or should have become aware of the circumstances giving rise to the complaint or dispute.
48. Submission of Application for Review	48.1	Any application for administrative review shall be submitted through TANePS to the Accounting Officer of a PE and a copy shall be served to the Public Procurement Regulatory Authority (PPRA) at the address shown in the TDS
	48.2	For PEs with delegated procurement function, applications for administrative review for tenders floated by the delegated Accounting Officers (AO) shall be submitted through TANePS

		to the delegated Accounting Officer with a copy served to the Public Procurement Regulatory Authority (PPRA). The delegated Accounting Officer shall promptly forward the same to the Accounting Officer of the PE.
	48.3	The application for administrative review shall include: <ul style="list-style-type: none"> (a) details of the procurement or disposal requirements to which the complaint relates; (b) details of the provisions of the Act, Regulation or provision that has been breached or omitted; (c) an explanation of how the provisions of the Act, Regulation or provision has been breached or omitted, including the dates and name of the responsible public officer, where known; (d) documentary or other evidence supporting the complaint where available; (e) Remedies sought; and (f) any other information relevant to the complaint.
	48.3	The Accounting Officer (AO) of a PE shall not entertain a complaint or dispute or continue to do so after the procurement Contract has entered into force.
49. Decision by the Accounting Officer of a PE	49.1	The AO of a PE shall, within seven (7) working days after receipt of the complaint or dispute, deliver a written decision through TANEPS which shall indicate: <ul style="list-style-type: none"> a) whether the application is upheld in whole, in part or rejected; b) the reasons for the decision; and c) any corrective measures to be taken.
	49.2	Where the AO of the PE does not issue a decision within the time specified in ITT49.1, the supplier submitting the complaint or dispute or the PE shall be entitled immediately thereafter to institute proceedings under ITT 50.1 [Review by the PPAA] and upon instituting such proceedings, the competence of the head of PE to entertain the complaint or dispute shall cease.
50. Review by the Public Procurement Appeals Authority	50.1	Complaints or disputes which- <ul style="list-style-type: none"> a) are not settled within the specified period under ITT 49.1 [above]; b) are not amicably settled by the accounting officer; or c) arise after the procurement contract has entered into force, shall be referred to the Public Procurement Appeals Authority (PPAA) at the address specified in the TDS within seven (7)

		working days from the date when the tenderer received the decision of the accounting officer or, in case no decision is issued after the expiry of the time stipulated under ITT49.1 [above] or when the tender become aware or ought to have become aware of the circumstances giving rise to the complaint or dispute pursuant to ITT 48.1.
	50.2	PPAA may be contacted at the address shown in the TDS .

SECTION III: TENDER DATA SHEET

The following tender-specific data for the plant and equipment to be procured shall amend and/or supplement the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in the ITT. ***The notes in Italics are only intended to guide the PE in filling in the Tender Data Sheet. They should not appear in the Final TDS to be issued to prospective Tenderers***

TDS No.	Required information/Data	ITT Clause	Information/Data to filled by PE
A: INTRODUCTION			
1.	Name of the PE and Identification of tender	ITT 1.1& 2.1	Name of the Procuring Entity (PE) [<i>insert name of the PE and identification tender number</i>]
2.	Subject of Procurement	ITT 1.1 & 2.1	The subject of procurement is: [<i>describe the goods to be procured and installed and the location where the goods are to be provided</i>]
3.	Period of Supply of Goods	ITT1.1	[<i>insert: expected delivery period / duration of which this Contract is intended to be</i>]
4.	Commencement Date and contract duration	ITT1.2	[<i>Insert the date immediately or number of days after signing the contract</i>] [Insert: Contract duration]
5.	Method of Procurement	1.2	[<i>Insert the method of procurement</i>]
6.	Financial Year	ITT2.1	Financial year for the operations of the PE: [<i>insert: year</i>]
7.	Financing Institution	ITT2.2	Name of Financing Institution [<i>insert name if any</i>]
8.	Project Description	2.1	[<i>insert description of the Project</i>]
9.	Loan/Credit Number	ITT 2.1	Loan/Credit Number is
10.	Invitation to tender	ITT 3.1	[<i>Insert the tender invitation date</i>]
11.	Members of the JVCA	ITT3.1& ITT 3.2	Joint Venture “is “or “not” applicable [<i>insert “NO” or “YES”</i>] Maximum number of members in the JVCA shall be: [<i>insert a number</i>]
12.	Non-Eligible Countries	ITT4.1	Ineligible country(ies) is or are [<i>List</i>]
13.	Manufacturer	ITT4.5	Demonstration of authorization by manufacturer

TDS No.	Required information/Data	ITT Clause	Information/Data to filled by PE
	Authorization		[required or not required]
14.	Site Visit and Pre-Tender Meeting	ITT7.4	Place [insert place] Venue [insert venue] Time [insert time] and date for the site visit and Pre-Tender Meeting.
15.	Transmission of Minutes of Pre-Tender Meeting	ITT7.5	The minutes of the pre-tender meeting will be transmitted within [insert number] days
C: PREPARATION OF TENDERS			
16.	Language of the Tender	ITT11.1	Language of tender is (insert language)
17.	Additional Information/ Documents to be Submitted with the Tender	ITT12.1(g)	<p>In addition to the documents stated in ITT12.1(a)-(f), the following documents must be included with the Tender [insert: list of documents]</p> <p>Code of Conduct for Contractor's Personnel (ES)</p> <p>The Tenderer shall submit its Code of Conduct that will apply to the Contractor's Personnel (as defined in GCC Sub- Clause 1) employed for the execution of Installation Services (defined in GCC Sub-Clause 1) at the Site (or other places in the country where the Site is located), to ensure compliance with the Contractor's Environmental and Social (ES) obligations under the Contract. The Tenderer shall use for this purpose the Code of Conduct form provided in Section V. No substantial modifications shall be made to this form, except that the Tenderer may introduce additional requirements, including as necessary to take into account specific Contract issues/risks.</p> <p>Management Strategies and Implementation Plans (MSIP) to manage the (ES) risks</p> <p>The Tenderer shall submit Management Strategies and Implementation Plans (MSIPs) to manage the following key Environmental and Social (ES) risks:</p> <p>[Note: insert name of any specific plan and risk/s informed by the relevant environmental and social assessment];</p> <p>[e.g., Sexual Exploitation, and Abuse (SEA)prevention and response action plan];</p>

Section III – Tender Data Sheet

TDS No.	Required information/Data	ITT Clause	Information/Data to filled by PE
18.	Other Procurement Specific Documentation Required	ITT13.3(c)	<i>List of any other procurement specific documentation required</i>
19.	Period of provision of Spare Parts	ITT13.4	Spare parts required for _____ <i>[number]</i> of years of operation.
20.	Destination for Goods from Abroad	ITT 16.5(a)	Named _____ place _____ of _____ destination is: _____
21.	Final Destination of Goods /Service	ITT 16.5(d)	Named _____ place _____ of _____ final destination is: _____
22.	Fixed Price	ITT 16.7	The price shall be <i>fixed/ not fixed</i> <i>[Delete the inapplicable option.]</i>
23.	Adjustable Price	ITT 16.9	The price shall be <i>adjustable/ not adjustable</i> <i>[Delete the inapplicable option.]</i>
24.	Currencies for Goods to be Supplied within Tanzania	a. ITT 17.1(b)	b. [If the Tenderer is permitted to use foreign currencies for pricing and payment for goods from within the United Republic of Tanzania, state the following:] ITT 17.1 (b) is not applicable. Instead, the choice of currencies in ITT 17.1 (a) shall apply to all goods.
25.	Currencies for Transportation, Insurance and other Services Incidental to Delivery of Goods	ITT 17.1(c)	<i>[If the Tenderer is permitted to use foreign currencies for pricing and payment of the services referred to in ITT 16.1 (c), state the following:]</i> ITT 17.1 (c) is not applicable. Instead, the choice of currencies in ITT 17.1 (a) shall apply to all services referred to in ITT 17.1 (c).
26.	Source of Exchange Rate	ITT 17.2	The rates of exchange to be used by the Tenderer shall be those established by the Bank of Tanzania prevailing on <i>[insert date 28 days before tender opening]</i>

TDS No.	Required information/Data	ITT Clause	Information/Data to filled by PE
27.	Tender Validity Period	ITT 18.1	The tender validity period shall be <i>[insert number]</i> days.
28.	Form of Tender Security	ITT 19.1	<p>The Tender Securing Declaration is applicable</p> <p>Or</p> <p>The amount of Tender Security shall be <i>[insert amount in local currency]</i> or an equivalent amount in a freely-convertible currency.</p> <p>Delete whichever is not applicable.</p>
29.	Other Forms of Security	ITT 19.3(c)	Other forms of security are..... <i>[insert other forms if required]</i>
30.	Alternative Tenders	ITT 20.1	Alternative tender to the requirements of the tendering documents <i>[insert "will" "or "will not]" as appropriate]</i> be permitted with respect to <i>[describe the alternatives to be permitted, or delete, as appropriate]</i>
31.	Alternative Completion Time	ITT 20.5	Alternative completion time to the requirements of the tendering documents <i>[insert "will" "or "will not]" as appropriate]</i> be permitted
32.	Alternative Technical solutions	ITT 20.6	Alternative technical solutions to the requirements of the tendering documents <i>[insert "will" "or "will not]" as appropriate]</i> be permitted with respect to <i>[describe the alternatives to be permitted, or delete, as appropriate]</i>
33.	Tender Authorization documents	ITT 21.2	<p>Authorization document (s) shall be <i>dully notarized</i></p> <p>Power of Attorney in form provided in Section V[Tendering Forms] and/or <i>list</i> other acceptable confirmation of authorizations document(s) (if any)</p>
D: SUBMISSION OF TENDERS			
34	Clarification of tenders	ITT 28.2	[Indicate means through which the Tenderer(s) shall respond to request for clarification during evaluation of tenders

TDS No.	Required information/Data	ITT Clause	Information/Data to filled by PE
E: OPENING AND EVALUATION TENDERS			
35.	Clarification of Tenders	ITT 28.2 & 28.3	Email address for tenderers to communicate with the PE <i>[insert email address or insert "Not Applicable"]</i>
	National and Exclusive Preference	ITT 33.1	<p>a) Margin of Preference to apply.</p> <p>or</p> <p>Margin of Preference not applicable.</p> <p>b) If a Margin of Preference applies, the application methodology shall be as shown in Section IV- Qualification and Evaluation Criteria</p> <p><i>[Delete the non-applicable option.]</i></p>
36.	Post-Qualification	ITT 35.1	Post - qualification will <i>[insert "be undertaken" or "not be undertaken"]</i>
F: CONTRACT AWARD			
37.	Percentage for Increase and Decrease of Quantities	ITT 39.1	Percentage for quantity increase or decrease is <i>[insert percentage]</i> . [This should not exceed 15%]
38.	Performance Security	ITT 19.10 (c), 19.11 (b)& ITT 41.1	Amount of performance security <i>[Performance security amount shall normally between ten percent (10%) and fifteen percent (15%) of the contract price.]</i>
39	Environmental and Social Performance Security	ITT 41.2	<p><i>Delete this provision if ES Performance Security is not required.</i></p> <p>The ES Performance Security will be in the form of a "demand guarantee" in the amount(s) of <i>[insert % figure(s) normally 1% to 3%]</i> of the Accepted Contract Amount and in the same currency (ies) of the Accepted Contract Amount.</p> <p><i>[Note: The ES Performance Security shall normally be required where ES risks are high. Both ES Security and Performance Security Shall not exceed 10 Percent]</i></p>

TDS No.	Required information/Data	ITT Clause	Information/Data to filled by PE
40.	Advance Payment	ITT43.1	The Advance Payment shall be limited to [<i>insert: percent of the Contract Price</i>].
41.	Appointment of Members of Dispute Avoidance and Resolution Board	ITT 44.1	<p>The proposed Sole Member of DARB for the project is: [<i>Insert name of the proposed member</i>]</p> <p>OR</p> <p>The PE proposes the following to be members of the Dispute Avoidance and Resolution Board</p> <p>1.....</p> <p>2.....</p> <p>3.....</p> <p>The proposed Appointing Authority for the appointment of Dispute Avoidance and Resolution Board is (<i>insert the appointing Authority</i>)</p>
G. Review of Procurement Decisions			
42.	Address to Submit Copy of Complaints	ITT48.1	<p>The address to submit copies of complaints:</p> <p>The Chief Executive Officer, Public Procurement Regulatory Authority PSPF Dodoma Plaza, 9th Floor, Jakaya Kikwete Road, P.O. Box 2865, Dodoma, TANZANIA. Tel: +255 26 2963854 E-mail: ceo@ppra.go.tz Web: www.ppra.go.tz</p>
43	Address to Submit Appeal to PPAA	ITT50.2	<p>The address for Appeal to PPAA:</p> <p>The Executive Secretary, Public Procurement Appeals Authority, Ministry of Finance and Planning, 1 Madaraka Street, P.O. Box 9310, 11468 Dar es Salaam. Telephone +255 22 2120451 Mobile:+255743505505 Fax + 255 022 2120460 Email: info@ppaa.go.tz or es@ppaa.go.tz Website www.ppaa.go.tz</p>

SECTION IV (A). QUALIFICATION AND EVALUATION CRITERIA (FOLLOWING PRE-QUALIFICATION)

This Section contains all the criteria that the PE shall use to evaluate tenders and qualify Tenderers. In accordance with ITT29, ITT32, ITT 33 and ITT 34, no other factors, methods or criteria shall be used. The Tenderer shall provide all the information requested in the forms included in Section V, Tendering Forms.

1. Margin of Preference

For the purpose of granting a margin of domestic preference, Tenders will be classified in one of three groups, as follows:

- a) Group A:** Tenders offering goods manufactured, grown, mined or extracted within the United Republic of Tanzania, for which:
 - (i) labor, raw materials, and components from the United Republic of Tanzania account for more than thirty (30) percent of the EXW price of the goods offered; and
 - (ii) the production facility in which they will be manufactured, assembled or processed has been engaged in manufacturing, assembling or processing such goods at least since the time of Tender submission.
- b) Group B:** All other Tenders offering goods from within the United Republic of Tanzania.
- c) Group C:** Tenders offering goods from overseas which are to be directly imported

All evaluated Tenders in each group will then be compared among themselves to determine the lowest evaluated Tender of each group. The lowest evaluated Tender of each group will next be compared with the lowest evaluated Tenders of the other groups. If this comparison results in a Tender from Group A or Group B being the lowest, it will be selected for contract award.

If, as a result of the preceding comparison, the lowest evaluated Tender is from Group C, all Group C Tenders will then be further compared with the lowest evaluated Tender from Group A, after adding to the evaluated Tender price of the imported goods offered in each Group C Tender, for the purpose of this further comparison only:

- a) the amount of customs duties and other import taxes that a nonexempt importer would have to pay for the importation of goods offered in each Group C Tender;
or
- b) fifteen (15) percent of the CIF (or CIP border point or CIP named place of destination, as the case may be) Tender price of such goods, if the customs duties and taxes exceed fifteen (15) percent of the CIF (or CIP border point or CIP place of destination) price of such goods

If the Group A Tender in the further comparison is the lowest, it will be selected for award. If not, the lowest evaluated Tender from Group C, as determined from the comparison above, will be selected for award.

2. Evaluation

2.1 Technical Evaluation

In addition to the criteria listed in ITT32.2 (a) – (c) the following factors shall apply:

2.2 Economic Evaluation

The following factors and methods will apply:

(a) Time Schedule:

Time to complete the Plant and Installation Services from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities is: _____. No credit will be given for earlier completion.

or

Time to complete the Plant and Installation Services from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities shall be between _____ minimum and _____ maximum. The adjustment rate in the event of completion beyond the minimum period shall be _____ (%) for each week of delay from that minimum period. No credit will be given for completion earlier than the minimum designated period. Tenders offering a completion date beyond the maximum designated period shall be rejected.

(b) Operating and Maintenance Costs

Since the operating and maintenance costs of the facilities being procured form a major part of the life cycle cost of the facilities, these costs will be evaluated according to the principles given hereafter, including the cost of spare parts for the initial period of operation stated below and based on prices furnished by each Tenderer in Price Schedule Nos. 1 and 2, as well as on past experience of the Employer or other employers similarly placed. Such costs shall be added to the tender price for evaluation.

Option 1: The operating and maintenance costs factors for calculation of the life cycle cost are:

- (i) number of years for life cycle
- (ii) operating costs
- (iii) maintenance costs, including the cost of spare parts for the initial period of operation, and

- (iv) rate, in percent, to be used to discount to present value all annual future costs calculated under (ii) and (iii) above for the period specified in (i).

or Option 2:

Reference to the methodology specified in the Specification or elsewhere in the Tendering Document

The price of recommended spare parts quoted in Price Schedule No. 6 shall not be considered for evaluation.

(c) Functional Guarantees of the Plant and Installation Services

The minimum (or maximum) requirements stated in the Specification for functional guarantees required in the Specification are:

Functional Guarantee	Minimum (or Maximum, as appropriate) Requirement
1.	
2.	
3.	
...	

For the purposes of evaluation, for each percentage point that the functional guarantee of the proposed Plant and Installation Services is below the norm specified in the Specification and in the above table, but above the minimum acceptable levels also specified therein, an adjustment of _____ will be added to the tender price. If the drop below the norm or the excess above the minimum acceptable levels is less than one percent, the adjustment will be prorated accordingly.

(d) Work, services, facilities, etc., to be provided by the Employer

Where tenders include the undertaking of work or the provision of services or facilities by the Employer in excess of the provisions allowed for in the tendering document, the Employer shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the tender price for evaluation.

(e) Specific additional criteria

The relevant evaluation method, if any, shall be as follows:

Any adjustments in price that result from the above procedures shall be added, for purposes of comparative evaluation only, to arrive at an “Evaluated Tender Price.” Tender prices quoted by tenderers shall remain unaltered.

2.3 Technical alternatives, if invited in accordance with ITT20.5, will be evaluated as follows:

3. Qualification

3.1 Update of Information

The Tenderer and any subcontractors shall meet or continue to meet the criteria used at the time of prequalification.

3.2 Financial Resources

Using the relevant Form No FIN3.3 in Section V, Tendering Forms, the Tenderer must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:

(i) the following cash-flow requirement:

and

(ii) the overall cash flow requirements for this contract and its current works commitment.

3.3 Contractor’s Representative and other Key Personnel

The Tenderer must demonstrate that it will have a suitably qualified Contractor’s Representative and other suitably qualified (and in adequate numbers) key personnel, as described in the Specification.

The Tenderer shall provide details of the Contractor’s Representative and other key personnel and such other key personnel that the Tenderer considers appropriate to perform the Contract, together with their academic qualifications and work experience. The Tenderer shall complete the relevant Forms in Section V, Tendering Forms.

3.4 Equipment

The Tenderer must demonstrate that it will have access to the key Contractor’s equipment listed hereafter:

No.	Equipment Type and Characteristics	Minimum Number required
1		
2		
3		
...		

The Tenderer shall provide further details of proposed items of equipment using the relevant Form in Section V.

3.5 Subcontractors/manufacturers

Subcontractors/manufacturers for major items of supply or services identified in the prequalification document must meet or continue to meet the minimum criteria specified therein for each item.

Subcontractors for the following additional major items of supply or services must meet the following minimum criteria, herein listed for that item:

Item No.	Description of Item	Minimum Criteria to be met
1		
2		
3		
...		

Failure to comply with this requirement will result in the rejection of the subcontractor.

In the case of a Tenderer who offers to supply and install major items of supply under the contract that the Tenderer did not manufacture or otherwise produce, the Tenderer shall provide the manufacturer’s authorization, using the form provided in Section V, showing that the Tenderer has been duly authorized by the manufacturer or producer of the related plant and equipment or component to supply and/or install that item in the United Republic of Tanzania. The Tenderer is responsible for ensuring that the manufacturer or producer complies with the requirements of **ITT3** and **ITT4** and meets the minimum criteria listed above for that item.

SECTION IV (B). QUALIFICATION AND EVALUATION CRITERIA (WITHOUT PREQUALIFICATION)

This Section contains all the criteria that the PE shall use to evaluate tenders and qualify Tenderers. In accordance with **ITT 32** no other factors, methods or criteria shall be used. The Tenderer shall provide all the information requested in the forms included in Section V, Tendering Forms.

2. Margin of Preference

For the purpose of granting a margin of domestic preference, Tenders will be classified in one of three groups, as follows:

- a) Group A:** Tenders offering goods manufactured, grown, mined or extracted within the United Republic of Tanzania, for which:
 - (i) labor, raw materials, and components from the United Republic of Tanzania account for more than thirty (30) percent of the EXW price of the goods offered; and
 - (ii) the production facility in which they will be manufactured, assembled or processed has been engaged in manufacturing, assembling or processing such goods at least since the time of Tender submission.
- b) Group B:** All other Tenders offering goods from within the United Republic of Tanzania.
- c) Group C:** Tenders offering goods from overseas which are to be directly imported

All evaluated Tenders in each group will then be compared among themselves to determine the lowest evaluated Tender of each group. The lowest evaluated Tender of each group will next be compared with the lowest evaluated Tenders of the other groups. If this comparison results in a Tender from Group A or Group B being the lowest, it will be selected for contract award.

If, as a result of the preceding comparison, the lowest evaluated Tender is from Group C, all Group C Tenders will then be further compared with the lowest evaluated Tender from Group A, after adding to the evaluated Tender price of the imported goods offered in each Group C Tender, for the purpose of this further comparison only:

- a) the amount of customs duties and other import taxes that a nonexempt importer would have to pay for the importation of goods offered in each Group C Tender;
or
- b) fifteen (15) percent of the CIF (or CIP border point or CIP named place of destination, as the case may be) Tender price of such goods, if the customs duties and taxes exceed fifteen (15) percent of the CIF (or CIP border point or CIP place of destination) price of such goods

If the Group A Tender in the further comparison is the lowest, it will be selected for award. If not, the lowest evaluated Tender from Group C, as determined from the comparison above, will be selected for award.

2. Evaluation

2.1 Technical Evaluation

In addition to the criteria listed in ITT32.2 (a) – (c) the following factors shall apply:

2.2 Economic Evaluation

The following factors and methods will apply:

(a) Time Schedule:

Time to complete the Plant and Installation Services from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities is: _____. No credit will be given for earlier completion.

or

Time to complete the Plant and Installation Services from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities shall be between _____ minimum and _____ maximum. The adjustment rate in the event of completion beyond the minimum period shall be _____ for each week of delay from that minimum period. No credit will be given for completion earlier than the minimum designated period. Tenders offering a completion date beyond the maximum designated period shall be rejected.

(b) Operating and Maintenance Costs

Since the operating and maintenance costs of the facilities being procured form a major part of the life cycle cost of the facilities, these costs will be evaluated according to the principles given hereafter, including the cost of spare parts for the initial period of operation stated below and based on prices furnished by each Tenderer in Price Schedule Nos. 1 and 2, as well as on past experience of the Employer or other Employers similarly placed. Such costs shall be added to the tender price for evaluation.

Option 1: The operating and maintenance costs factors for calculation of the life cycle cost are:

- (i) number of years for life cycle
- (ii) operating costs
- (iii) maintenance costs, including the cost of spare parts for the initial period of operation,

- (iv) rate, in percent, to be used to discount to present value all annual future costs calculated under (ii) and (iii) above for the period specified in (i).

Or Option 2:

Reference to the methodology specified in the Specification or elsewhere in the Tendering Document

The price of recommended spare parts quoted in Price Schedule No. 6 shall not be considered for evaluation.

(c) Functional Guarantees of the facilities

The minimum (or maximum) requirements stated in the Specification for functional guarantees required in the Specification are:

Functional Guarantee	Minimum (or Maximum, as appropriate) Requirement
1.	
2.	
...	

For the purposes of evaluation, for each percentage point that the functional guarantee of the proposed Plant and Installation Services is below the norm specified in the Specification and in the above table, but above the minimum acceptable levels also specified therein, an adjustment of _____ will be added to the tender price. If the drop below the norm or the excess above the minimum acceptable levels is less than one percent, the adjustment will be prorated accordingly.

(d) Work, services, facilities, etc., to be provided by the Employer

Where tenders include the undertaking of work or the provision of services or facilities by the Employer in excess of the provisions allowed for in the tendering document, the Employer shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the tender price for evaluation.

(e) Specific additional criteria

The relevant evaluation method, if any, shall be as follows:

Any adjustments in price that result from the above procedures shall be added, for purposes of comparative evaluation only, to arrive at an “Evaluated Tender Price.” Tender prices quoted by tenderers shall remain unaltered.

2.3 Technical alternatives

Technical alternatives, if invited in accordance with ITT20.5, will be evaluated as follows:

3. Qualification

Factor	3.1 Eligibility					
Sub-Factor	Criteria					Documentation Required
	Requirement	Single Entity	Tenderer			
			Joint Venture, Consortium or Association All partners combined	Each partner	At least one partner	
3.1.1 Nationality	Nationality in accordance with ITT3.6 .	Must meet requirement	Existing or intended JVCA must meet requirement	Must meet requirement	N / A	Form ELI –1.1 and 1.2, with attachments
3.1.2 Conflict of Interest	No- conflicts of interests as described in ITT3.7 .	Must meet requirement	Existing or intended JVCA must meet requirement	Must meet requirement	N / A	Form of Tender
3.1.3 Not declared Ineligible	Not having been declared ineligible as described in ITT3.8 .	Must meet requirement	Existing JVCA must meet requirement	Must meet requirement	N / A	Form of Tender
3.1.4 Government Owned Entity	Compliance with conditions of ITT3.9	Must meet requirement	Must meet requirement	Must meet requirement	N / A	Form ELI –1.1 and 1.2, with attachments
3.1.5 Anti-bribery Policy	Submission of anti-bribery policy/code of conduct and Compliance Programme	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form-INTEG

Factor	3.2 Historical Contract Non-Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
3.2.1 History of non-performing contracts	Non-performance of a contract did not occur within the last _____ () years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the tenderer have been exhausted.	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Form CON - 2
3.2.2 Debarment based on Execution of Tender Securing Declaration by the Authority	Not under debarment based on execution of a Tender Securing Declaration pursuant to ITT 3.8 .	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Tender Submission Form

Factor	3.2 Historical Contract Non-Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
3.2.3 Pending Litigation	Tenderer’s financial position and prospective long-term profitability still sound according to criteria established in 2.3.1 below and assuming that all pending litigation will be resolved against the Tenderer.	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Form CON – 2
3.2.4 Litigation History	No consistent history of court/arbitral award decisions against the Tenderer ² since 1 st January <i>[insert year]</i>	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Must meet requirement by itself or as partner to past or existing JVCA	N/A	Form CON – 2
3.2.5 Compliance with Statutory Requirements	No consistent history by the Tenderer ³ of failure to pay taxes and social security Contributions, and no failure to comply with environmental and health and safety requirements since 1 st January <i>[insert year]</i>	Must meet requirement	N/A	Must meet requirement	N/A	Form CON- 2

² The Tenderer shall provide accurate information on the related Form of Tender about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of awards against the Tenderer or any member of a joint venture may result in failure of the Tender.

³ The Tenderer shall provide accurate information about failure to meet tax and social security Contributions, and no failure to comply with environmental and health and safety requirements over the specified period. A consistent history of failure to meet these statutory obligations may result in disqualifying the Tenderer.

Factor	3.2 Historical Contract Non-Performance					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
3.2.6 Declaration: Environmental and Social (ES) past performance	Declare any contract that has been suspended or terminated and/or performance security called by an employer for reasons of breach of environmental, or social (including Sexual Exploitation, and Abuse) contractual obligations in the past five years. ⁴	Must make the declaration. Where there are Specialized Subcontractor/s, the Specialized Subcontractor/s must also make the declaration.	N/A	Each must make the declaration. Where there are Specialized Subcontractor/s the Specialized Subcontractor/s must also make the declaration	N/A	Form CON-3 ES Performance Declaration

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

Factor	3.3 Financial					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture, Consortium or Association			
All partners combined			Each partner	At least one partner		
3.3.1 Historical Financial Performance	Submission of audited balance sheets or if not required by the law of the tenderer's country, other financial statements acceptable to the Employer, for the last ____ [] years to demonstrate the current soundness of the tenderers financial position and its prospective long term profitability. (a) (criterion 1) (b) (criterion 2) (c) _____	Must meet requirement	N / A	Must meet requirement	N / A	Form FIN – 3.1 with attachments
3.3.2 Average Annual Turnover	Minimum average annual turnover of _____, calculated as total certified payments received for contracts in progress or completed, within the last _____ () years	Must meet requirement	Must meet requirement	Must meet _____ percent (____%) of the requirement	Must meet _____ percent (____%) of the requirement	Form FIN –3.2

<p>3.3.3 Financial Resources</p>	<p>The Tenderer must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:</p> <p>(i) the following cash-flow requirement:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>and</p> <p>(ii) the overall cash flow requirements for this contract and its current commitments.</p>	<p>Must meet requirement</p>	<p>Must meet requirement</p>	<p>Must meet _____ percent (____%) of the requirement</p>	<p>Must meet _____ percent (____%) of the requirement</p>	<p>Form FIN –3.3</p>
<p>3.3.4 Current Commitments</p>	<p>The Tenderer shall also demonstrate that it has adequate sources of finance to meet the cash flow requirements on contracts currently in progress and for future contract commitments.</p>	<p>Must Meet Requirement</p>	<p>Must Meet the requirement</p>	<p>N/A</p>	<p>N/A</p>	<p>Form FIN-CCC</p>

Factor	3.4 Experience					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture, Consortium or Association			
3.4.1 General Experience	Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last _____ [_____] years prior to the applications submission deadline, and with activity in at least nine (9) months in each year.	Must meet requirement	N / A	Must meet requirement		N / A
3.4.2 (a) Specific Experience	(a) Participation as contractor, management contractor, or subcontractor, in at least _____ (____) contracts within the last _____ () years , each with a value of at least _____ (____), that have been successfully and substantially completed and that are similar to the proposed Plant and Installation Services. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section VIII, Employer’s Requirements.	Must meet requirement	Must meet requirements for all characteristics	N / A	Must meet requirement for one characteristic	Form EXP 2.4.2(a)

Factor	3.4 Experience					
Sub-Factor	Criteria					Documentation Required
	Requirement	Tenderer				
		Single Entity	Joint Venture, Consortium or Association			
3.4.2(b) Specific Experience	(b) For the above or other contracts executed during the period stipulated in 2.4.2(a) above, a minimum experience in the following key activities: 1.		Must meet requirements	Must meet requirements	N / A	Must meet requirements
3.4.3 Specific Experience in Managing ES aspects	For the contracts in 2.4.2 (a) above and/or any other contracts [substantially completed and under implementation] as prime contractor, joint venture member, or Subcontractor between 1st January <i>[insert year]</i> and Application submission deadline, experience in managing ES risks and impacts in the following aspects: <i>[Based on the ES assessment, specify, as appropriate, specific experience requirements to manage ES aspects.]</i>	Must meet requirements	Must meet requirements	Must meet the following requirements: <i>[list key requirements to be met by each member otherwise state: "N/A"]</i>	Must meet the following requirements: <i>[list key requirements to be met by one member otherwise state: "N/A"]</i>	Form EXP – 2.4.2 (c)

3.5 Contractor’s Representative and other Key Personnel

The Tenderer must demonstrate that it will have a suitably qualified Contractor’s Representative and other suitably qualified (and in adequate numbers) key personnel, as described in the Specification.

The Tenderer shall provide details of the Contractor’s Representative and other key personnel and such other key personnel that the Tenderer considers appropriate to perform the Contract, together with their academic qualifications and work experience. The Tenderer shall complete the relevant Forms in Section V, Tendering Forms.

3.6 Equipment

The Tenderer must demonstrate that it will have access to the key Contractor’s equipment listed hereafter:

No.	Equipment Type and Characteristics	Minimum Number required
1		
2		
3		
...		

The Tenderer shall provide further details of proposed items of equipment using the relevant Form in Section V.

3.7 Subcontractors

Subcontractors/manufacturers for the following major items of supply or services must meet the following minimum criteria, herein listed for that item:

Item No.	Description of Item	Minimum Criteria to be met
1		
2		
3		
...		

Failure to comply with this requirement will result in rejection of the subcontractor. In the case of a Tenderer who offers to supply and install major items of supply under the contract that the Tenderer did not manufacture or otherwise produce, the Tenderer shall provide the manufacturer’s authorization, using the form provided in Section V, showing that the Tenderer has been duly authorized by the manufacturer or producer of the related plant and equipment or component to supply and install that item in the United Republic of Tanzania. The Tenderer is responsible for ensuring that the manufacturer or producer complies with the requirements of ITT3 and 4 and meets the minimum criteria listed above for that item.

SECTION V. TENDERING FORMS

Below is a checklist of forms/documents required to be submitted by the Tenderer. Each Tenderer must ensure that all forms/documents are properly prepared and submitted with his Tender. Failure to fill in and submit, or improper filling of the Forms/documents may result in the rejection of the Tender.

Form Name	Description	Check if Included with the Submission	
		Yes	NO
	Form of Tender		
	Schedules of Rates and Prices		
Schedule No. 1.	Plant and Mandatory Spare Parts Supplied from Abroad		
Schedule No. 2.	Plant and Mandatory Spare Parts Supplied from Within the URT		
Schedule No. 3.	Design Services		
Schedule No. 4.	Installation and Other Services		
Schedule No. 5.	Grand Summary		
Schedule No. 6.	Recommended Spare Parts		
	Price Adjustment ⁵		
	Technical Submission		
	Site Organization		
	Method Statement		
	Mobilization Schedule		
	Construction Schedule		
	ES Management Strategies and Implementation Plans ⁶		
	Code of Conduct for Contractor's Personnel (ES) Form		
Form EQU	Contractor's Equipment		
Form FUNC	Functional Guarantees		
Form PER -1	Personnel		

⁵Tenderer required to indicate source of labour and material indices and the base date indices in its tender – Applicable if price adjustment is allowed for the tender in question

⁶ Applicable if ES aspects are specified.

Form PER-2	Resume of Proposed Personnel		
	Proposed Subcontractors for Major Items of Plant and Installation Services		
	Others - Time Schedule (To be used when alternative time for completion is invited.		
Form ELI 1.1	Tenderer Information Sheet		
Form ELI 1.2	JVCA members Information Sheet		
Form CON – 2-	Historical Contract Non-Performance, Pending Litigation and Litigation History, And Conformance to Statutory Requirements		
Form CCC	Current Contract Commitments / Works in Progress		
Form FIN – 3.1	Financial Situation: Historical Financial Performance		
Form FIN – 3.2	Average Annual Turnover		
Form FIN 3.3	Financial Resources		
Form EXP 2.4.1	General Experience		
Form EXP–2.4.2(a)	Specific Experience		
Form EXP–2.4.2(b)	Specific Experience in Key Activities		
Form EXP–2.4.2(c)	Specific Experience in Managing ES aspects		
	STANDARD POWER OF ATTORNEY		
	Form of Tender Security (Bank Guarantee)		
	Form of Tender Security (Tender Bond)		
	Form of Tender Securing Declaration		
	Manufacturer's Authorization		
Form INTEG	Undertaking by Tenderer on Anti – Bribery Policy/ Code of Conduct and Compliance Programme		

Form of Tender

Date: _____
TENDER NO. N^o: _____

[Name of Contract]

To: *[Name and address of Employer]*

Ladies and/or Gentlemen,

Having examined the Tendering documents, including Addendum Nos. *[insert numbers]*, the receipt of which is hereby acknowledged, we, the undersigned, offer to design, manufacture, test, deliver, install, pre-commission and commission the Facilities under the above-named Contract in full conformity with the said Tendering documents for the sum of: *[amount of foreign currency in words]*, *[amount in figures]*, **and***[amount of local currency in words]*, *[amount in figures]* or such other sums as may be determined in accordance with the terms and conditions of the Contract. The above amounts are in accordance with the Price Schedules attached herewith and are made part of this Tender.

We undertake, if our Tender is accepted, to commence the supply and installation of Facilities and to achieve Completion within the respective times stated in the Tendering documents.

If our Tender is accepted, we undertake to provide an advance payment security and a performance security in the form, in the amounts, and within the times specified in the Tendering documents.

We declare that our tendering price did not involve agreements with other tenderers for the purpose of tender suppression.

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

We accept the appointment of *[name proposed in Tender Data Sheet]* as the Sole Member of Dispute Avoidance and Resolution Board⁷.

Or

We do not accept the appointment of *[name proposed in Tender Data Sheet]* as the Sole Member of Dispute Avoidance and Resolution Board, and we propose instead that *[name]* be appointed as Sole Member of Dispute Avoidance and Resolution Board, whose résumé is attached.

We hereby confirm *[insert the name of the Appointing Authority]*, to be the Appointing Authority, to appoint the Sole Member of Dispute Avoidance and Resolution Board in case of any arisen disputes in accordance with ITT 44.1

⁷ This option to be used if in the **TDS** a sole member of DARB is applicable

OR

We hereby propose the following three persons, whose curriculum vitae are attached, as potential DARB members⁸:

Name	Address
1.	
2.	
3.	

We agree to abide by this Tender, for a period of *[number]* days from the date fixed for submission of Tenders as stipulated in the Tendering documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

We declare that, as tenderer(s) we do not have conflict of interest with reference to **ITT** clause 3.7

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Tender, and to contract execution if we are awarded the contract, are listed below

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
(if none, state "none").		

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

Dated this _____ day of _____, 19_____

[signature]

In the capacity of _____
[position]

Duly authorized to sign this Tender for and on behalf of _____
[name of Tenderer]

Attachments: *[In accordance with ITT 12.1, plus any additional attachment either specified by the Employer in the TDS or included by the Tenderer. In this regard, the Employer may include in the Tendering document, as an Attachment to the Tender Form, a list of*

⁸To be used when three members DARB is applicable.

“Tendering Data,” including the most important data to be provided by the Tenderer (e.g., Time for Completion, Functional Guarantees, etc.).]

Schedules of Rates and Prices

Schedule No. 1. Plant and Mandatory Spare Parts Supplied from Abroad

Item	Description	Code ¹	Qty. (1)	Unit Price ²		Total Price ² (1) x (3)
				(2)	CIP (3)	
TOTAL (to Schedule No. 5. Grand Summary)						
				Name of Tenderer _____ Signature of Tenderer _____		

¹Tenderers shall enter a code representing the country of origin of all imported plant and equipment.

² Specify currency. Create and use as many columns for Unit Price and Total Price as there are currencies.

Country of Origin Declaration Form

Item	Description	Code	Country

Schedule No. 5. Grand Summary

Item	Description	Total Price ¹	
		Foreign	Local
	Total Schedule No. 1. Plant, and Mandatory Spare Parts Supplied from Abroad		
	Total Schedule No. 2. Plant, and Mandatory Spare Parts Supplied from Within URT		
	Total Schedule No. 3. Design Services		
	Total Schedule No. 4. Installation and Other Services		
TOTAL (to Form of Tender)			

Name of Tenderer _____ Signature of Tenderer _____

¹Specify currency in accordance with specifications in Tender Data Sheet under **ITT 17.1** and use as many columns for Foreign Currency requirement as there are foreign currencies

Price Adjustment

Where the Contract Period (excluding the **Defects Liability Period** Period) exceeds eighteen (18) months, it is normal procedure that prices payable to the Contractor shall be subject to adjustment during the performance of the Contract to reflect changes occurring in the cost of labor and material components. In such cases the Tendering documents shall include in this form a formula of the following general type, pursuant to **SCC** Sub-Clause 11.2.

Where Contracts are of a shorter duration than eighteen (18) months or in cases where there is to be no Price Adjustment, the following provision shall not be included. Instead, it shall be indicated under this form that the prices are to remain firm and fixed for the duration of the Contract.

Sample Price Adjustment Formula

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:

$$P_1 = P_0 \times \left(a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

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 and the base date indices in its tender.

<u>Item</u>	<u>Source of Indices Used</u>	<u>Base Date Indices</u>
-------------	-------------------------------	--------------------------

The base date shall be the date thirty (30) 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 the Employer under the terms of the Contract. No price increase will be allowed for periods of delay for which the Contractor is responsible. The Employer will, however, be entitled to any price decrease occurring during such periods of delay.
- (b) If the currency in which the Contract price, P_0 , 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 correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (c) No price adjustment shall be payable on the portion of the Contract price paid to the Contractor as an advance payment.

Technical Submission

1. Site Organization
2. Method Statement
3. Mobilization Schedule
4. Construction Schedule
5. ES Management Strategies and Implementation Plans
6. Code of Conduct for Contractor's Personnel (ES)
7. Plant
8. Contractor's Equipment
9. Personnel
10. Proposed Subcontractors for Major Items of Plant and Installation Services
11. Others

Site Organization

The Tenderer shall include hereunder an organizational diagram indicating his proposed project organization, including Head Office management and possible sub-contractors.

The chart shall be sufficiently detailed to enable an assessment of the number of supervisory staff and foremen available on site to the extent that CVs requested under Personnel, such candidate shall be identifiable on the attached organization diagram.

Method Statement

The Tenderer is expected hereunder to detail clearly how he intends to execute the works and complete the entire work in accordance with the proposed programme

Mobilization Schedule

In accordance with the General Conditions of Contract Sub-Clause 4.1.6, the Contractor shall not carry out mobilization to Site unless the Project Manager gives consent that appropriate measures are in place to address environmental and social risks and impacts, which at a minimum shall include applying the Management Strategies and Implementation Plans (MSIPs) and Code of Conduct for Contractor's Personnel, submitted as part of the Tender and agreed as part of the Contract

Construction Schedule

Construction schedule shall include the following key milestones:

- *No-objection to the Contractor MSIPs, which collectively form the C-ESMP, in accordance with the General Conditions of Contract Sub-Clause 4.1.6.*
- *Constitution of the DARB*

ES Management Strategies and Implementation Plans (ES-MSIP)

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

In developing these strategies and plans, the Tenderer shall have regard to the ES provisions of the contract including those as may be more fully described in the Employer's Requirements in Section VIII.

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

Note to the Procuring Entity:

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

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

Delete this Box prior to issuance of the tendering documents.

Note to the Tenderer:

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

The Tenderer shall initial and submit the Code of Conduct form as part of its Tender

CODE OF CONDUCT FOR CONTRACTOR'S AND SUBCONTRACTOR'S PERSONNEL

We are the Contractor, [enter name of Contractor]. We have signed a contract with [enter name of Procuring Entity] for [enter description of the Facilities]. The Plant for the Facilities will be installed at [enter the Site]. Our contract requires us to implement measures to address environmental and social risks, related to the Installation Services i.e. services ancillary to the supply of the Plant for the Facilities, such as inland transportation, site preparation works/ associated civil works, installation, testing, precommissioning, commissioning, operations and maintenance etc. as the case may require.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the Installation Services.

All personnel that we utilize in the execution of the Contract, including staff, labor and other employees of us and of each Subcontractor, and any other personnel assisting us in the execution of the Contract, are referred to as Contractor's personnel.

This Code of Conduct identifies the behavior that we require from the Contractor's Person employed for the execution of Installation Services at the Site.

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

REQUIRED CONDUCT

Contractor's Personnel employed for the execution of Installation Services at the Site shall:

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

RAISING CONCERNS

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

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

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

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

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

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

FOR CONTRACTOR'S PERSONNEL:

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

Name of Contractor's Personnel: [insert name]

Signature:

Date: (day month year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____

ATTACHMENT 1: Behaviors constituting SEA and behaviors constituting SH

ATTACHMENT 1 TO THE CODE OF CONDUCT FORM
BEHAVIORS CONSTITUTING SEXUAL EXPLOITATION AND ABUSE (SEA) AND
BEHAVIORS CONSTITUTING SEXUAL HARASSMENT (SH)

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

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

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

(2) **Examples of sexual harassment in a work context**

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

Contractor's Equipment

Form EQU

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key Contractor's equipment listed in Section IV, Qualification and Evaluation 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 <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> 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	

Form FUNC

The Tenderer shall copy in the left column of the table below, the identification of each functional guarantee required in the Specification and stated by the Procuring Entity in para. 1.2 (c) of Section IV. Qualification and Evaluation Criteria, and in the right column, provide the corresponding value for each functional guarantee of the proposed plant and equipment.

Required Functional Guarantee	Value of Functional Guarantee of the Proposed Plant and Equipment
1.	
2.	
3.	
...	

Personnel

Form PER -1

Contractor’s Representative and other Key Personnel Schedule

Tenderers should provide the names of suitably qualified personnel to meet the specified requirements stated in Section VIII. The data on their experience should be supplied using the Form below for each candidate.

Contractor’ Representative and Key Personnel

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

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

Form PER-2

Resume of Proposed Personnel

Name of Tenderer

Position		
Personnel information	Name	Date of birth
	Professional qualifications	
Present employment	Name of employer	
	Address of employer	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present employer

Summarize professional experience over the last 20 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	To	Company / Project / Position / Relevant technical and management experience

Proposed Subcontractors for Major Items of Plant and Installation Services

A list of major items of Plant and Installation Services is provided below.

The following Subcontractors and/or manufacturers are proposed for carrying out the item of the facilities indicated. Tenderers are free to propose more than one for each item

Major Items of Plant and Installation Services	Proposed Subcontractors/Manufacturers	Nationality

Others - Time Schedule

(to be used by Tenderer when alternative Time for **Completion is invited in ITT20.5**)

Form ELI 1.1

Tenderer Information Sheet

Date: _____
Tender No.: _____
Invitation for Tender No.: _____
Page _____ of _____ pages

1. Tenderer's Legal Name
2. In case of JVCA , legal name of each party:
3. Tenderer's actual or intended Country of Registration:
4. Tenderer's Year of Registration:
5. Tenderer's Legal Address in Country of Registration:
6. Tenderer's Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> ITT Sub-Clauses 3.1 and 3.2. <input type="checkbox"/> In case of JVCA , letter of intent to form JVCA including a draft agreement, or JVCA agreement, in accordance with ITT Sub-Clauses 3.3 and 3.4 <input type="checkbox"/> In case of government owned entity from the United Republic of Tanzania, documents establishing legal and financial autonomy and compliance with the principles of commercial law, in accordance with ITT Sub-Clause 3.9.

Please note that a written authorization needs to be attached to this sheet as required by **ITT 21.2**

Form ELI 1.2

TENDERER'S JVCA MEMBERS INFORMATION FORM

Date: _____
Tender No.: _____
Tender No.: _____
Page _____ of _____ pages

1. Tenderer's Legal Name:
2. JVCA's Party legal name:
3. JVCA's Party Country of Registration:
4. JVCA's Party Year of Registration:
5. JVCA's Party Legal Address in Country of Registration:
6. JVCA's Party Authorized Representative Information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Attached are copies of original documents as required by ITT Sub-Clauses 3.1 and 3.2. <input type="checkbox"/> In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with the principles of commercial law, in accordance with ITT Sub-Clause 3.9.

Form CON – 2

Historical Contract Non-Performance, Pending Litigation and Litigation History, and Conformance to Statutory Requirements

In case a prequalification process was conducted this form should be used only if the information submitted at the time of prequalification requires updating

Tenderer's Legal Name: _____ Date: _____
JVCA Partner Legal Name: _____
 Tender No.: _____
 Page _____ of _____ pages

Non-Performed Contracts in accordance with Section IV, Qualification and Evaluation Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1 st January <i>[insert year]</i> specified in Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 st January <i>[insert year]</i> specified in Section IV, Qualification and Evaluation Criteria, requirement 2.1			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and TZS equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section IV, Qualification and Evaluation Criteria			
<input type="checkbox"/> No pending litigation in accordance with Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.3.			
<input type="checkbox"/> Pending litigation in accordance with Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.3 as indicated below.			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), TZS Equivalent (exchange rate)
		Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
		Contract Identification: Name of Employer: Address of Employer: Matter in dispute: Party who initiated the dispute: Status of dispute:	
Litigation History in accordance with Section IV, Qualification and Evaluation Criteria			
<input type="checkbox"/> No Litigation History in accordance with Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2. 4. <input type="checkbox"/> Litigation History in accordance with Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.4 as indicated below.			
Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (currency), TZS Equivalent (exchange rate)
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

<input type="checkbox"/> Proof of Payment of Taxes since 1 st January <i>[insert year]</i> specified in Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.4 <input type="checkbox"/> Proof of Payment of Social Security Contributions since 1 st January <i>[insert year]</i> specified in Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.4. <input type="checkbox"/> No Consistent History of abuse of Employment Laws since 1 st January <i>[insert year]</i> specified in Section IV, Qualification and Evaluation Criteria, Sub-Factor 2.2.4.	
Payment of Taxes	<i>[Provide certified evidence of Tax Clearance for the previous Tax Period] Note: Should not be more than 15 months old.</i>
Social Security Contributions	<i>[Provide a certified copy of Social Security Contributions for the specified Period]</i>
History of Employment Related Cases	<p>1. <i>Provide a list and outcome of Labour Cases decided in the last two years by the Commission of Mediation and Arbitration</i></p> <p><i>[Provide a list of pending Labour Cases with the Labour Commission of Mediation and Arbitration]</i></p>

Form CCC

Current Contract Commitments / Works in Progress

Tenderers and each partner to a **JVCA** 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.

Name of contract	Employer, contact address/tel/fax	Value of outstanding work (current TZS equivalent)	Estimated completion date	Average monthly invoicing over last six months (TZS/month)
1.				
2.				
3.				
4.				
5.				
etc.				

**Form FIN – 3.1
Financial Situation**

Historical Financial Performance

Tenderer's Legal Name: _____ Date: _____
JVCA Partner Legal Name: _____ Tender No.: _____
 Page _____ of _____ pages

To be completed by the Tenderer and, if **JVCA**, by each partner

Financial information in TZS equivalent	Historic information for previous _____ () years (TZS equivalent in 000s)						
	Year 1	Year 2	Year 3	Year ...	Year n	Avg.	Avg. Ratio
Information from Balance Sheet							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW)							
Current Assets (CA)							
Current Liabilities (CL)							
Information from Income Statement							
Total Revenue (TR)							
Profits Before Taxes (PBT)							

Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:

Must reflect the financial situation of the Tenderer or partner to a JVCA, and not sister or parent companies

Historic financial statements must be audited by a certified accountant

Historic financial statements must be complete, including all notes to the financial statements

Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)

Form FIN – 3.2
Average Annual Turnover

Tenderer's Legal Name: _____ Date: _____
JVCA Partner Legal Name: _____ Tender No.: _____
 Page _____ of _____ pages

Annual turnover data		
Year	Amount and Currency	TZS equivalent
*Average Annual Turnover		

*Average annual turnover calculated as total certified payments received for work in progress or completed, divided by the number of years specified in Section IV, Evaluation Criteria, Sub-Factor 2.3.2.

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 cash flow demands of the subject contract or contracts as indicated in Section IV, Qualification and Evaluation Criteria

Source of financing	Amount (TZS equivalent)
1.	
2.	
3.	
4.	

Form EXP 2.4.1 Experience - General Experience

Tenderer's Legal Name: _____ Date: _____
 JVCA Partner Legal Name: _____ Tender No.: _____
 Page _____ of _____ pages

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Tenderer
_____	_____	_____	Contract name: Brief Description of the contract performed by the Tenderer: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the contract performed by the Tenderer: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the contract performed by the Tenderer: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the contract performed by the Tenderer: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the contract performed by the Tenderer: Name of Employer: Address:	_____
_____	_____	_____	Contract name: Brief Description of the contract performed by the Tenderer: Name of Employer: Address:	_____

*List calendar year for years with contracts with at least nine (9) months activity per year starting with the earliest year

Form EXP – 2.4.2(a) Specific Experience

Tenderer's Legal Name: _____ Date: _____
JVCA Partner Legal Name: _____ Tender No.: _____
 Page _____ of _____ pages

Similar Contract Number: ___ of ___ required.	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontract or
Total contract amount	_____		TZS _____
If partner in a JVCA or subcontractor, specify participation of total contract amount	_____ %	_____	TZS _____
Employer's Name:	_____		
Address:	_____ _____ _____		
Telephone/fax number:	_____		
E-mail:	_____		

Form EXP – 2.4.2(a) (cont.) Specific Experience (cont.)

Tenderer's Legal Name: _____ Page _____ of _____ pages
JVCA Partner Legal Name: _____

Similar Contract No. __[insert specific number] of [total number of contracts] ____ required	Information
Description of the similarity in accordance with Sub-Factor 2.4.2a) of Section IV:	
Amount	_____
Physical size	_____
Complexity	_____
Methods/Technology	_____
Physical Production Rate	_____

Form EXP – 2.4.2(b)

Specific Experience in Key Activities

Tenderer's Legal Name: _____ Date: _____
JVCA Partner Legal Name: _____ Tender No.: _____
 Subcontractor's Legal Name: _____ Page _____ of _____ pages

	Information		
Contract Identification	_____		
Award date	_____		
Completion date	_____		
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
Total contract amount	_____		TZS _____
If partner in a JVCA or subcontractor, specify participation of total contract amount	_____ %	_____	TZS _____
Employer's Name:	_____		
Address:	_____ _____ _____		
Telephone/fax number:	_____ _____		
E-mail:	_____ _____		

Form EXP – 2.4.2 (b)(cont.)
Specific Experience in Key Activities (cont.)

Tenderer's Legal Name: _____ Page _____ of _____ pages

JVCA Partner Legal Name: _____

Subcontractor's Legal Name: _____

	Information
Description of the key activities in accordance with Sub-Factor 2.4.2(b) of Section IV:	

Form EXP –2.4.2(c) Specific Experience in Managing ES aspects

Tenderer's Legal Name: _____ Date: _____
JVCA Member Legal Name: _____ RFB No.: _____
 Subcontractor's Legal Name: _____ Page _____ of _____ pages

1. Key Requirement no 1 in accordance with 2. 4.2 (c):__

Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JVCA <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Subcontractor <input type="checkbox"/>
Total Contract Amount			TZS	
Details of relevant experience				

2. Key Requirement no 2 in accordance with 2.4.2 (c): _____

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

Special Power of Attorney⁹

KNOW ALL MEN BY THESE PRESENTS THAT I the undersigned [*insert name of the Donor*]
being [*insert designation*] of [*insert name of the company*] of [*insert company address*]
having its registered office at [*insert physical address of company*];

WHEREAS in course of business it is necessary to bid for tenders and enter into contracts;

NOW THEREFORE KNOW ALL MEN THAT I [*insert name of the Donor*] by virtue of authority conferred to me by the Board Resolution No [*insert Board Resolution Number*] of [*insert day*] day of [*insert Board Resolution month and year*], do hereby ordain, nominate, authorize, empower and appoint [*insert name of Donee*] of [*insert address of the Donee*] to be our true lawful Attorney and Agent with full power and authority for us and in our names and for our accounts and benefits, to do any, or all of the following acts, in the execution of tender No. [*insert tender number*] that is to say;

To act on my behalf or for the company and do any other thing or things incidental for [*insert tender Number*] of [*insert description of procurement*] for the [*insert name of the procuring entity*];

AND provided always that this Power of Attorney shall not revoke or in any manner affect any future Power of Attorney given to any other person or persons for such other power or powers shall remain and be of the same force and affect as if this deed has not been executed.

AND we hereby undertake to ratify everything, which our Attorney or any substitute or substitutes or agent or agents duly appointed by him under this power on his behalf herein before contained shall do or purport to do in virtue of this Power of Attorney.

SEALED with the common seal of the said [*insert name of the company*] and delivered in the presence of us this [*insert date*] day of [*insert month*] [*insert year*].

IN WITNESS whereof we have signed this deed on this [*insert date*] day of [*insert month*] [*insert year*] at [*insert place*] for and on behalf of [*insert name of the company or Donor*]

.....

SIGNED AND DELIVERED by the said
[*insert name of Donor*] Identified to me
by [*insert name*]
The latter being known to me personally

} this [*insert date, month and year*]

.....
DONOR

⁹ **Note:** Power of Attorney of a Foreign Firm may be presented in any other legally acceptable format

BEFORE ME:

Name:.....

Address:.....

Qualification:.....

Signature:.....

COMMISSIONER FOR OATHS

Acknowledgement

I [*insert name of Donee*] doth hereby acknowledge and accept to be Attorney of the said [*insert name of the company/donor*] under the Terms and Conditions contained in this Power of Attorney and I promise to perform and discharge my duties as the lawfully appointed Attorney faithfully and honestly.

SIGNED AND DELIVERED by the said
[*insert name of Donee*] Identified to me
by [*insert name*]
The latter being known to me personally
this [*insert date, month and year*],

}

.....
DONEE

BEFORE ME

Name:.....

Address:.....

Qualification:.....

Signature:.....

COMMISSIONER FOR OATHS

Form of Tender Security (Bank Guarantee)

[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: _____ *[Name and Address of Employer]*

Date: _____

TENDER GUARANTEE No.: _____

We have been informed that *[name of the Tenderer]* (hereinafter called "the Tenderer") has submitted to you its Tender dated (hereinafter called "the Tender") for the execution of *[name of contract]* under Invitation for Tenders No. *[TENDER NO. number]* ("the TENDER NO.").

Furthermore, we understand that, according to your conditions, Tenders must be supported by a Tender guarantee.

At the request of the Tenderer, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (*[amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- (a) has withdrawn its Tender prior to the Tender validity expiry date specified by the Tenderer in the Form of Tender, or any extended date provided by the Tenderer; or
- (b) Does not accept the correction of errors in accordance with the **ITT**
- (c) having been notified of the acceptance of its Tender by the Employer prior to the expiry date of the Tender validity or any extension thereto provided by the Tenderer, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the performance security, in accordance with the **ITT**.

This guarantee will expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the contract signed by the Tenderer and the performance security issued to you upon the instruction of the Tenderer; and (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy your notification to the Tenderer of the name of the successful Tenderer; or (ii) twenty-eight days after the expiry date of the Tender validity.

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

[signature(s)]

Form of Tender Security (Tender Bond)

BOND NO. _____

BY THIS BOND _____ as Principal (hereinafter called “the Principal”), and _____, **authorized to transact business in** _____, as Surety (hereinafter called “the Surety”), are held and firmly bound unto _____ as Obligee (hereinafter called “the Employer”) in the sum of _____ (_____), for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Tender to the Employer dated the ___ day of _____, 20___, for the construction of _____ (hereinafter called the “Tender”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (a) withdraws its Tender prior to the Tender validity expiry date set forth in the Form of Tender, or any extended date provided by the Tenderer; or
- (b) refuses to accept the correction of its Tender by the Employer pursuant to **ITT**
- (c) having been notified of the acceptance of its Tender by the Employer prior to the expiry date of the Tender validity or any extension thereto provided by the Tenderer; (i) fails or refuses to execute the Contract Form, if required; or (ii) fails or refuses to furnish the Performance Security in accordance with the Instructions to Tenderers;

then the Surety undertakes to immediately pay to the Employer up to the above amount upon receipt of the Employer’s first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration of the Tender validity set forth in the Form of Tender or any extension thereto provided by the Tenderer..

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this ___ day of _____ 20___.

Principal: _____

Surety: _____

Corporate Seal (where appropriate)

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

Form of Tender Securing Declaration

[The Tenderer shall fill in this Form in accordance with the instructions indicated.]

Date: *[insert **date** (as day, month and year)]*
Tender No.: *[insert **number of tendering process**]*
Alternative No.: *[insert **identification No if this is a Tender for an alternative**]*

To: *[insert **complete name of Purchaser**]*

We, the undersigned, declare that:

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

We accept that we will be suspended from being eligible for tendering in any contract with the any procuring entity for the period of time determined by the Authority, if we are in breach of our obligation(s) under the Tender conditions, because we:

- (a) have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or
- (b) having been notified of the acceptance of our Tender by the Purchaser during the period of Tender validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the **ITT**.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Tenderer; or (ii) twenty-eight days after the expiration of our Tender.

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

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

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

Dated on _____ day of _____, _____ *[insert **date of signing**]*
Corporate Seal (where appropriate)

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

Manufacturer's Authorization

Date: _____
Tender No.: _____

To: *[name of the Employer]*

WHEREAS *[name of the Manufacturer]* who are established and reputable manufacturers of *[name and/or description of the goods]* having factories at *[address of factory]*

do hereby authorize *[name and address of Agent]* to submit a Tender, and subsequently negotiate and sign the Contract with you against IFT No. *[reference of the Invitation to Tender]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per Clause 30 of the **GCC** for the goods offered for supply by the above firm against this Invitation for Tenders.

[signature for and on behalf of Manufacturer]

Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent and having the power of attorney to bind the Manufacturer. It should be included by the Tenderer in its Tender.

**FORM INTEG- UNDERTAKING BY TENDERER ON ANTI – BRIBERY POLICY
/ CODE OF CONDUCT AND COMPLIANCE PROGRAMME**

Each Tenderer must submit a statement, as part of the tender documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the tendering company and, where relevant, of its subsidiary in the United Republic of Tanzania. If a tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.

MEMORANDUM (Format 1)

(Regulation 78(2) of the Public Procurement Regulations, 2013 - Government Notice No. 446 of 2013 as amended in 2016.)

This company _____ *[name of company]* places importance on competitive tendering taking place on a basis that is free, fair, competitive and not open to abuse. It is pleased to confirm that it will not offer or facilitate, directly or indirectly, any improper inducement or reward to any public officer their relations or business associates, in connection with its tender, or in the subsequent performance of the contract if it is successful.

This company has an Anti-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects, or contract including agents, consultants, consortium partners, sub- contractors and suppliers. Copies of our Anti-Bribery Policy/Code of Conduct and Compliance Program are attached¹⁰.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: _____

Address: _____

¹⁰Signing of this memorandum is not sufficient if it is not accompanied by the Anti-bribery Policy/Code of Conduct and Compliance programme of the Tenderer. For tenders submitted by the JVCA each member must submit its Anti-bribery Policy/Code of Conduct and Compliance programme

MEMORANDUM (Format 2)

(Regulation 78(2) of the Public Procurement Regulations, 2013 - Government Notice No. 446 of 2013 as amended in 2016.)

This company _____ *[name of company]* has issued, for the purposes of this tender, a Compliance Program copy attached¹¹ -which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects or contract including agents, consultants, consortium partners, subcontractors and suppliers.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: _____

Address: _____

¹¹Signing of this memorandum is not sufficient if it is not accompanied by the Anti-bribery Policy/Code of Conduct and Compliance programme of the Tenderer. For tenders submitted by the JVCA each member must submit its Anti-bribery Policy/Code of Conduct and Compliance programme

SECTION VI: ELIGIBLE COUNTRIES

Procurement Reference Number:

All countries are eligible except countries subject to the following provisions.

A country shall not be eligible if:

- (a) as a matter of law or official regulation, the Government of Tanzania prohibits commercial relations with that country, provided that the Government of Tanzania is satisfied that such exclusion does not preclude effective competition for the provision of goods or related services required; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government of Tanzania prohibits any import of goods from that country or any payments to persons or entities in that country.

PART 2 – Procuring Entity’s Requirements

SECTION VII. SCHEDULE OF REQUIREMENTS

Scope of Supply of Plant and Installation Services by the Contractor

The PE should in this section give a precise description what is the scope of the supply of plant and equipment by the contractor, important milestones like sectional completion. In addition, if applicable it should give subcontracting requirements for portions of supply and installation. PE should also give the background to the assignment and estimated quantities of for supply and associated works/services

However, detailed the scope of the supply of plant and equipment by the contractor, it is important that it is written in a clear and unambiguous way to avoid misinterpretation and potential disputes further down the line. It should not duplicate information set out elsewhere in the contract documentation (such as specifications or drawings) as this can create confusing discrepancies.

Specification

Supply and install contract to be procured through international competition, the Employer's Requirements must be drawn up to permit the widest, possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials and performance of the Facilities. Only if this is done will the objectives of economy, efficiency, fairness and transparency in procurement be realized, responsiveness of tenders be ensured and the subsequent task of Tender evaluation facilitated.

In a design, supply and install approach, the design is to be done by the Contractor. No detailed technical specification as is normal practice is developed at the pre-Tender stage. However, the Employer does and must know what it wants and must communicate its needs to the Tenderers. Hence, this section on Employer's Requirements replaces the usual Technical Specifications of a more traditional approach.

While this section of the tendering document should endeavor to define the Employer's Requirements as precisely as possible, care must be taken to avoid over specifying details to the extent that the flexibility and potential benefits associated with a design, supply and install contract are seriously eroded or threatened.

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

For a design, supply and install contract no detail drawings would generally be available at the pre-Tendering process stage. It would, however, be useful to include such conceptual drawings as are appropriate to supplement or help explain the general concept of the Employer's needs.

The Employer should specify any Environmental, Social, health, and safety requirements as appropriate.

Any sustainable procurement technical requirements shall be clearly specified. Please refer to the Bank's Procurement Regulations for Borrowers and Sustainable procurement guidance notes/tool kit for further information. The requirements to be specified shall be specific enough to not demand evaluation based on rated criteria/merit point system. The sustainable procurement requirements shall be specified to enable evaluation of such a requirement on a pass/fail basis. To encourage Tenderers' innovation in addressing sustainable procurement requirements, as long as the Tender evaluation criteria specify the mechanism for monetary adjustments for the purpose of Tender comparisons, Tenderers may be invited to offer Plant that exceeds the specified minimum sustainable procurement requirements.

Environmental and Social (ES) requirements

[The Employer’s team preparing the ES requirements should include suitably qualified Environmental and Social specialist/s. The ES requirements should be prepared in manner that does not conflict with the relevant General Conditions of Contract (and the corresponding Special Conditions of Contract if any) and other parts of the specifications.]

SUGGESTED CONTENT FOR AN ENVIRONMENTAL AND SOCIAL POLICY (STATEMENT)

The Works’ policy goal, as a minimum, should be stated to integrate environmental protection, occupational and community health and safety, gender, equality, child protection, vulnerable people (including those with disabilities), sexual harassment, gender-based violence, Sexual Exploitation and Abuse (SEA), HIV/AIDS awareness and prevention and wide stakeholder engagement in the planning processes, programs, and activities of the parties involved in the execution of the Works. The policy should set the frame for monitoring, continuously improving processes and activities and for reporting on the compliance with the policy.

The policy shall include a statement that, for the purpose of the policy and/or code of conduct, the term “child” / “children” means any person(s) under the age of 18 years.

The policy should, as far as possible, be brief but specific and explicit, and measurable, to enable reporting of compliance with the policy in accordance with the General Conditions of Contract

As a minimum, the policy is set out to the commitments to:

- 1. apply good international industry practice to protect and conserve the natural environment and to minimize unavoidable impacts;*
- 2. provide and maintain a healthy and safe work environment and safe systems of work;*
- 3. protect the health and safety of local communities and users, with particular concern for those who are disabled, elderly, or otherwise vulnerable;*
- 4. be intolerant of, and enforce disciplinary measures for illegal activities. To be intolerant of, and enforce disciplinary measures for gender-based violence, inhumane treatment, sexual exploitation, rape, sexual abuse, sexual activity with children, and sexual harassment;*
- 5. incorporate a gender perspective and provide an enabling environment where women and men have equal opportunity to participate in, and benefit from, planning and development of the Works;*
- 6. work co-operatively, including with end users of the Works, relevant authorities, contractors and local communities;*
- 7. engage with and listen to affected persons and organizations and be responsive to their concerns, with special regard for vulnerable, disabled, and elderly people;*
- 8. provide an environment that fosters the exchange of information, views, and ideas that is free of any fear of retaliation, and protects whistleblowers;*
- 9. minimize the risk of communicable diseases and to mitigate the effects of communicable diseases associated with the execution of the Works;*

The policy should be signed by the senior manager of the Employer. This is to signal the

intent that it will be applied rigorously.

MINIMUM CONTENT OF ES REQUIREMENTS

In preparing detailed specifications for ES requirements, the specialists should refer to and consider:

- *project reports e.g. ESIA/ESMP*
- *consent/permit conditions*
- *required standards including Guidelines*
- *relevant international conventions or treaties etc., national legal and/or regulatory requirements and standards (eg NEMC and OSHA Guidelines)*
- *relevant international standards e.g. TDFA Guidelines*
- *relevant sector standards*
- *grievance redress mechanism including types of grievances to be recorded and how to protect confidentiality e.g. of those reporting allegations of SEA.*
- *SEA prevention and management.*

The detail specification for ES should, to the extent possible, describe the intended outcome rather than the method of working. The ES requirements should be prepared in manner that does not conflict with the relevant General Conditions of Contract and Particular Conditions of Contract.

PAYMENT FOR ES REQUIREMENTS

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

Contractor's Representative and Key Personnel

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

Contractor's Representative and Key Personnel

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

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

Contractor's Representative and Key Personnel

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

Drawings

Insert here a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder.

Drawings should be properly numbered and named to make them easier to understand by the Tenderers.

Supplementary Information

**PART 3 –
Conditions of Contract and Contract Forms**

SECTION VIII: GENERAL CONDITIONS OF CONTRACT (GCC)

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A. Contract and Interpretation

<p>1. Definitions</p>	<p>1.1</p>	<p>The following words and expressions shall have the meanings hereby assigned to them:</p> <ul style="list-style-type: none"> a) “Contract” means the Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly. b) “Contract Documents” means the documents listed in Article 1.1 (Contract Documents) of the Form of Agreement (including any amendments thereto). c) “GCC” means the General Conditions of Contract hereof. d) “SCC” means the Special Conditions of Contract. e) “Day” means calendar day. f) “Month” means calendar month. g) “Employer” means the person named as such in the SCC and includes the legal successors or permitted assigns of the Employer. h) “Project Manager” means the person appointed by the Employer in the manner provided in Sub-Clause 16.1 [Representatives -Project Manager] hereof and named as such in the SCC to perform the duties delegated by the Employer. i) “Contractor” means the person(s) whose tender to perform the Contract has been accepted by the Employer and is named as such in the Agreement and includes the legal successors or permitted assignees of the Contractor as specified in the SCC. j) “Dispute Board” (DB) means the person or persons named as such in the PC appointed by agreement between the Employer and the Contractor to make a decision with respect to any dispute or difference between the Employer and the Contractor referred to him or her by the Parties pursuant to Sub-Clause 47.1 [Dispute Avoidance and Resolution Board]. k) “Contractor’s Representative” means any person nominated by the Contractor and named as such in the SCC and approved by the Employer in the manner provided in Sub-Clause 16.2 [Contractor’s Representative and Construction Manager] hereof to perform the duties delegated by the Contractor. l) “Subcontractor,” including vendors, means any
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		<p>person to whom execution of any part of the Facilities, including preparation of any design or supply of any Goods, is sub-contracted directly or indirectly by the Contractor, and includes its legal successors or permitted assigns.</p> <p>m) “Contract Price” means the sum specified in Article 2.1 (Contract Price) of the Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.</p> <p>n) “Facilities” means the Goods to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.</p> <p>o) “Force Majeure” shall mean any event beyond the reasonable control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances. and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood, epidemics, or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.</p> <p>p) “Goods” means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor under Clause 6.3 [Scope of Facilities] hereof but does not include Contractor’s Equipment.</p> <p>q) “Installation Services” means all those services ancillary to the supply of the Goods for the Facilities, to be provided by the Contractor under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), installation, testing, pre-commissioning,</p>
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		<p>commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc.</p> <p>r) “Contractor’s Equipment” means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Goods, or other things intended to form or forming part of the Facilities.</p> <p>s) “Country of Origin” means the countries specified in the SCC and territories eligible under the PPA 2011 as Amended in 2016 and its corresponding Regulations as further elaborated in Section VI [Eligible Countries].</p> <p>t) “Site” means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.</p> <p>u) “Effective Date” means the date of fulfillment of all conditions stated in Article 3 (Effective Date for Determining Time for Completion) of the Form of Agreement, for the purpose of determining the Time for Completion.</p> <p>v) “Time for Completion” means the time within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained in accordance with the specifications in the SCC and the relevant provisions of the Contract.</p> <p>w) “Completion” means that the Facilities (or a specific part thereof where specific parts are specified in the SCC) have been completed operationally and structurally and put in a tight and clean condition, and that all work in respect of Pre-commissioning of the Facilities or such specific part thereof has been completed; in other words, that the Facilities or specific part thereof are ready for Commissioning as provided in Clause 23[Completion of Facilities] hereof.</p> <p>x) “Pre-commissioning” means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in Clause 23 [Completion of Facilities] hereof.</p> <p>y) “Commissioning” means operation of the Facilities or any part thereof by the Contractor following Completion, which operation is to be carried out by the Contractor as provided in Sub-</p>
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		<p>Clause 24.1 [Commissioning and Operational Acceptance-Commissioning] hereof, for the purpose of carrying out Guarantee Test(s).</p> <p>z) “Guarantee Test(s)” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications in accordance with the provisions of Sub-Clause 24.2 [Commissioning and Operational Acceptance-Guarantee Test].</p> <p>aa) “Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfillment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of Clause 27 [Functional Guarantees] hereof and shall include deemed acceptance in accordance with Clause 24[Commissioning and Operational Acceptance] hereof.</p> <p>bb) “Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in Clause 26[Defect Liability] hereof.</p>
2. Interpretation	2.1	In interpreting these Conditions of Contract headings and marginal notes are used for convenience only and shall not affect their interpretations unless specifically stated; references to singular include the plural and vice versa; and masculine include the feminine. Words have their ordinary meaning under the language of the Contract specified in the SCC , unless specifically defined.
	2.2	If any of the Contract Documents, correspondence or communications are prepared in any language other than the governing language under Sub- Clause 2.1 above, the English translation of such documents, correspondence or communications shall prevail in matters of interpretation.
	2.3	The documents forming the Contract shall be interpreted in the following order of priority: <ul style="list-style-type: none"> a) Form of Agreement b) Letter of Acceptance c) Minutes of Negotiations (<i>if any</i>) d) Form of Tender e) Special Conditions of Contract,

		<p>f) General Conditions of Contract, g) Specifications h) Drawings i) Bills of Quantities j) Completed Schedules (including Price Schedules), and k) Any other document listed in the Special Conditions of Contract as forming part of the Contract.</p>
	2.4	<p><u>Persons</u> Words importing persons or parties shall include firms, corporations and government entities.</p>
	2.5	<p><u>Incoterms</u> Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties there under shall be as prescribed by <i>Incoterms</i>. <i>Incoterms</i> means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1^{er}, 75008 Paris, France.</p>
	2.6	<p><u>Entire Agreement</u> Subject to Sub- Clause 15.4 [Confidential Information] hereof, the Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.</p>
	2.7	<p><u>Amendment</u> 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.</p>
	2.8	<p><u>Independent Contractor</u> The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto. Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any</p>

		contractual relationship between any such employees, representatives or Subcontractors and the Employer.
	2.9	<p><u>Joint Venture or Consortium</u></p> <p>If the Contractor is a joint venture or consortium of two or more persons, all such firms shall be jointly and severally bound to the Employer 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 joint venture or consortium. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the Employer.</p>
	2.10	<p><u>Non-Waiver</u></p> <p>2.10.1 Subject to Sub-Clause 2.10.2 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.</p> <p>2.10.2 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.</p>
	2.11	<p><u>Severability</u></p> <p>If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.</p>
	2.12	<p><u>Country of Origin</u></p> <p>“Origin” means the place where the materials, equipment and other supplies for the Facilities are mined, grown, produced or manufactured, and from which the services are provided.</p>
3. Conditions Precedent	3.1	The Contract shall come into effect after the Contractor fulfilling the conditions precedent stated in the SCC
	3.2	If the Condition precedent stipulated on Sub-Clause 3.1 is not met by the date specified in the SCC this contract shall not come into effect;
	3.3	If the Employer is satisfied that each of the conditions precedent in this contract has been satisfied (except to the extent waved by him, but subject to such conditions as he shall impose in respect of such waiver) he shall promptly issue to the contractor a certificate of Contract

		commencement, which shall confirm the start date.
4. Notices	4.1	<p>Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, airmail post, special courier, cable, telegraph, telex, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the SCC, with the following provisions:</p> <p>4.1.1 Any notice sent by cable, telegraph, telex, facsimile or EDI shall be confirmed within two (2) days after dispatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.</p> <p>4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by airmail or special courier.</p> <p>4.1.3 Any notice delivered personally or sent by cable, telegraph, telex, facsimile or EDI shall be deemed to have been delivered on date of its dispatch.</p> <p>4.1.4 Either party may change its postal, cable, telex, facsimile or EDI address or addressee for receipt of such notices by ten (10) days' notice to the other party in writing.</p>
	4.2	Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.
5. Language and Law	5.1	The language of the Contract and the law governing the Contract are stated in the SCC .

B. Subject Matter of Contract

6. Scope of Facilities	6.1	<p>Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligations cover the provision of all Goods and the performance of all Installation Services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Pre-commissioning and delivery) of the Goods 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 Technical Specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare parts (as specified in Sub-Clause6.3 below) and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials,</p>
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		structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the Employer, as set forth in the corresponding Appendix (Scope of Works and Supply by the Employer) to the Agreement.
	6.2	The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.
	6.3	In addition to the supply of Mandatory Spare Parts included in the Contract, the Contractor agrees to supply spare parts required for the operation and maintenance of the Facilities for the period specified in the SCC . However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply thereof are to be agreed between the Employer and the Contractor, and the price of such spare parts shall be that given in Price Schedule No. 6, which shall be added to the Contract Price. The price of such spare parts shall include the purchase price therefore and other costs and expenses (including the Contractor's fees) relating to the supply of spare parts.
7. Time for Commencement and Completion	7.1	The Contractor shall commence work on the Facilities within the period specified in the SCC and without prejudice to Sub- Clause 25.2 [Completion Time Guarantee] hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in the corresponding Appendix (Time Schedule) to the Agreement.
	7.2	The Contractor shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated in the SCC or within such extended time to which the Contractor shall be entitled under Clause 39 [Extension of Time for Completion] hereof.
8. Contractor's Responsibilities	8.1	The Contractor shall design, manufacture (including associated purchases and/or subcontracting), install and complete the Facilities with due care and diligence in accordance with the Contract.
	8.2	The Contractor confirms that it has entered into 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 the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site (if access thereto 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.
	8.3	The Contractor shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the United Republic of Tanzania where the Site is located that 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 the Employer under Sub-Clause 9.3 [Employer's Responsibilities] hereof and that are necessary for the performance of the Contract.
	8.4	The Contractor shall comply with all laws in force in the United Republic of Tanzania and local by-laws where the Facilities are installed and where the Installation Services are carried out. 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 the Employer 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 Clause 9.1 [Employer's Responsibilities] hereof.
	8.5	Any Plant, Material and Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under Clause 1 [Definitions-Country of Origin] .
	8.6	The Contractor shall permit the Employer to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Employer, if so required by the Employer
9. Employer's Responsibilities	9.1	The Employer shall ensure the accuracy of all information and/or data to be supplied by the Employer as described in the corresponding Appendix 6 [Scope of Works and Supply by the Employer] to the Contract, except when otherwise expressly stated in the Contract.
	9.2	The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in the corresponding Appendix 6 [Scope of Works and Supply by the Employer] to the Agreement. The Employer shall give full possession of

		and accord all rights of access thereto on or before the date(s) specified in that Appendix.
	9.3	The Employer 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 United Republic of Tanzania. Such authorities or undertakings require the Employer to obtain them in the Employer's name, are necessary for the execution of the Contract (they include those required for the performance by both the Contractor and the Employer of their respective obligations under the Contract), and are specified in the corresponding Appendix 6 [Scope of Works and Supply by the Employer] to the Agreement.
	9.4	If requested by the Contractor, the Employer shall 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 undertakings 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.
	9.5	Unless otherwise specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, utilities, lubricants, chemicals, catalysts, other materials and facilities; and shall perform all work and services of whatsoever nature, including those required by the Contractor to properly carry out Pre-commissioning, Commissioning and Guarantee Tests, all in accordance with the provisions of the corresponding Appendix (Scope of Works and Supply by the Employer) to the Agreement at or before the time specified in the programme furnished by the Contractor under Sub-Clause 17.2 [Work Program] hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.
	9.6	The Employer shall be responsible for the continued operation of the Facilities after Completion, in accordance with Sub-Clause 23.8 [Completion of the Facilities], and shall be responsible for facilitating the Guarantee Test(s) for the Facilities, in accordance with Sub-Clause 26.2 [Defects Liability Period].
	9.7	All costs and expenses involved in the performance of the obligations under this Clause 9 [Employers Responsibility] shall be the responsibility of the Employer, save those to be incurred by the Contractor with respect to the performance of Guarantee Tests, in accordance with Sub-Clause 26.2 [Defects Liability Period]

C. Payment

10. Contract Price	10.1	The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Form of Agreement.
	10.2	Unless indicated otherwise 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 Contract.
	10.3	Subject to Sub- Clause 8.2 [Contractor's Responsibilities], Sub-Clause 9.1 [Employer's Responsibilities] and Clause 34[Unforeseen Conditions] hereof, 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 Contract, cover all its obligations under the Contract.
11. Terms of Payment	11.1	The Contract Price shall be paid as specified in the corresponding Appendix 1 [Terms and Procedures of Payment] to the Agreement. The procedures to be followed in making application for and processing payments shall be those outlined in the same Appendix.
	11.2	No payment made by the Employer herein shall be deemed to constitute acceptance by the Employer of the Facilities or any part(s) thereof.
	11.3	In the event that the Employer fails to make any payment by its respective due date or within the period set forth in the Contract, the Employer shall pay to the Contractor interest on the amount of such delayed payment at the rate(s) shown in the corresponding Appendix (Terms and Procedures of Payment) to the Agreement for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
	11.4	The currency or currencies in which payments are made to the Contractor under this Contract shall be specified in the corresponding Appendix (Terms and Procedures of Payment) to the Agreement, subject to the general principle that payments will be made in the currency or currencies in which the Contract Price has been stated in the Contractor's Tendering.
	11.5	All payments shall be made in the currency or currencies specified in the corresponding Appendix (Terms and Procedures of Payment) to the Agreement, pursuant to Sub- Clause 11.4.
12. Securities	12.1	<u>Issuance of Securities</u> The Contractor shall provide the securities specified below in favor of the Employer at the times, and in the amount, manner and form specified below.
	12.2	<u>Advance Payment Security</u> 12.2.1 The Contractor shall, within fourteen (14) working days of the notification of contract award, provide a security in an amount equal to the advance

		<p>payment calculated in accordance with the corresponding Appendix (Terms and Procedures of Payment) to the Agreement, and in the same currency or currencies.</p> <p>12.2.2 The security shall be in the form provided in the tendering documents or in another form acceptable to the Employer. The amount of the security shall be reduced in proportion to the value of the Facilities executed by and paid to the Contractor from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the Employer. The security shall be returned to the Contractor immediately after its expiration.</p>
	<p>12.3</p>	<p><u>Performance Security</u></p> <p>12.3.1 The Performance Security, and, if applicable, an ES Performance Security, shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable as specified in the SCC and in accordance with the conditions of contract.</p> <p>12.3.2 The Performance Security, and, if applicable, an ES Performance Security as specified in the SCC, shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.</p> <p>12.3.3 Where circumstances necessitate the amendment of the contract after signature, and such amendment is affected, the Employer shall require the Contractor to provide additional Performance Security, and, if applicable, an ES Performance Security, to cover any cumulative increase of more than ten percent of the Initial Contract Price.</p> <p>12.3.4 The Performance Security, and, if applicable, an ES Performance Security, shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the Employer, and shall be in one of the forms of bank guarantees provided in the tendering documents, as stipulated by the Employer in the SCC, or in another form acceptable to the Employer.</p> <p>12.3.5 The Performance Security, and, if applicable, an ES Performance Security shall automatically be reduced by half on the date of the Operational Acceptance and shall become null and void, eighteen (18) months after Completion of the</p>

		Facilities or twelve (12) months after Operational Acceptance of the Facilities, whichever occurs first; provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to Sub-Clause 26.8[Defects Liability Period Period] hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The Performance Security, and, if applicable, an ES Performance Security shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to Clause 26.10 [Defects Liability Period Period], is liable for an extended warranty obligation, the performance security shall be extended for the period and up to the amount specified in the SCC .
13. Taxes and Duties	13.1	Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Subcontractors or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the United Republic of Tanzania where the Site is located.
	13.2	Notwithstanding Sub- Clause 13.1 above, the Employer shall bear and promptly pay all customs and import duties as well as other local taxes like, e.g., a value added tax (VAT), imposed by the law of the United Republic of Tanzania on the Goods specified in Price Schedule No. 1 and that are to be incorporated into the Facilities.
	13.3	If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in the United Republic of Tanzania, the Employer shall use its best endeavors to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.
	13.4	For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Form of Agreement is based on the taxes, duties, levies and charges prevailing at the date twenty-eight (28) days prior to the date of tender submission in the United Republic of Tanzania (hereinafter called "Tax" in this Sub- Clause 13.4). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor, Subcontractors or their employees in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction there from, as the case may be, in accordance with Clause 35 [Changes of Law and Regulations] hereof.

D. Intellectual Property

14. Patent and Copyright	14.1	The Supplier shall indemnify the Employer against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the United Republic of Tanzania.
	14.2	The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.
15. Confidential Information	15.1	Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this Clause 15 .
	15.2	The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Goods, construction or such other work and services as are required for the performance of the Contract.
	15.3	<p>The obligation of a party under Sub-Clauses 15.1 and 15.2 above, however, shall not apply to that information which</p> <ul style="list-style-type: none"> (a) now or hereafter enters the public domain through no fault of that party (b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto (c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
	15.4	The above provisions of this Clause 15 shall not in any way modify any undertaking of confidentiality given by either of

		the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
	15.5	The provisions of this Clause 15 shall survive termination, for whatever reason, of the Contract.

E. Execution of the Facilities

16. Representatives	16.1	<p><u>Project Manager</u></p> <p>If the Project Manager is not named in the Contract, then within Seven (7) working days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the Contractor without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the Facilities. Such appointment shall only take effect upon receipt of such notice by the Contractor. The Project Manager shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.</p> <p>All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the Project Manager, except as herein otherwise provided.</p>
	16.2	<p><u>Contractor's Representative & Project Manager</u></p> <p>16.2.1 If the Contractor's Representative is not named in the Contract, then within Seven (7) working days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within Seven (7) working days, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within Seven (7) working days giving the reason thereof, then the Contractor shall appoint a replacement within Seven (7) working days of such objection, and the foregoing provisions of this Sub-Clause16.2.1 shall apply thereto.</p> <p>16.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract.</p> <p>16.2.3 All notices, instructions, information and all other</p>

		<p>communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.</p> <p>16.2.4 The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in Sub-Clause16.2.1.</p> <p>16.2.5 The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager. Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this Sub-Clause16.2.5 shall be deemed to be an act or exercise by the Contractor's Representative.</p> <p>16.2.6 From the commencement of installation of the Facilities at the Site until Completion, the Contractor's Representative shall appoint a suitable person as the construction manager (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.</p> <p>16.2.7 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under Sub-Clause 21.3 [Installation]. The Employer shall provide</p>
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		<p>evidence of the same, whereupon the Contractor shall remove such person from the Facilities.</p> <p>16.2.8 If any representative or person employed by the Contractor is removed in accordance with Sub-Clause16.2.5, the Contractor shall, where required, promptly appoint a replacement.</p>
17. Work Programme	17.1	<p><u>Contractor's Organization</u></p> <p>The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed within twenty-one (21) days of the Effective Date. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.</p>
	17.2	<p><u>Programme of Performance</u></p> <p>Within twenty-eight (28) days after the date of signing the Agreement, the Contractor shall prepare and submit to the Project Manager a detailed programme of performance of the Contract, made in the form specified in the SCC and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the programme and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The programme so submitted by the Contractor shall accord with the Time Schedule included in the corresponding Appendix (Time Schedule) to the Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the programme as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion given under Sub-Clause 7.2 [Time for Commencement and Completion] and any extension granted in accordance with Clause39 [Extension of Time for Completion], and shall submit all such revisions to the Project Manager.</p>
	17.3	<p><u>Progress Report</u></p> <p>The Contractor shall monitor progress of all the activities specified in the programme referred to in Sub-Clause17.2above and supply a progress report to the Project Manager every month.</p> <p>The progress report shall be in a form acceptable to the Project Manager and shall indicate: (a) percentage completion achieved compared with the planned</p>

		percentage completion for each activity; and (b) where any activity is behind the programme, giving comments and likely consequences and stating the corrective action being taken.
	17.4	<p><u>Progress of Performance</u></p> <p>If at any time the Contractor's actual progress falls behind the programme referred to in Sub-Clause 17.2, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised programme, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under Sub-Clause 7.2, any extension thereof entitled under Sub-Clause 39.1, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.</p>
	17.5	<p><u>Work Procedures</u></p> <p>The Contract shall be executed in accordance with the Contract Documents and the procedures given in the section on Sample Forms and Procedures of the Contract Documents.</p> <p>The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with the provisions contained in the Contract.</p>
18. Subcontracting	18.1	The corresponding Appendix (List of Approved Subcontractors) to the Agreement specifies major items of supply or services and a list of approved Subcontractors against each item, including vendors. Insofar as no Subcontractors are listed against any such item, the Contractor shall prepare a list of Subcontractors for such item for inclusion in such list. The Contractor may from time to time propose any addition to or deletion from any such list. The Contractor shall submit any such list or any modification thereto to the Employer for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the Employer for any of the Subcontractors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.
	18.2	The Contractor shall select and employ its Subcontractors for such major items from those listed in the lists referred to in Sub- Clause 18.1.
	18.3	For items or parts of the Facilities not specified in the corresponding Appendix 5 [List of Major Items of Plant and Installation Services and List of Approved Subcontractors] to the Agreement, the Contractor may employ such Subcontractors as it may select, at its

		discretion.
	18.4	Each sub-contract shall include provisions which would entitle the Employer to require the sub-contract to be assigned to the Employer under Sub-Clause 18.5 (if and when applicable), or in event of termination by the Employer under Sub-Clause 41.2 [Termination].
	18.5	If a sub-contractor's obligations extend beyond the expiry date of the relevant Defects Liability Period and the Project Manager, prior to that date, instructs the Contractor to assign the benefits of such obligations to the Employer, then the Contractor shall do so.
19. Design and Engineering	19.1	<p><u>Specifications and Drawings</u></p> <p>19.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.</p> <p>19.1.2 The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.</p> <p>19.1.3 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Project Manager.</p>
	19.2	<p><u>Codes and Standards</u></p> <p>Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of tender submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Employer and shall be treated in accordance with Clause 38 [Changes of Facilities].</p>
	19.3	<p><u>Approval/Review of Technical Documents by Project Manager</u></p> <p>19.3.1 The Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Project Manager the documents listed in the</p>

		<p>corresponding Appendix (List of Documents for Approval or Review) to the Agreement for its approval or review as specified and in accordance with the requirements of Sub-Clause 17.2 [Programme of Performance].</p> <p>19.3.2 Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.</p> <p>19.3.3 Sub-Clauses 19.3.2 through 19.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.</p> <p>19.3.4 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with Sub-Clause19.3.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefore and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the said fourteen (14) working days, then the said document shall be deemed to have been approved by the Project Manager.</p> <p>19.3.5 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.</p> <p>19.3.6 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with Sub-Clause19.3.2. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), whereupon the document shall be deemed to have been approved.</p> <p>19.3.7 If any dispute or difference occurs between the Employer and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference may be referred to Dispute Avoidance and Resolution Board for determination in accordance with Sub-Clause46.1 [Obtaining Dispute Avoidance and Resolution Board's Decision] hereof. If such dispute or difference is referred to an Dispute Avoidance and Resolution Board, the Project Manager shall give</p>
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		<p>instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Dispute Avoidance and Resolution Board upholds the Contractor's view on the dispute and if the Employer has not given notice under Clause46.1 hereof, then the Contractor shall be reimbursed by the Employer for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Completion shall be extended accordingly.</p> <p>19.3.8 The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.</p> <p>19.3.8 The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this Sub-Clause19.3.</p> <p>19.3.9 If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of Clause 38[Change of Facilities] shall apply to such request.</p>
<p>20. Procurement</p>	<p>20.1</p>	<p><u>Goods</u></p> <p>Subject to Sub-Clause 13.2 [Taxes and Duties], the Contractor shall manufacture or procure and transport all the Goods in an expeditious and orderly manner to the Site.</p>
	<p>20.2</p>	<p><u>Employer-Supplied Plant, Equipment, and Materials</u></p> <p>If the corresponding Appendix (Scope of Works and Supply by the Employer) to the Agreement provides that the Employer shall furnish any specific items of machinery, equipment or materials to the Contractor, the following provisions shall apply:</p> <p>20.2.1 The Employer shall, at its own risk and expense, transport each item to the place on or near the Site as agreed upon by the parties and make such item available to the Contractor at the time specified in the programme furnished by the Contractor, pursuant to Sub-Clause 17.2 [Work Program], unless otherwise mutually agreed.</p>

		<p>20.2.2 Upon receipt of such item, the Contractor shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. The Employer shall immediately remedy any shortage, defect or default, or the Contractor shall, if practicable and possible, at the request of the Employer, remedy such shortage, defect or default at the Employer’s cost and expense. After inspection, such item shall fall under the care, custody and control of the Contractor. The provision of this Sub-Clause 20.2.2 shall apply to any item supplied to remedy any such shortage or default or to substitute for any defective item, or shall apply to defective items that have been repaired.</p> <p>20.2.3 The foregoing responsibilities of the Contractor and its obligations of care, custody and control shall not relieve the Employer of liability for any undetected shortage, defect or default, nor place the Contractor under any liability for any such shortage, defect or default whether under Clause 26 [Defects Liability Period Period] or under any other provision of Contract.</p>
	<p>20.3</p>	<p><u>Transportation</u></p> <p>20.3.1 The Contractor shall at its own risk and expense transport all the Goods and the Contractor’s Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.</p> <p>20.3.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Goods and the Contractor’s Equipment.</p> <p>20.3.3 Upon dispatch of each shipment of the Goods and the Contractor’s Equipment, the Contractor shall notify the Employer by telex, cable, facsimile or Electronic Data Interchange (EDI) of the description of the Goods and of the Contractor’s Equipment, the point and means of dispatch, and the estimated time and point of arrival in the United Republic of Tanzania, if applicable, and at the Site. The Contractor shall furnish the Employer with relevant shipping documents to be agreed upon between the parties.</p> <p>23.3.4 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Goods and the Contractor’s Equipment to the Site. The Employer shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the</p>

		Employer from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the Goods and the Contractor's Equipment to the Site.
	20.4	<p><u>Customs Clearance</u></p> <p>The Contractor shall, at its own expense, handle all imported Goods and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance, subject to the Employer's obligations under Sub-Clause 13.2 [Taxes and Duties], provided that if applicable laws or regulations require any application or act to be made by or in the name of the Employer, the Employer shall take all necessary steps to comply with such laws or regulations. In the event of delays in customs clearance that are not the fault of the Contractor, the Contractor shall be entitled to an extension in the Time for Completion, pursuant to Clause 39 [Extension of Time for Completion].</p>
21. Installation	21.1	<p><u>Setting Out/Supervision/Labour</u></p> <p>21.1.1 <i>Benchmark</i>: The Contractor shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by or on behalf of the Employer. If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the Employer, the expense of rectifying the same shall be borne by the Employer.</p> <p>21.1.2 <i>Contractor's Supervision</i>: The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.</p> <p>21.1.3 <i>Labour</i>:</p> <p>(a) The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labour that has the necessary skills.</p>

		<p>(b) Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and catering of all labour, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.</p> <p>(c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labour and personnel to be employed on the Site into the United Republic of Tanzania and in the exact region where the Site is located.</p> <p>(d) The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor's personnel employed on the Contract at the Site to their various home countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.</p> <p>(e) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labour of its Subcontractors.</p> <p>(f) The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labour.</p> <p>21.1.4 Rates of Wages and Conditions of Labor</p> <p>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 employers whose trade or industry is similar to that of the Contractor.</p>
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		<p>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 Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.</p> <p>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 performance of the Contract, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.</p> <p>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 Engineer may reasonably require.</p> <p>The Contractor shall throughout the contract (including the Defects Notification Period): (i) conduct Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labor (including all the Contractor's employees, all Sub-Contractors and Employer's and Project Manager's' employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to of Sexually Transmitted Diseases (STD)—or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labor as appropriate; and (iii) provide for STI and HIV/AIDS screening, diagnosis, counseling and referral to a dedicated national STI and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labor.</p> <p>The Contractor shall include in the program to be submitted for the execution of the Facilities under Sub-Clause 18.2 an alleviation program for Site staff and labor and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation program shall indicate when, how and at what cost the</p>
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		<p>Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this program shall not exceed the Provisional Sum dedicated for this purpose.</p> <p>21.1.8 Funeral Arrangements</p> <p>In the event of the death of any of the Contractor's personnel or accompanying members of their families, the Contractor shall be responsible for making the appropriate arrangements for their return and burial, unless otherwise specified in the SCC.</p> <p>21.1.9 Records of Contractor's Personnel</p> <p>The Contractor shall keep accurate records of the Contractor's personnel, including the number of each class of Contractor's Personnel on the Site and the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis in a form approved by the Project Manager and shall be available for inspection by the Project Manager until the Contractor has completed all work.</p> <p>21.1.10 Supply of Foodstuffs</p> <p>The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.</p> <p>21.1.11 Supply of Water</p> <p>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.</p> <p>21.1.12 Measures against Insect and Pest Nuisance</p> <p>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 their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.</p>
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	<p>21.2</p>	<p><u>Contractor's Equipment</u></p> <p>21.2.1 All Contractor's Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.</p> <p>21.2.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.</p> <p>21.2.3 The Employer will, if requested, use its best endeavors to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor's Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.</p>

	21.3	<p><u>Site Regulations and Safety</u></p> <p>The Employer and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall prepare and submit to the Employer, with a copy to the Project Manager, proposed Site regulations for the Employer’s approval, which approval shall not be unreasonably withheld.</p> <p>Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.</p>
	21.4	<p><u>Opportunities for Other Contractors</u></p> <p>21.4.1 The Contractor shall, upon written request from the Employer or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.</p> <p>21.4.2 If the Contractor, upon written request from the Employer or the Project Manager, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor’s Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.</p> <p>21.4.3 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.</p> <p>21.4.4 The Contractor shall notify the Project Manager promptly of any defects in the other contractors’ work that come to its notice, and that could affect the Contractor’s work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Contractor.</p>

	21.5	<p><u>Emergency Work</u></p> <p>21.5.1 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.</p> <p>21.5.2 If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine is necessary in order to prevent damage to the Facilities. In such event the Employer 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, therefore. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.</p>
	21.6	<p><u>Site Clearance</u></p> <p>21.6.1 <i>Site Clearance in Course of Performance:</i> 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.</p> <p>24.6.2 <i>Clearance of Site after Completion:</i> 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 clean and safe.</p>
	21.7	<p><u>Watching and Lighting</u></p> <p>The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.</p>
	21.8	<p><u>Work at Night and on Holidays</u></p> <p>21.8.1 Unless otherwise provided in the Contract, no work shall be carried out during the night and on public holidays of the United Republic of Tanzania without prior written consent of the Employer, except</p>

		<p>where work is necessary or required to ensure safety of the Facilities or for the protection of life, or to prevent loss or damage to property, when the Contractor shall immediately advise the Project Manager, provided that provisions of this Sub-Clause 21.8.1 shall not apply to any work which is customarily carried out by rotary or double-shifts.</p> <p>21.8.2 Notwithstanding Sub-Clauses 21.8.1 or 21.1.3, if and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Employer's consent thereto, the Employer shall not unreasonably withhold such consent.</p>
22. Test and Inspection	22.1	The Contractor shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Goods and any part of the Facilities as are specified in the Contract.
	22.2	The Employer and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
	22.3	Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give a reasonable 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 the Employer and the Project Manager (or their designated representatives) to attend the test and/or inspection.
	22.4	The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection. If the Employer or 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 a certified report of the results thereof.
	22.5	The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for

		Completion and the other obligations so affected
	22.6	If any Goods or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Goods or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under Sub- Clause 22.3.
	22.7	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 Goods or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred to a Dispute Avoidance and Resolution Board for determination in accordance with Clause 46.1.
	22.8	The Contractor shall afford the Employer and the Project Manager, at the Employer's expense, access at any reasonable time to any place where the Goods are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
	22.9	The Contractor agrees that neither the execution of a test and/or inspection of Goods or any part of the Facilities, nor the attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to Sub- Clause 22.4, shall release the Contractor from any other responsibilities under the Contract.
	22.10	No part of the Facilities or foundations shall be covered up on 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 ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.
	22.11	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. If any parts of the Facilities or foundations have been covered up at the Site after compliance with the requirement of Sub- Clause 22.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.
23. Completion of	23.1	As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally

the Facilities		and structurally and put in a tight and clean condition as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.
	23.2	<p>Within seven (7) working days after receipt of the notice from the Contractor under Sub-Clause 23.1 [Completion of the Facilities], the Employer shall supply the operating and maintenance personnel specified in the corresponding Appendix (Scope of Works and Supply by the Employer) to the Agreement for Pre-commissioning of the Facilities or any part thereof.</p> <p>Pursuant to the corresponding Appendix (Scope of Works and Supply by the Employer) to the Agreement, the Employer shall also provide, within the said seven (7) day period, the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Pre-commissioning of the Facilities or any part thereof.</p>
	23.3	As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the Employer and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters have been provided by the Employer in accordance with Sub- Clause 23.2, the Contractor shall commence Pre-commissioning of the Facilities or the relevant part thereof in preparation for Commissioning subject to Clause 24 [Commissioning and Operational Acceptance].
	23.4	As soon as all works in respect of Pre-commissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall so notify the Project Manager in writing.
	23.5	<p>23.5.1 The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under Sub-Clause 23.4, either issue a Completion Certificate in the form specified in the Sample Forms and Procedures section in the tendering documents, stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's notice under Sub-Clause 23.4, or notify the Contractor in writing of any defects and/or deficiencies.</p> <p>23.5.2 If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies and shall repeat the procedure described in Sub-Clause 23.4.</p> <p>23.5.3 If the Project Manager is satisfied that the Facilities or that part thereof have reached</p>

		<p>Completion, the Project Manager shall, within seven (7) days after receipt of the Contractor's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's repeated notice.</p> <p>23.5.4 If the Project Manager is not so satisfied, then it shall notify the Contractor in writing of any defects and/or deficiencies within seven (7) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.</p>
	23.6	<p>If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under Sub-Clause 23.4 or within seven (7) days after receipt of the Contractor's repeated notice under Sub-Clause 23.5, or if the Employer makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Employer's use of the Facilities, as the case may be.</p>
	23.7	<p>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 the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.</p>
	23.8	<p>Upon Completion, the Employer shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.</p>
24. Commissioning and Operational Acceptance	24.1	<p><u>Commissioning</u></p> <p>24.1.1 Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after issue of the Completion Certificate by the Project Manager, pursuant to Clause 23.5 [Completion of facilities], or immediately after issue of the deemed Completion, under Clause 23.6.</p> <p>24.1.2 The Employer shall supply the operating and maintenance personnel and all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Commissioning.</p>
	24.2	<p><u>Guarantee Test</u></p> <p>24.2.1 The Guarantee Test (and repeats thereof) shall be conducted by the Contractor during Commissioning of the Facilities or the relevant</p>

		<p>part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Technical Specifications. The Contractor's and Project Manager's advisory personnel shall attend the Guarantee Test and shall advise and assist the Employer. The Employer shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Guarantee Test (and any repeats thereof).</p> <p>24.2.2 If for reasons not attributable to the Contractor, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period from the date of Completion specified in the SCC or any other period agreed upon by the Employer and the Contractor, the Contractor shall be deemed to have fulfilled its obligations with respect to the Functional Guarantees, and Sub-Clauses 27.2 and 27.3 [Functional Guarantees] shall not apply.</p>
	<p>24.3</p>	<p><u>Operational Acceptance</u></p> <p>24.3.1 Subject to Sub-Clause 24.4 below, Operational Acceptance shall occur in respect of the Facilities or any part thereof when</p> <ul style="list-style-type: none"> (a) the Guarantee Test has been successfully completed and the Functional Guarantees are met; or (b) the Guarantee Test has not been successfully completed or has not been carried out for reasons not attributable to the Contractor within the period from the date of Completion or any other agreed upon period as specified in Sub-Clause 24.2.2 above; or (c) the Contractor has paid the liquidated damages specified in Sub-Clause 26.3 [Defects Liability Period] hereof; and (d) any minor items mentioned in Sub-Clause 23.7 [Completion of the Facilities] hereof relevant to the Facilities or that part thereof have been completed. <p>24.3.2 At any time after any of the events set out in Sub-Clause 24.3.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Tendering Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as of the date of</p>

		<p>such notice.</p> <p>24.3.3 The Project Manager shall, after consultation with the Employer, and within seven (7) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.</p> <p>24.3.4 If within seven (7) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as of the date of the Contractor's said notice.</p>
	24.4	<p><u>Partial Acceptance</u></p> <p>24.4.1 If the Contract specifies that Completion and Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Completion and Commissioning including the Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.</p> <p>24.4.2 If a part of the Facilities comprises facilities such as buildings, for which no Commissioning or Guarantee Test is required, then the Project Manager shall issue the Operational Acceptance Certificate for such facility when it attains Completion, provided that the Contractor shall thereafter complete any outstanding minor items that are listed in the Operational Acceptance Certificate.</p>

F. Guarantees and Liabilities

25. Completion Time Guarantee	25.1	The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified in the SCC) within the Time for Completion specified in the SCC pursuant to Sub- Clause 7.2 [Time for Commencement and Completion], or within such extended time to which the Contractor shall be entitled under Clause 39 [Extension of Time for Completion] hereof.
	25.2	If the Contractor fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under Clause 39 [Extension of Time for Completion], the Contractor shall pay to the Employer 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

		<p>as “Maximum” in the SCC. Once the “Maximum” is reached, the Employer may consider termination of the Contract, pursuant to Sub-Clause 41.2.2 [Termination].</p> <p>Such payment shall completely satisfy the Contractor’s obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under Clause 39 [Extension of Time for Completion] The Contractor shall have no further liability whatsoever to the Employer in respect thereof.</p> <p>However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.</p> <p>Save for liquidated damages payable under this Sub-Clause 25.2 [Completion Time Guarantee], the failure by the Contractor to attain any milestone or other act, matter or thing by any date specified in the corresponding Appendix (Time Schedule) to the Agreement and/or other programme of work prepared pursuant to Sub-Clause 17.2 [Work Program] shall not render the Contractor liable for any loss or damage thereby suffered by the Employer.</p>
	25.3	<p>If the Contractor attains Completion of the Facilities or any part thereof before the Time for Completion or any extension thereof under Clause 39 [Extension of Time for Completion], the Employer shall pay to the Contractor a bonus in the amount specified in the SCC. The aggregate amount of such bonus shall in no event exceed the amount specified as “Maximum” in the SCC.</p>
26. Defect Liability	26.1	<p>The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Goods supplied and of the work executed.</p>
	26.2	<p>The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Facilities (or any part thereof) or twelve (12) months from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs, unless specified otherwise in the SCC.</p> <p>If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Goods supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Contractor shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:</p>

		<p>(a) improper operation or maintenance of the Facilities by the Employer</p> <p>(b) operation of the Facilities outside specifications provided in the Contract</p> <p>(c) normal wear and tear.</p>
	26.3	<p>The Contractor's obligations under this Clause 26 shall not apply to</p> <p>(a) any materials that are supplied by the Employer under Sub-Clause 20.2 [Procurement], are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein</p> <p>(b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Employer or any matters for which the Contractor has disclaimed responsibility herein</p> <p>(c) any other materials supplied, or any other work executed by or on behalf of the Employer, except for the work executed by the Employer under Sub-Clause 26.7.</p>
	26.4	<p>The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.</p>
	26.5	<p>The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this Clause 26.</p> <p>The Contractor may, with the consent of the Employer, remove from the Site any Goods 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.</p>
	26.6	<p>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, the Employer 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, whereupon the Contractor shall carry out such tests.</p> <p>If such part fails the tests, the Contractor shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests shall be agreed upon by the Employer and the Contractor.</p>
	26.7	<p>If the Contractor fails to commence the work necessary to remedy such defect or 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)</p>

		days), the Employer may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due the Contractor or claimed under the Performance Security.
	26.8	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 the Employer because of any of the aforesaid reasons.
	26.9	Except as provided in this Clauses 2 and 31 [Care of Facilities], the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Goods, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.
	26.10	In addition, the Contractor shall also provide an extended warranty for any such component of the Facilities and during the period of time as may be specified in the SCC . Such obligation shall be in addition to the defect liability specified under Sub- Clause 26.2 .
27. Functional Guarantees	27.1	The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified in the corresponding Appendix (Functional Guarantees) to the Agreement, subject to and upon the conditions therein specified.
	27.2	If, for reasons attributable to the Contractor, the minimum level of the Functional Guarantees specified in the corresponding Appendix (Functional Guarantees) to the Agreement are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet at least the minimum level of such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall request the Employer to repeat the Guarantee Test until the minimum level of the Guarantees has been met. If the Contractor eventually fails to meet the minimum level of Functional Guarantees, the Employer may consider termination of the Contract, pursuant to Sub- Clause 41.2.2 [Termination].
	27.3	If, for reasons attributable to the Contractor, the Functional Guarantees specified in the corresponding Appendix (Functional Guarantees) to the Agreement are not attained either in whole or in part, but the minimum level of

		<p>the Functional Guarantees specified in the said Appendix to the Agreement is met, the Contractor shall, at the Contractor's option, either</p> <p>(a) make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the Functional Guarantees at its cost and expense, and shall request the Employer to repeat the Guarantee Test or</p> <p>(b) pay liquidated damages to the Employer in respect of the failure to meet the Functional Guarantees in accordance with the provisions in the corresponding Appendix (Functional Guarantees) to the Agreement.</p>
	27.4	<p>The payment of liquidated damages under Sub-Clause 27.3, up to the limitation of liability specified in the SCC, shall completely satisfy the Contractor's guarantees under Sub-Clause 27.3, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.</p>
28. Patent Indemnity	28.1	<p>The Contractor shall, subject to the Employer's compliance with Sub-Clause 28.2, indemnify and hold harmless the Employer 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, which the Employer 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 by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the United Republic of Tanzania; and (b) the sale of the products produced by the Facilities in United Republic of Tanzania.</p> <p>Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Agreement.</p>
	28.2	<p>If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in Sub-Clause 28.1, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the</p>

		<p>settlement of any such proceedings or claim.</p> <p>If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.</p> <p>The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.</p>
	28.3	<p>The Employer 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 the Employer.</p>
29. Limitation of Liability	29.1	<p>Except in cases of criminal negligence or willful misconduct,</p> <p>(a) the Contractor shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and</p> <p>(b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Employer with respect to patent infringement.</p>

G. Risk Distribution

30. Transfer of Ownership	30.1	Ownership of the Goods (including spare parts) to be imported into the United Republic of Tanzania shall be transferred to the Employer upon loading on to the mode of transport to be used to convey the Goods from the country of origin.
	30.2	Ownership of the Goods (including spare parts) procured in the United Republic of Tanzania where the Site is located shall be transferred to the Employer when the Goods are brought on to the Site.
	30.3	Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.
	30.4	Ownership of any Goods in excess of the requirements for the Facilities shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Employer and the Contractor agree that the Goods in question are no longer required for the Facilities.
	30.5	Notwithstanding the transfer of ownership of the Goods, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to Clause 31 [Care of Facilities] hereof until Completion of the Facilities or the part thereof in which such Goods are incorporated.
31. Care of Facilities	31.1	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 Clause 23 [Completion of the Facilities] 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 Clause 26 [Defects Liability Period] . Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a), (b) and (c) of Sub- Clauses 31.2 and 37.1 [War Risks].
	31.2	If any loss or damage occurs to the Facilities or any part thereof or to the Contractor's temporary facilities by reason of (a) (insofar as they relate to the United Republic of Tanzania, where the Site is located) nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor

		<p>could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under Clause 33 [Insurance] hereof</p> <p>(b) any use or occupation by the Employer or any third party (other than a Subcontractor) authorized by the Employer of any part of the Facilities</p> <p>(c) any use of or reliance upon any design, data or specification provided or designated by or on behalf of the Employer, or any such matter for which the Contractor has disclaimed responsibility herein,</p> <p>the Employer shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged, and will pay to the Contractor the replacement value of all temporary facilities and all parts thereof lost, destroyed or damaged. If the Employer requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Employer in accordance with Clause 38 [Change in the Facilities]. If the Employer does not request the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Employer shall either request a change in accordance with Clause 38, excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Employer shall terminate the Contract pursuant to Sub-Clause 42.1 hereof.</p>
	31.3	<p>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 (i) as mentioned in Sub-Clause 31.2 [Care of the Facilities] (with respect to the Contractor's temporary facilities), and (ii) where such loss or damage arises by reason of any of the matters specified in Sub-Clauses 31.2 (b) and (c) and 37.1 [War Risks].</p>
	31.4	<p>With respect to any loss or damage caused to the Facilities or any part thereof or to the Contractor's Equipment by reason of any of the matters specified in Sub-Clause 37.1, the provisions of Sub- Clause 37.3 shall apply.</p>
<p>32. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification</p>	32.1	<p>Subject to Sub-Clause 32.3, the Contractor shall indemnify and hold harmless the Employer 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</p>

		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 the Employer, its contractors, employees, officers or agents.
	32.2	<p>If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under Sub-Clause 32.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.</p> <p>If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.</p> <p>The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.</p>
	32.3	The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Employer, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under Clause 33 [Insurance], provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.
	32.4	The party entitled to the benefit of an indemnity under this Clause 32 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.
33. Insurance	33.1	To the extent specified in the corresponding Appendix (Insurance Requirements) to the Agreement, 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

		<p>the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.</p> <p>(a) <u>Cargo Insurance During Transport:</u> 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 Goods (including spare parts therefore) and to the Contractor's Equipment.</p> <p>(b) <u>Installation All Risks Insurance:</u> 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.</p> <p>(c) <u>Third Party Liability Insurance:</u> Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property occurring in connection with the supply and installation of the Facilities.</p> <p>(d) <u>Automobile Liability Insurance:</u> 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.</p> <p>(e) <u>Workers' Compensation:</u> In accordance with the statutory requirements applicable in United Republic of Tanzania.</p> <p>(f) <u>Employer's Liability:</u> In accordance with the statutory requirements applicable in United Republic of Tanzania.</p> <p>(g) <u>Other Insurances:</u> Such other insurances as may be specifically agreed upon by the parties hereto as listed in the said the corresponding Appendix.</p>
	33.2	<p>The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to Sub-Clause 33.1, except for the Third Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insured's under all insurance policies taken out by the Contractor pursuant to Sub-Clause 33.1 except for the Cargo Insurance During Transport, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insured's for losses or claims arising out of the performance of the Contract shall be waived under such policies.</p>
	33.3	<p>The Contractor shall, in accordance with the provisions of the corresponding Appendix (Insurance Requirements) to the Agreement, deliver to the Employer certificates of</p>

		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 the Employer by insurers prior to cancellation or material modification of a policy.
	33.4	The 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.
	33.5	The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in the corresponding Appendix (Insurance Requirements) to the Agreement, in the sums and with the deductibles and other conditions specified in the said Appendix. The Contractor and the Contractor's Subcontractors shall be named as co-insured's under all such policies. All insurers' rights of subrogation against such co-insured's for losses or claims arising out of the performance of the Contract shall be waived under such policies. The Employer shall deliver to the Contractor satisfactory evidence that the required insurances are in full force and effect. The policies shall provide that not less than twenty-one (21) days' notice shall be given to the Contractor by all insurers prior to any cancellation or material modification of the policies. If so requested by the Contractor, the Employer shall provide copies of the policies taken out by the Employer under this Sub- Clause 35.5.
	33.6	If the Contractor fails to take out and/or maintain in effect the insurances referred to in Sub- Clause 33.1, the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor. If the Employer fails to take out and/or maintain in effect the insurances referred to in Sub- Clause 33.5, the Contractor may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Employer under the Contract any premium that the Contractor shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Employer. If the Contractor fails to or is unable to take out and maintain in effect any such insurances, the Contractor shall nevertheless have no liability or responsibility towards the Employer, and the Contractor shall have full recourse against the Employer for any and all liabilities of the Employer herein.

	33.7	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 Clause 37, and all monies payable by any insurers shall be paid to the Contractor. The Employer shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor's interest is involved, the Employer shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.
34.. Unforeseen Conditions	34.1	<p>If, during the execution of the Contract, the Contractor shall encounter on the Site any physical conditions (other than climatic conditions) or artificial obstructions that could not have been reasonably foreseen prior to the date of the 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) provided by the Employer, and on the basis of information that it could have obtained from a visual inspection of the Site (if access thereto was available) or other data readily available to it relating to the Facilities, and if the Contractor determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Contractor shall promptly, and before performing additional work or using additional Goods or Contractor's Equipment, notify the Project Manager in writing of</p> <ul style="list-style-type: none"> (a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen (b) the additional work and/or Goods and/or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions (c) the extent of the anticipated delay (d) the additional cost and expense that the Contractor is likely to incur.
	34.2	On receiving any notice from the Contractor under Sub- Clause 34.1, the Project Manager shall promptly consult with the Employer and Contractor and decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Contractor, with a copy to the Employer, of the actions to be taken.

	34.3	Any reasonable additional cost and expense incurred by the Contractor in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in Clause 34.1 [Unforeseen Conditions] shall be paid by the Employer to the Contractor as an addition to the Contract Price.
	34.4	If the Contractor is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in Clause 34.1 , the Time for Completion shall be extended in accordance with Clause 39 [Extension of Time for Completion]
35. Change in Laws and Regulations	35.1	If, after the date twenty-eight (28) days prior to the date of Tender submission, in the United Republic of Tanzania, 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 .
36. Force Majeure	36.1	Force majeure shall include, without limitation, the following: <ul style="list-style-type: none"> (a) war, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler or any other act or failure to act of any local state or national government authority (d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine and plague (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or

		<p>physical disaster</p> <p>(f) shortage of labour, materials or utilities where caused by circumstances that are themselves Force Majeure.</p>
	36.2	If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.
	36.3	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 Clause 39 {Extension of Time for Completion}.
	36.4	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 Sub- Clauses 36.6 and 37.5 [War Risks].
	36.5	<p>No delay or nonperformance by either party hereto caused by the occurrence of any event of Force Majeure shall</p> <p>(a) constitute a default or breach of the Contract</p> <p>(b) (subject to Sub-Clauses 31.2 [Care of Facilities], and 37.3 and 37.4 [War Risks] give rise to any claim for damages or additional cost or expense occasioned thereby</p> <p>if and to the extent that such delay or nonperformance is caused by the occurrence of an event of Force Majeure.</p>
	36.6	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 currency 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 Sub- Clause 37.5 [War Risks].
	36.7	In the event of termination pursuant to Sub- Clause 36.6 [Force Majeure], the rights and obligations of the Employer and the Contractor shall be as specified in Sub- Clauses 41.1.2 and 41.1.3 [Termination].
	36.8	Notwithstanding Sub- Clause 36.5 , Force Majeure shall not apply to any obligation of the Employer to make

		payments to the Contractor herein.
37. War Risks	37.1	“War Risks” shall mean any event specified in paragraphs (a) and (b) of Sub Clause 36.1 [Force Majeure] 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 United Republic of Tanzania where the Site is located.
	37.2	Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to <ul style="list-style-type: none"> (a) destruction of or damage to Facilities, Goods, or any part thereof (b) destruction of or damage to property of the Employer or any third party (c) injury or loss of life if such destruction, damage, injury or loss of life is caused by any War Risks, and the Employer 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.
	37.3	If the Facilities or any Goods 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, the Employer shall pay the Contractor for <ul style="list-style-type: none"> (a) any part of the Facilities or the Goods so destroyed or damaged (to the extent not already paid for by the Employer) (b) replacing or making good any Contractor’s Equipment or other property of the Contractor so destroyed or damaged (c) replacing or making good any such destruction or damage to the Facilities or the Goods or any part thereof so far as may be required by the Employer, and as may be necessary for completion of the Facilities. If the Employer does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Employer shall either request a change in accordance with Clause 38 [Change in the Facilities], excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to Sub- Clause 41 . [Termination].
	37.4	Notwithstanding anything contained in the Contract, the Employer shall pay the Contractor for any increased costs or incidentals to the execution of the Contract that

		are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Contractor shall as soon as practicable notify the Employer in writing of any such increased cost.
	37.5	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 on the Facilities, provided, however, that if the execution of the work on the Facilities 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.
	37.6	In the event of termination pursuant to Sub-Clauses .37.3 or 37.5, the rights and obligations of the Employer and the Contractor shall be specified in Sub-Clauses 41.1.2 and 41.1.3 [Termination].

H. Change in Contract Elements

38. Change in the Facilities	38.1	<p><u>Introducing a Change</u></p> <p>38.1.1 Subject to Sub-Clauses 38.2.5 and 38.2.7, the Employer 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 (hereinafter 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.</p> <p>38.1.2 The Contractor may from time to time during its performance of the Contract propose to the Employer (with a copy to the Project Manager) any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor, provided that the Employer shall approve any Change proposed by the Contractor to ensure the safety of the Facilities.</p>
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		<p>38.1.3 Notwithstanding Sub-Clauses 38.1.1 and 38.1.2, 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.</p> <p>38.1.4 The procedure on how to proceed with and execute Changes is specified in Sub-Clauses 38.2 and 38.3, and further details and sample forms are provided in the Sample Forms and Procedures section in the Tendering Documents.</p>
	<p>38.2</p>	<p><u>Changes Originating from Employer</u></p> <p>38.2.1 If the Employer proposes a Change pursuant to Sub-Clause 38.1.1, 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:</p> <ul style="list-style-type: none"> (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 any other provisions of the Contract. <p>38.2.2 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.</p> <p>38.2.3 Upon receipt of the Contractor’s Estimate for Change Proposal, the Employer shall do one of the following:</p> <ul style="list-style-type: none"> (a) accept the Contractor’s estimate with instructions to the Contractor to proceed with the preparation of the Change Proposal (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 the Employer does not intend to proceed with the Change. <p>38.2.4 Upon receipt of the Employer’s instruction to proceed under Sub-Clause 38.2.2 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with Sub- Clause 38.2.1.</p>

		<p>38.2.5 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 thereto shall agree on specific rates for the valuation of the Change.</p> <p>38.2.6 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this Clause 38 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Agreement by more than fifteen percent (15%), the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer shall withdraw the proposed Change and shall notify the Contractor in writing thereof. The Contractor's failure to so object shall neither affect its right to object to any subsequent requested Changes or Change Orders herein, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Contractor represents.</p> <p>38.2.7 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order. If the Employer is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision.</p> <p>38.2.8 If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, 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 Sub-Clause 38.2.3.</p> <p>38.2.9 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct</p>
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		<p>the Contractor to proceed with the Change by issue of a “Pending Agreement Change Order.”</p> <p>38.2.10 Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.</p> <p>38.2.11 If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Dispute Avoidance and Resolution Board in accordance with the provisions of Clause 46 [Obtaining Disputes Adjudication Board Decision].</p>
	<p>38.3</p>	<p><u>Changes Originating from Contractor</u></p> <p>38.3.1 If the Contractor proposes a Change pursuant to Sub-Clause 38.1.2, 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 Sub-Clause 38.2.1.</p> <p>38.3.2 Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in Sub-Clauses 38.2.6 and 38.2.7. However, should the Employer choose not to proceed, the Contractor shall not be entitled to recover the costs of preparing the Application for Change Proposal.</p>
<p>39. Extension of Time for Completion</p>	<p>39.1</p>	<p>The Time(s) for Completion specified in the SCC 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:</p> <ul style="list-style-type: none"> (a) any Change in the Facilities as provided in Clause 38 [Change in the Facilities] (b) any occurrence of Force Majeure as provided in Clause 36, unforeseen conditions as provided in Clause 34, or other occurrence of any of the matters specified or referred to in paragraphs (a), (b) and (c) of Sub-Clause 31.2 [Care of Facilities] (c) any suspension order given by the Employer under Clause 40 hereof or reduction in the rate of progress pursuant to Clause 40.2 or (d) any changes in laws and regulations as provided in Clause 35 or (e) any default or breach of the Contract by the Employer, specifically including failure to supply the items listed in the corresponding Appendix (Scope of Works and Supply by the Employer) to the

		<p>Agreement, or any activity, act or omission of any other contractors employed by the Employer or</p> <p>(f) 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.</p>
	39.2	<p>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, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter the Dispute Avoidance and Resolution Board, pursuant to Clause 46.1.</p>
	39.3	<p>The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.</p>
	39.4	<p>In all cases where the Contractor has given a notice of a claim for an extension of time under Sub-Clause 39.2, 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 Sub-Clause 39.1, the amount of such extra costs shall be added to the Contract Price.</p>
40. Suspension	40.1	<p>The Employer may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons thereof. The Contractor shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Project Manager.</p>
	40.2	<p>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 thereafter</p>

		and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Employer 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 Clause 38 [Change in the Facilities] , excluding the performance of the suspended obligations from the Contract.
	40.3	If the Employer 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 a part only of the Facilities, as a deletion of such part in accordance with Clause 38 [Change in the Facilities] or, where it affects the whole of the Facilities, as termination of the Contract under Sub-Clause 41.1 .
	40.4	<p>If:</p> <p>(a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the corresponding Appendix (Terms and Procedures of Payment) to the Agreement, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, with interest thereon as stipulated in Sub-Clause 11.3 [Terms of Payment], requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, or fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice or</p> <p>(b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas in accordance with Sub-Clause 9.2 [Employer's Responsibilities], or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities,</p> <p>then the Contractor may by fourteen (14) days' notice to the Employer suspend performance of all or any of its obligations under the Contract or reduce the rate of progress.</p>
	40.5	If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this Clause 40 , then the Time for Completion shall be

		extended in accordance with Sub- Clause 39.1 [Extension of Time for Completion], and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.
	40.6	During the period of suspension, the Contractor shall not remove from the Site any Goods, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Employer.
41. Termination	41.1	<p><u>Termination for Employer's Convenience</u></p> <p>41.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this Sub-Clause 41.1.</p> <p>41.1.2 Upon receipt of the notice of termination under Sub-Clause 41.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination</p> <ul style="list-style-type: none"> (a) cease all further work, except for such work as the Employer 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 the Employer 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 (d) In addition, the Contractor, subject to the payment specified in Sub-Clause 41.1.3, shall <ul style="list-style-type: none"> (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Goods as of the date of termination, and, as may be

		<p>required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors</p> <p>(iii) deliver to the Employer 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.</p> <p>41.1.3 In the event of termination of the Contract under Sub-Clause 41.1.1, the Employer shall pay to the Contractor the following amounts:</p> <ul style="list-style-type: none"> (a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination (b) 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 (c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges (d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of Sub-Clause 41.1.2 (e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.
	<p>41.2</p>	<p><u>Termination for Contractor's Default</u></p> <p>41.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons thereof to the Contractor, referring to this Sub-Clause 41.2:</p> <ul style="list-style-type: none"> (a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver

		<p>is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt</p> <p>(b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of Clause 42 [Assignment].</p> <p>(c) if the Contractor, in the judgment of the Employer has engaged in corrupt, coercive, collusive, obstructive or fraudulent practices in competing for or in executing the Contract.</p> <p>For the purpose of this paragraph:</p> <p>i. “corrupt practice” means the offering, giving receiving or soliciting of anything of value to influence the action of a public officer in the procurement process or contract execution;</p> <p>ii. “coercive practice” means impairing or harming, or threatening to impair or harm directly or indirectly, any party or the property of the party for the purpose of influencing improperly the action or that party in connection with public procurement or in furtherance of corrupt practice or fraudulent practice;</p> <p>iii. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Government or a public body and includes collusive practices among tenderers, prior to or after submission designed to establish tender prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;</p> <p>iv. “obstructive practice” means acts intended to materially impede access to required information in exercising a duty under this Act;</p> <p>41.2.2 If the Contractor</p> <p>(a) has abandoned or repudiated the Contract</p> <p>(b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to Sub-Clause 40.2 [Suspension]) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed</p> <p>(c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its</p>
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		<p>obligations under the Contract without just cause</p> <p>(d) refuses or is unable to provide sufficient materials, services or labour to execute and complete the Facilities in the manner specified in the programme furnished under Sub-Clause 17.2 [Work Program] at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,</p> <p>then the Employer 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 the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this Sub-Clause 41.2.</p> <p>41.2.3 Upon receipt of the notice of termination under Sub-Clauses 41.2.1 or 41.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,</p> <p>(a) cease all further work, except for such work as the Employer 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</p> <p>(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below</p> <p>(c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination</p> <p>(d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Goods as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors</p> <p>(e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the</p>
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		<p style="text-align: center;">Facilities.</p> <p>41.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Employer and with an indemnification by the Employer for all liability including damage or injury to persons arising out of the Employer's use of such equipment, any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.</p> <p>Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.</p> <p>41.2.5 Subject to Sub-Clause 41.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as of the date of termination, the value of any unused or partially used Goods on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of Sub-Clause 41.2.3. Any sums due the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.</p> <p>41.2.6 If the Employer completes the Facilities, the cost of completing the Facilities by the Employer shall be determined.</p> <p>If the sum that the Contractor is entitled to be paid, pursuant to Sub-Clause 41.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.</p> <p>If such excess is greater than the sums due the Contractor under Sub-Clause 41.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under Sub-Clause 41.2.5, the</p>
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		<p>Employer shall pay the balance to the Contractor.</p> <p>The Employer and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.</p>
	<p>41.3</p>	<p><u>Termination by Contractor</u></p> <p>41.3.1 If</p> <p>(a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the corresponding Appendix (Terms and Procedures of Payment) of the Agreement, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, with interest thereon as stipulated in Sub-Clause 11.3 [Terms of Payment], requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor’s notice, or</p> <p>(b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer’s failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities,</p> <p>then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within twenty-eight (28) days of the said notice, the Contractor may by a further notice to the Employer referring to this Sub-Clause 41.3.1, forthwith terminate the Contract.</p>

		<p>41.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this Sub-Clause 41.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Employer takes or suffers any other analogous action in consequence of debt.</p> <p>41.3.3 If the Contract is terminated under Sub-Clauses 41.3.1 or 41.3.2, then the Contractor shall immediately</p> <ul style="list-style-type: none"> (a) cease all further work, except for such work as may be necessary for the 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 the Employer pursuant to paragraph (d) (ii) (c) remove all Contractor’s Equipment from the Site and repatriate the Contractor’s and its Subcontractors’ personnel from the Site. (d) In addition, the Contractor, subject to the payment specified in Sub-Clause 41.3.4, shall <ul style="list-style-type: none"> (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Goods as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors (iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities. <p>41.3.4 If the Contract is terminated under Clauses 41.3.1 or 41.3.2, the Employer shall pay to the Contractor all payments specified in Sub-Clause 41.1.3, and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Contractor arising out of, in connection with or</p>
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		<p>in consequence of such termination.</p> <p>41.3.5 Termination by the Contractor pursuant to this Sub-Clause 41.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by Sub-Clause 41.3.</p>
	41.4	In this Clause 41 , the expression “Facilities executed” shall include all work executed, Installation Services provided, and all Goods acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.
	41.5	In this Clause 41 , in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to the corresponding Appendix (Terms and Procedures of Payment) to the Agreement.
42. Assignment	42.1	Neither the Employer nor the Contractor shall, without the express prior written consent of the other party (which consent shall not be unreasonably withheld), assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

I: Claims, Disputes and Arbitration

43. Contractor's Claims	43.1	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.
	43.2	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 the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.
	43.3	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.

	43.4	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 the Employer'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.
	43.5	<p>Within 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:</p> <p>(a) this fully detailed claim shall be considered as interim;</p> <p>(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</p> <p>(c) the Contractor shall send a final claim within 28 days 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.</p>
	43.6	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.
	43.7	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 Clause 39 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
	43.8	Each Payment Certificate shall include such additional payment for any claim as have 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.
	43.9	If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer it to the Dispute Avoidance and Resolution Board in accordance with Sub-Sub-Clause 46.4 [Obtaining Dispute Avoidance and Resolution Board’s Decision].
	43.10	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.
44. Appointment of the Dispute Avoidance and Resolution Board	44.1	Disputes shall be referred to a DARB for decision in accordance with Sub-Clause 46.4 [Obtaining Dispute Avoidance and Resolution Board’s Decision]. The Parties shall appoint a DARB by the date stated in the SCC .
	44.2	The DARB shall comprise, as stated in the SCC , either one or three suitably qualified persons (“the members”), each of whom shall be fluent in the language for communication defined in the Contract and shall be a professional experienced in the type of construction involved in the Works and with the interpretation of contractual documents. If the number is not so stated and the Parties do not agree otherwise, the DARB shall comprise three persons, one of whom shall serve as chairman.
	44.3	If the Parties have not jointly appointed the DARB 21 days before the date stated in the SCC and the DARB is to comprise three persons, each Party shall nominate one member for the approval of the other Party. The first two members shall recommend and the Parties shall agree upon the third member, who shall act as chairman.
	44.4	The agreement between the Parties and either the sole member or each of the three members shall incorporate by reference the General Conditions of Dispute Avoidance and Resolution Board Agreement contained in the Appendix B to these General Conditions, with such amendments as are agreed between them.
	44.5	The terms of the remuneration of either the sole member or each of the three members, including the

		remuneration of any expert whom the DARB consults, shall be mutually agreed upon by the Parties when agreeing the terms of appointment of the member or such expert (as the case may be). Each Party shall be responsible for paying one-half of this remuneration.
	44.6	If a member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, a replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Sub-Clause.
	44.7	The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Employer or the Contractor acting alone. Unless otherwise agreed by both Parties, the appointment of the DARB (including each member) shall expire when the discharge referred to in Sub-Clause 50.1 shall have become effective.
45. Failure to Agree on the Composition of the Dispute Avoidance and Resolution Board	45.1	<p>If any of the following conditions the Parties fail to agree upon the appointment of the sole member of the DARB by the date stated in the first paragraph of Clause 44, [Appointment of the Dispute Avoidance and Resolution Board],</p> <ul style="list-style-type: none"> a) either Party fails to nominate a member (for approval by the other Party) or fails to approve a member nominated by the other Party, of a DARB of three persons by such date, b) the Parties fail to agree upon the appointment of the third member (to act as chairman) of the DARB by such date, or c) the Parties fail to agree upon the appointment of a replacement person within 42 days after the date on which the sole member or one of the three members declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, <p>then the Appointing Entity or official named in the SCC shall, upon the request of either or both of the Parties and after due consultation with both Parties, appoint this member of the DARB. This appointment shall be final and conclusive. Each Party shall be responsible for paying one-half of the remuneration of the appointing entity or official.</p>
46 Obtaining Dispute Avoidance and Resolution Board's Decision	46.1	If 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 DARB for its decision, with copies to the other Party and the Project Manager. Such

		reference shall state that it is given under this Sub-Clause.
	46.2	For a DARB of three persons, the DARB shall be deemed to have received such reference on the date when it is received by the chairman of the DARB.
	46.3	Both Parties shall promptly make available to the DARB all such additional information, further access to the Site, and appropriate facilities, as the DARB may require for the purposes of making a decision on such dispute. The DARB shall be deemed to be not acting as arbitrator(s).
	46.4	Within 84 days after receiving such reference, or within such other period as may be proposed by the DARB and approved by both Parties, the DARB shall give its decision, which shall be reasoned and shall state that it is given under this Sub-Clause. The decision shall be binding on both Parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below. Unless the Contract has already been abandoned, repudiated or terminated, the Contractor shall continue to proceed with the Works in accordance with the Contract.
	46.5	If either Party is dissatisfied with the DARB's decision, then either Party may, within 28 days after receiving the decision, give notice to the other Party of its dissatisfaction and intention to commence arbitration. If the DARB fails to give its decision within the period of 84 days (or as otherwise approved) after receiving such reference, then either Party may, within 28 days after this period has expired, give notice to the other Party of its dissatisfaction and intention to commence arbitration.
	46.6	In either event, this notice of dissatisfaction shall state that it is given under this Sub-Clause, and shall set out the matter in dispute and the reason(s) for dissatisfaction. Except as stated in Clause 44 [Failure to Comply with Dispute Avoidance and Resolution Board's Decision] and Clause 50 [Expiry of Dispute Avoidance and Resolution Board's Appointment], neither Party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been given in accordance with this Clause.
	46.7	If the DARB has given its decision as to a matter in dispute to both Parties, and no notice of dissatisfaction has been given by either Party within 28 days after it received the DARB's decision, then the decision shall become final and binding upon both Parties.
47. Amicable Settlement	47.1	Where notice of dissatisfaction has been given under Sub-Clause 46.4 above, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, arbitration may be commenced on or after the

		fifty-sixth day after the day on which a notice of dissatisfaction and intention to commence arbitration was given, even if no attempt at amicable settlement has been made.
48. Arbitration	48.1	Unless indicated otherwise in the SCC , any dispute not settled amicably and in respect of which the DARB's decision (if any) has not become final and binding shall be finally settled by arbitration with proceedings conducted in accordance with the laws of the United Republic of Tanzania.
	48.2	The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, and any decision of the DARB, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
	48.3	Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the DARB to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the DARB shall be admissible in evidence in the arbitration.
	48.4	Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Project Manager and the DARB shall not be altered by reason of any arbitration being conducted during the progress of the Works.
49 Failure to Comply with Dispute Avoidance and Resolution Board's Decision	49.1	In the event that a Party fails to comply with a DARB decision which has become final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under Clause 48[Arbitration]. Clause 46 [Obtaining Dispute Avoidance and Resolution Board's Decision] and Clause 47 [Amicable Settlement] shall not apply to this reference.
50. Expiry of Dispute Avoidance and Resolution Board's Appointment	50.1	If a dispute arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works and there is no DARB in place, whether by reason of the expiry of the DARB's appointment or otherwise: <ul style="list-style-type: none"> a) Clause 46 [Obtaining Dispute Avoidance and Resolution Board's Decision] and Clause 47 [Amicable Settlement] shall not apply, and b) the dispute may be referred directly to arbitration under Clause 48 [Arbitration].

APPENDIX A

Environmental, Social, Health and Safety (ESHS)

Metrics for Progress Reports

[Note to Employer: the following metrics may be amended to reflect the specifics of the Contract. The Employer shall ensure that the metrics provided are appropriate for the Works and impacts/key issues identified in the environmental and social assessment]

Metrics for regular reporting:

- a) environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;
- b) health and safety incidents, accidents, injuries that require treatment and all fatalities;
- c) interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);
- d) status of all permits and agreements:
 - i). work permits: number required, number received, actions taken for those not received;
 - ii). status of permits and consents:
 - *list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);*
 - *list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);*
 - *identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);*
 - *for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period).*
- e) health and safety supervision:
 - i). safety officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;
 - ii). number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);
- f) worker accommodations:
 - i). number of expats housed in accommodations, number of locals;
 - ii). date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, etc.;

- iii). actions taken to recommend/require improved conditions, or to improve conditions.
- g) Health services: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);
- h) gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);
- i) training:
 - i). number of new workers, number receiving induction training, dates of induction training;
 - ii). number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;
 - iii). number and dates of communicable diseases (including STDs) sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.
 - iv). number and date of SEA and SH prevention sensitization and/or training events, including number of workers receiving training on Code of Conduct for Contractor's Personnel (in the reporting period and in the past), etc.
- j) environmental and social supervision:
 - i) environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;
 - ii) sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and
 - iii) community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.
- k) *Grievances*: list new grievances (e.g. number of allegations of SEA and SH) received in the reporting period and number of unresolved past grievances by date received, complainant's age and sex, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed).
 - i. Worker grievances;
 - ii. Community grievances
- l) Traffic, road safety and vehicles/equipment:
 - i) traffic and road safety incidents and accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;

- ii) traffic and road safety incidents and accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;
 - iii) overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).
- m) Environmental mitigations and issues (what has been done):
- i) dust: number of working bowzers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/spoil lorries with covers, actions taken for uncovered vehicles;
 - ii) erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
 - iii) quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;
 - iv) blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);
 - v) spill cleanups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
 - vi) waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;
 - vii) details of tree plantings and other mitigations required undertaken in the reporting period;
 - viii) details of water and swamp protection mitigations required undertaken in the reporting period.
- n) compliance:
- i) compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
 - ii) compliance status of C-ESMP/ESIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - iii) compliance status of SEA and SH prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - iv) compliance status of Health and Safety Management Plan re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
 - v) other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.

APPENDIX B

A General Conditions of Dispute Avoidance and Resolution Board Agreement

- 1. Definitions** Each “Dispute Avoidance and Resolution Board Agreement” is a tripartite agreement by and between:
- (a) the “Employer”;
 - (b) the “Contractor”; and
 - (c) the “Member” who is defined in the Dispute Avoidance and Resolution Board Agreement as being
 - i). the sole member of “Dispute Avoidance and Resolution Board” and, where this is the case, all references to the “Other Members” do not apply, or
 - ii). one of the three persons who are jointly called the “DARB” (or “Dispute Adjudication Panel”) and, where this is the case, the other two persons are called the “Other Members.”

The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the "Contract" and is defined in the Dispute Avoidance and Resolution Board Agreement, which incorporates this Appendix. In the DARB Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract.

- 2. General Provisions** Unless otherwise stated in the DARB Agreement, it shall take effect on the latest of the following dates:
- (a) the Commencement Date defined in the Contract,
 - (b) when the Employer, the Contractor and the Member have each signed the DARB Agreement, or
 - (c) when the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a Dispute Avoidance and Resolution Board agreement.

This employment of the Member is a personal appointment. At any time, the Member may give not less than 70 days’ notice of resignation to the Employer and to the Contractor, and the Dispute Agreement shall terminate upon the expiry of this period.

- 3. Warranties** The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Project Manager. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.

When appointing the Member, the Employer and the Contractor

relied upon the Member's representations that he/she is:

- (a) experienced in the work which the Contractor is to carry out under the Contract,
- (b) experienced in the interpretation of contract documentation, and
- (c) fluent in the language for communications defined in the Contract.

4. General Obligations of the Member

The Member shall:

- (a) have no interest financial or otherwise in the Employer, the Contractor or Project Manager, nor any financial interest in the Contract except for payment under the DARB Agreement;
- (b) not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Project Manager, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the DARB Agreement;
- (c) have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the DARB Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Project Manager, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the DARB Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Project Manager, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any);
- (e) comply with the annexed procedural rules and with Sub-Clause 20.4 of the Conditions of Contract;
- (f) not give advice to the Employer, the Contractor, the Employer's Personnel or the Contractor's Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural rules;
- (g) not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Project Manager regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the DARB Agreement;
- (h) ensure his/her availability for all site visits and hearings as are necessary;
- (i) become conversant with the Contract and with the progress of the Works (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file;

- (j) treat the details of the Contract and all the DARB's activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and
- (k) be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any).

5. General Obligations of the Employer and the Contractor

The Employer, the Contractor, the Employer's Personnel and the Contractor's Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the normal course of the DARB's activities under the Contract and the DARB Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer's Personnel and the Contractor's Personnel respectively.

The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):

- (a) be appointed as an arbitrator in any arbitration under the Contract;
- (b) be called as a witness to give evidence concerning any dispute before arbitrator(s) appointed for any arbitration under the Contract; or
- (c) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member's functions, unless the act or omission is shown to have been in bad faith.

The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.

Whenever the Employer or the Contractor refers a dispute to the DARB under Sub-Clause 20.4 of the Conditions of Contract, which will require the Member to make a site visit and attend a hearing, the Employer or the Contractor shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due or paid to the Member.

6. Payment

The Member shall be paid as follows, in the currency named in the DARB Agreement:

- (a) a retainer fee per calendar month, which shall be considered as payment in full for:
 - (i) being available on 28 days' notice for all site visits and hearings;

- (ii) becoming and remaining conversant with all project developments and maintaining relevant files;
- (iii) all office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and
- (iv) all services performed hereunder except those referred to in sub-paragraphs (b) and (c) of this Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the Adjudication Panel Board Agreement becomes effective; until the last day of the calendar month in which the Taking-Over Certificate is issued for the whole of the Works.

With effect from the first day of the calendar month following the month in which the Taking-Over Certificate is issued for the whole of the Works, the retainer fee shall be reduced by one third. This reduced fee shall be paid until the first day of the calendar month in which the Member resigns or the DARB Agreement is otherwise terminated.

- (b) a daily fee which shall be considered as payment in full for:
 - (i) each day or part of a day up to a maximum of two days' travel time in each direction for the journey between the Member's home and the site, or another location of a meeting with the Other Members (if any);
 - (ii) each working day on Site visits, hearings or preparing decisions; and
 - (iii) each day spent reading submissions in preparation for a hearing.
- (c) all reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses) incurred in connection with the Member's duties, as well as the cost of telephone calls, courier charges, faxes and telexes: a receipt shall be required for each item in excess of five percent of the daily fee referred to in sub-paragraph (b) of this Clause;
- (d) any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the Country) under this Clause 6.

The retainer and daily fees shall be as specified in the DARB Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the DARB Agreement became effective.

If the parties fail to agree on the retainer fee or the daily fee, the appointing entity or official named **in the SCC** shall determine the amount of the fees to be used.

The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.

The Contractor shall pay each of the Member's invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.

If the Contractor fails to pay to the Member the amount to which he/she is entitled under the DARB Agreement, the Employer shall pay the amount due to the Member and any other amount which may be required to maintain the operation of the DARB; and without prejudice to the Employer's rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in Sub-Clause 11.3 of the Conditions of Contract.

If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7.

7. Termination

At any time: (i) the Employer and the Contractor may jointly terminate the DARB Agreement by giving 42 days' notice to the Member; or (ii) the Member may resign as provided for in Clause 2.

If the Member fails to comply with the DARB Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by notice to the Member. The notice shall take effect when received by the Member.

If the Employer or the Contractor fails to comply with the DARB Agreement, the Member may, without prejudice to his other rights, terminate it by notice to the Employer and the Contractor. The notice shall take effect when received by them both.

Any such notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a notice by the Employer or the Contractor, but not by both, shall be of no effect.

8. Default of the Member

If the Member fails to comply with any of his obligations under Clause 4 (a) - (d) above, he shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DARB

which are rendered void or ineffective by the said failure to comply.

If the Member fails to comply with any of his obligations under Clause 4 (e) - (k) above, he shall not be entitled to any fees or expenses hereunder from the date and to the extent of the non-compliance and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses already received by the Member, for proceedings or decisions (if any) of the DARB which are rendered void or ineffective by the said failure to comply.

9. Disputes

Any dispute or claim arising out of or in connection with this DARB Agreement, or the breach, termination or invalidity thereof, shall be finally settled by Arbitration.

PROCEDURAL RULES

Unless otherwise agreed by the Employer and the Contractor, the DARB shall visit the site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DARB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.

The timing of and agenda for each site visit shall be as agreed jointly by the DARB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DARB. The purpose of site visits is to enable the DARB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to endeavour to prevent potential problems or claims from becoming disputes.

Site visits shall be attended by the Employer, the Contractor and the Project Manager and shall be co-ordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each site visit and before leaving the site, the DARB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.

The Employer and the Contractor shall furnish to the DARB one copy of all documents which the DARB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DARB and the Employer or the Contractor shall be copied to the other Party. If the DARB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.

If any dispute is referred to the DARB in accordance with Sub-Clause 20.4 of the Conditions of Contract, the DARB shall proceed in accordance with Sub-Clause 20.4 and these Rules. Subject to the time allowed to give notice of a decision and other relevant factors, the DARB shall:

- (a) act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other's case, and
- (b) adopt procedures suitable to the dispute, avoiding unnecessary delay or expense.

The DARB may conduct a hearing on the dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.

Except as otherwise agreed in writing by the Employer and the Contractor, the DARB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Project Manager, and to proceed in the absence of any party who the DARB is satisfied received notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.

The Employer and the Contractor empower the DARB, among other things, to:

- (a) establish the procedure to be applied in deciding a dispute,
- (b) decide upon the DARB's own jurisdiction, and as to the scope of any dispute referred to it,
- (c) conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Rules,
- (d) take the initiative in ascertaining the facts and matters required for a decision,
- (e) make use of its own specialist knowledge, if any,
- (f) decide upon the payment of financing charges in accordance with the Contract,
- (g) decide upon any provisional relief such as interim or conservatory measures, and
- (h) open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute.

The DARB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DARB shall make and give its decision in accordance with Sub-Clause 20.4, or as otherwise agreed by the Employer and the Contractor in writing. If the DARB comprises three persons:

- (a) it shall convene in private after a hearing, in order to have discussions and prepare its decision;
- (b) it shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
- (c) if a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision, unless:
 - (i) either the Employer or the Contractor does not agree that they do so, or
 - (ii) the absent Member is the chairman and he/she instructs the other Members not to make a decision.

SECTION IX: SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract (**SCC**) shall supplement the General Conditions of Contract (**Clause**). Whenever there is a conflict, the provisions herein shall prevail over those in the **Clause**. The corresponding clause number of the **Clause** is indicated in parentheses.

*[Instructions for completing the **SCC** are provided, as needed, in the notes in italics mentioned for the relevant Special Conditions. Where sample provisions are furnished, they are only illustrative of the provisions that the Employer should draft specifically for each procurement. Several provisions and related information shall be either completed or modified in accordance with the information provided by the Tenderer whose Tender has been accepted by the Employer or agreed between that Tenderer and the Employer.]*

SCC No.	Conditions	GCC Sub-Clause	Data
1.	Employer's name and address	1.1(g)	<i>Insert Employer's Name and Address</i>
2	Project Manager's name and address	1.1(h)	<i>Insert Project Manager's Name and Address</i>
3.	Contractors Name and Address	1.1(i)	The Contractor is: <i>[Insert name, address, and telephone, cable and facsimile numbers of the contractor]</i>
4.	Contractors Representative	1.1(k)	The Contractor's Representative is: <i>[Insert name, address, and telephone, cable and facsimile numbers of the Contractor's representative]</i> .]
5.	Country of Origin	1.1 (s)	Country of Origin: all countries and territories as indicated in the section of the Tendering Documents, Eligibility for the Provision of Goods, Works and Services.
6.	Time for Completion	1.1.(v)&25.1	Time for Completion: <i>[Insert the time]</i> Sample Provision Time for Completion for all Facilities: <i>[The time shall be specified in days, weeks or months, as appropriate, and shall be written in words and figures.], or</i> Time for Completion for parts of the Facilities:

SCC No.	Conditions	GCC Sub-Clause	Data
			<p>Description Time for Completion</p> <p><i>[Each part of the Facilities subject to a specific Time for Completion shall be listed and briefly described with its respective Time for Completion specified in days, weeks or months, as appropriate, in words and figures.]</i></p>
8.	Conditions Precedent	3.1& 3.2	<p>Conditions Precedent to Contract Effectiveness <i>(List down if any Otherwise State "Not Applicable")</i></p> <p><i>[Insert date when the Conditions precedent are to be fulfilled]</i></p>
9.	Employer's Address for Notices	4.1	<p>Employer's address for notice purposes: <i>[Insert the address of the Employer]</i></p>
10.	Contractor's Address for Notices	4.1	<p>Contractor's address for notice purposes: <i>[Insert address, telephone, cable and facsimile numbers of the contractor]</i></p>
11.	Governing Law and Language	2.1&5.1	<p>The Contract shall be interpreted in accordance with the laws of the United Republic of Tanzania</p> <p>The language of the contract shall be English, <i>if not insert any other language</i></p>
12.	Spare Parts	6.3	<p>The Contractor agrees to supply spare parts for a period ofyears:<i>[A reasonable number of years should be specified in words and figures.</i></p> <p>Sample Addition to GCC 6.3</p> <p>The Contractor shall carry sufficient inventories to ensure an ex-stock supply of consumable spares for the goods. Other spare parts and components shall be supplied as promptly as possible, but at the most within six (6) months of placing the order and opening the letter of credit. In addition, in the event of termination of the production of spare parts, advance notification will be made to the Employer of the pending termination, with sufficient time to permit the Employer to procure the needed requirement. Following such termination, the Contractor will furnish to the extent possible and at no cost to the Employer the blueprints, drawings and specifications of the spare parts, if requested.</p>
13.	Time for Commencement	7.1	<p>The Contractor shall commence work on the Facilities from the Effective Date for determining Time for Completion as specified in the Contract</p>

SCC No.	Conditions	GCC Sub-Clause	Data
			Agreement
14.	Time for Completion	1.1 (v) & 7.2	The Completion of the Facilities shall be attained within _____ <i>[insert number of weeks or months in words and figures].</i> <i>[Parts and times for respective Completions shall be specified where applicable.]</i>
15.	Price Adjustment	10.2&35.1	The Contract Price shall be adjusted in accordance with the provisions of the corresponding Appendix (Price Adjustment) to the Contract Agreement <i>[to be inserted only if Contract Price is subject to adjustment].</i>
16.	Advance Payment Security	12.2	% Percentage of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable <i>[Insert number and timing of installments if applicable]</i>
17.	Amount of Performance Security	12.3.1	The amount of performance security, as a percentage of the Contract Price for the Facility or for the part of the Facility for which a separate time for Completion is provided, shall be: <i>[The amount should be between ten and fifteen percent (10% to 15%) in any case.]</i>
18.	Environmental and Social Performance Security	12.3.2	An Environmental and Social (ES) Performance Security <i>['shall' or 'shall not']</i> be provided to the Employer. Environmental and Social (ES) Performance Security Bank Guarantee: in the amount(s) of <i>[insert related figure(s)]</i> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount. <i>[delete if not applicable].</i> <i>[A Bank Guarantee shall be unconditional (on demand) - see Section X, Contract Forms. The E Performance Security will normally be in the amount(s) of between 1% to 3% of the Accepted Contract Amount].</i>
19.	Form of Performance Security	12.3.4	The performance security shall be in the form of the <i>[insert either Conditional Guarantee or Unconditional Guarantee]</i> attached hereto in the section on Sample Forms and Procedures. <i>(The following provision should be used when the Facilities have warranty obligations beyond the Defect Liability Period, pursuant to the provisions in the SCC under GCC 15.)</i>
20.	Reduction of Value of	12.3.5	The performance security shall not be reduced on the date of the Operational Acceptance

SCC No.	Conditions	GCC Sub-Clause	Data
	Performance Security		Or The performance security shall be reduced to ten percent (10%) of the value of the component covered by the extended warranty to cover the Contractor's extended warranty in accordance with the provision in the SCC , pursuant to GCC 29.10 . <i>[To be inserted only when an extended warranty is requested.]</i>
21.	Form of the Program	17.2	The form of the programme of performance of the Contract shall be: <i>[Programme of performance shall usually be in the form of the critical path method (CPM), the PERT network, or other internationally used programs.]</i>
22.	Working Hours	21.1.5	<i>[insert locally recognized days of rest outside normal working hours (if any)]</i>
23.	Funeral Arrangements	21.1.8	<i>[indicate a person other than the contractor /supplier responsible for funeral arrangements or state "Not Applicable"]</i>
24.	Completion of Guarantee Test	24.2.2	The Guarantee Test of the Facilities shall be successfully completed within _____ <i>[insert days or weeks, written in words and figures]</i> from the date of Completion. <i>[Parts and separate times for the respective Guarantee Tests shall be specified where applicable.]</i>
26.	Liquidated Damages	25.2	Applicable rate for liquidated damages: 0.1 to 0.15 percent per day. Maximum deduction for liquidated damages is equal to the Performance Security quoted.
27.	Bonus for Early Completion	25.3	Applicable (<i>amount or rate</i>) for the bonus for early Completion: Maximum bonus: <i>[Where bonus is applicable, insert appropriate amount or rate as a percentage of the Contract Price, or part thereof, in words and figures, per week of early Completion of the Facilities or part thereof, in accordance with the Time for Completion specified in the SCC, with a corresponding reference in GCC 1. The amount of the bonus and the minimum should be related to the</i>

SCC No.	Conditions	GCC Sub-Clause	Data
			<p><i>benefit the Employer will gain in operating the Facilities, or part thereof, earlier than anticipated.]</i></p> <p><i>(For a contract without a bonus, the following provision should be used.)</i></p> <p>No bonus will be given for earlier Completion of the Facilities or part thereof.</p>
28.	Alternative Defect Liability Period	26.2	Insert alternative Defect Liability Period (if any)
29.	Period of Extension of Warranty	26.10	<p><i>[The Employer should not extend the Defect Liability Period beyond the period prescribed in GCC 29.2, except where it is commercial practice for that type of Facilities, and in which case the relevant period shall be specified in the SCC under GCC 29.10.]</i></p> <p>The critical components covered under the extended warranty are <i>[the components should either be mentioned herein or a reference should be made to the related paragraph in the Technical Specifications]</i>, and the period shall be <i>[insert number of years, which shall not exceed five (5) years](to be inserted only when an extended warranty is requested).</i></p>
32.	Date by which the DARB shall be appointed	44.1	28 days after the Commencement date <i>otherwise insert another period</i>
33	The DARB shall be comprised of	44.2	<i>Either: One sole Member or: Three Members</i>
32.	List of proposed members of DARB	44.3	<p><i>For DARB comprised of one sole member, list the name of potential sole member and attach his/her CV to the Tendering Document</i></p> <p>OR</p>

SCC No.	Conditions	GCC Sub-Clause	Data
			<p><i>In case of Three Members DARB give the following information</i></p> <p>DARB Members Proposed by Employer <i>[Attach CVs to the Tendering Document and the Contract]</i></p> <p>1.....</p> <p>2.....</p> <p>3.....</p> <p>DARB Members Proposed by Contractor <i>[Attach CVs to the Contract]</i></p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p>
30.	Appointment (if not agreed) to be made by	45.1	<i>[Insert name of the appointing entity or official]</i>
31	Rules of arbitration	48.1	<i>[Insert rules of arbitration]</i>

SECTION X: CONTRACT FORMS

This Section contains forms which, once completed and submitted, will form part of the Contract. The forms for Performance Security or Securing Declaration shall be completed and submitted by the successful Tenderer before signing of the contract, and when advance payment is required, Advance Payment Security shall be completed and submitted after contract signature. The Section also contains the Letter of Intention to Award the Contract, which shall not form part of the contract.

1. Notice of Intention to Award a Contract

[Letter head paper of the PE]

Ref No: *[insert Ref. No.]* Date:

To: ***[name and address of the Service Provider]***

RE: NOTIFICATION OF THE INTENTION TO AWARD CONTRACT NUMBER *[insert No of contract]* **FOR** *[insert description]*

Reference is made to the above subject matter.

The submitted tenders were evaluated according to the criteria stated in the tender documents. In accordance with the requirements of Public Procurement Act, Cap 410, we announce our intention to award a contract to M/s: *(Insert the name of the firm)* for a contract price of *(insert the contract award price and currency)* and for a completion period/delivery period of *(insert the duration)*.

Your tender was not considered for award of the contract due to the following reasons¹²

- 1)
- 2)
- 3)

Be informed that, you have seven (7) working days from the date of this letter, within which to submit any complaints you may have regarding this award decision and/or circumstances surrounding the rejection of your tender for administrative review. The complaints must be in writing, clearly identifying the tender in question, detailing ground(s) of the complaint and should be submitted to *(insert the title of Accounting Officer)* through TANEPS.

We appreciate your interest in doing business with us and encourage you to participate in our future tenders.

Authorized Signature:

Name and Title of Signatory:

Name of PE:

¹² Insert the reasons for non-selection of the tenderer for the award of contract. The reasons given here should be those which appears in the evaluation report and which were approved by the Tender Board as justifiable reasons to turn down the offer given by the tenderer.

Letter of Acceptance

[Letter head paper of the PE]

[date]

To: *[name and address of the Service Provider]*

RE: NOTIFICATION OF AWARD OF CONTRACT FOR TENDER NO. *[insert tender number]* FOR *[insert tender description]*

This is to notify you that, your tender dated *[insert date]* for execution of the Contract Number *[insert Contract number and description, as provided in the Special Conditions of Contract]* for the Accepted Contract Amount of the equivalent of *[insert amount in numbers and words and name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted.

In the case of Sole member of Dispute Avoidance and Resolution Board

- (a) We accept that *[name proposed by Tenderer]* be appointed as Sole Member of Dispute Avoidance and Resolution Board
OR
- (b) We do not accept that *[name proposed by Tenderer]* be appointed as Sole Member of Dispute Avoidance and Resolution Board, and by sending a copy of this letter of acceptance to *[insert the name of the Appointing Authority]*, we are hereby requesting *[name]*, the Appointing Authority, to appoint the Sole Member of Dispute Avoidance and Resolution Board in accordance with Clause 44.1 of the Instructions to Tenderers.¹³

In the case of Three Members of Dispute Avoidance and Resolution Board

- (a) We accept that 1..... 2.....and 3..... *[names proposed by Tenderer]* be appointed as Members of Dispute Avoidance and Resolution Board
OR
- (b) We do not accept that 1..... 2..... And 3..... *[names proposed by Tenderer]* be appointed as Members of Dispute Avoidance and Resolution Board, and by sending a copy of this letter of acceptance to *[insert the name of the Appointing Authority]*, we are hereby requesting *[name]*, the Appointing Authority, to appoint the Members of Dispute Avoidance and Resolution Board in accordance with Clause 44.1 of the Instructions to Tenderers.¹⁴

¹³ To be used only if the Contractor disagrees in the Tender with the Sole Member of DARB proposed by the Employer in the Instructions to Tenderers, and has accordingly offered another candidate. If the Employer does not accept the counterproposal, the sentence should so state, and be followed by an additional sentence: "We therefore shall request the *[name of Appointing Authority as named in the Special Conditions of Contract]* to appoint the Sole Member of DARB in accordance with Clause 44 of the Instructions to Tenderers."

¹⁴ To be used only if the Contractor disagrees in the Tender with the Members of DARB proposed by the Employer in the Instructions to Tenderers, and has accordingly offered another candidate. If the Employer does not accept the counterproposal, the sentence should so state, and be followed by an additional sentence: "We therefore shall

You are requested to furnish the Performance Security within 14 days in accordance with the Conditions of Contract, using for that purpose the Forms included in Section X, Contract Forms of the Tendering Document.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract Agreement

Copy: PPRA, CAG, Office of Attorney General, GAMD, IAG, TRA and Adjudicator's Appointing Authority (where applicable). , .

Form of Agreement

THIS AGREEMENT (hereinafter called the “Contract”) is made this [day of month] day of [insert a month], [insert a year] between [insert name and address of Employer (hereinafter called the “ Employer”) and [insert name and address of Contractor (hereinafter called the “ Contractor”) of the other part.

[Note: *In the text below, text in brackets is optional; all notes should be deleted in final text. If the Contractor consists of more than one Entity, the above should be partially amended to read as follows:]*

“*[insert the name of “PE”]* (hereinafter called “the Employer”) and, on the other hand, a joint venture/consortium/association consisting of the following entities namely, *[insert of name of entity]* and *[insert name of entity]* and *[etc.]* (hereinafter called “the Contractor”) each of which shall be jointly and severally liable to the Employer for all the Contractor’s obligations under this Contract.

WHEREAS,

- a) the Employer desires that Plant/Equipment be supplied and installed known as ***[name of the Contract]***. should be executed by the Contractor, and has accepted a Tender for the supply and installation of Plant/Equipment
- b) the Contractor having represented to the Employer that they have the required professional skills, and personnel and technical resources, have agreed to deliver, install, complete and commission the Plant/Equipment on the terms and conditions set forth in this Contract at a contract price of [insert the figures and words and the currency];
- c) the Employer has set aside committed funds towards the cost of the supply and installation of Plant/Equipment and intends to apply a portion of the proceeds of these funds to eligible payments under this Contract, it being understood that such payments will be subject, in all respects, to the terms and conditions of the Contract providing for the funds and that no party other than the Contractor shall derive any rights from the Contract providing for the funds or have any claim to the funds proceeds;

NOW IT IS HEREBY AGREED as follows:

**Article 1.
Contract
Documents**

1.1 Contract Documents (Reference **GCC 2**)

The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

- (a) This form of Agreement and the Appendixes hereto
- (b) Letter of Acceptance.
- (c) Minutes of Negotiations, if any
- (d) Form of Tender and Price Schedules
- (e) Special Conditions of Contract

- (f) General Conditions of Contract
- (g) Technical Specifications and Drawings
- (h) Bills of Quantities and
- (i) Any other document listed in the Special Conditions of Contract as forming part of the Contract

1.2 Order of Precedence (Reference **GCC 2**)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.

1.3 Definitions (Reference **GCC 1**)

Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the General Conditions of Contract.

**Article 2.
Contract Price
and Terms of
Payment**

2.1 Contract Price (Reference **GCC 10**)

The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of: *[amount of foreign currency in words]*, *[amount in figures]* as specified in Price Schedule No. 5 (Grand Summary) and *[amount of local currency in words]*, *[amount in figures]*, or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 Terms of Payment (Reference **GCC 11**)

The terms and procedures of payment according to which the Employer will reimburse the Contractor are given in the corresponding Appendix (Terms and Procedures of Payment) hereto.

The Employer shall instruct its bank to issue an irrevocable confirmed documentary credit made available to the Contractor in a bank in the country of the Contractor. The credit shall be for an amount of *[insert an amount equal to the total named in Schedule 1 less the advance payment to be made for Goods supplied from abroad]*.

In the event that the amount payable under Schedule No. 1 is adjusted in accordance with **GCC 10.2** or with any of the other terms of the Contract, the Employer shall arrange for the documentary credit to be amended accordingly.

[The Employer may want to insert a similar provision for the payment of the items listed in Schedule 2.]

**Article 3.
Effective Date**

3.1 Effective Date (Reference **GCC 1**)

The Time of Completion of the Facilities shall be determined

**for
Determining
Time for
Completion**

from the date when all of the following conditions have been fulfilled:

- (a) The Employer has paid the Contractor the advance payment
- (b) The Contractor has been advised that the documentary credit referred to in Article 2.2 above has been issued in its favor.

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract notification because of reasons not attributable to the Contractor, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Completion and/or other relevant conditions of the Contract.

**Article 4.
Appendixes**

4.1 The Appendixes listed in the attached List of Appendixes shall be deemed to form an integral part of this Contract.

4.2 Reference in the Contract to any Appendix shall mean the Appendixes attached hereto, and the Contract shall be read and construed accordingly.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

SIGNED, SEALED AND DELIVERED FOR AND ON BEHALF OF:

THE PROCURING ENTITY

THE CONTRACTORSUPPLIER

Name:

Name:

(Authorized Representative)

(Authorized Representative)

Designation:

Designation:

Signature:

Signature:

Date:

Date:

WITNESS

WITNESS

Name:

Name:

Designation:

Designation:

Signature:

Signature:

APPENDICES

- Appendix 1 Terms and Procedures of Payment
 - Appendix 2 Price Adjustment
 - Appendix 3 Insurance Requirements
 - Appendix 4 Time Schedule
 - Appendix 5 List of Major Items of Plant and Installation Services and List of Approved Subcontractors
 - Appendix 6 Scope of Works and Supply by the Employer
 - Appendix 7 List of Documents for Approval or Review
 - Appendix 8 Functional Guarantees
-

Appendix 1: Terms and Procedures of Payment

The following Terms and Procedures of Payment are given as a guideline suitable for Supply and Installation Contracts. In the event that the Employer wishes to introduce different terms of payment to the following, it shall first obtain the written approval of the Bank for the terms it intends to use. If additional Price Schedules are introduced, suitable terms of payment in respect of such additional schedules must be added.

In accordance with the provisions of GCC Clause 14 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the Price Breakdown given in the section on Price Schedules. Payments will be made in the currencies quoted by the Tenderer unless otherwise agreed between the parties. Applications for payment in respect of part deliveries may be made by the Contractor as work proceeds.

TERMS OF PAYMENT

Schedule No. 1. Goods Supplied from Abroad

In respect of goods supplied from abroad, the following payments shall be made:

Ten percent (10%) of the total CIF or CIP amount as an advance payment against receipt of invoice and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of the goods shipped FOB or delivered to the site, as evidenced by shipping and delivery documents.

Eighty percent (80%) of the total or pro rata FOB or FCA amount upon *Incoterm* “FOB” or “FCA,” within forty-five (45) days after receipt of invoice and shipping documents. In the event that shipping is delayed upon the written instruction of the Employer for more than twenty-eight (28) days beyond the date shown in the Programme of Performance provided in accordance with GCC sub-Clause 17.2, the Contractor may make application for this part of the payment against warehouse receipts, provided always that the goods are ready for shipment on the date shown in the said Programme.

Eighty percent (80%) of the total or pro rata CIF or CIP amount upon *Incoterm* “CIF or “CIP,” upon delivery to Site within forty-five (45) days after receipt of invoice, less eighty percent (80%) of the FOB amount already paid or authorized for payment.

Five percent (5%) of the total or pro rata CIF or CIP amount upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata CIF or CIP amount upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

Schedule No. 2. Goods Supplied from within the United Republic of Tanzania

In respect of goods supplied from within the, United Republic of Tanzania the following payments shall be made:

Ten percent (10%) of the total EXW amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of the goods delivered to the site, as evidenced by shipping and delivery documents.

Eighty percent (80%) of the total or pro rata EXW amount upon *Incoterm* “Ex-Works,” upon delivery to the site within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata EXW amount upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata EXW amount upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

Schedule No. 3. Local Transportation

In respect of local transportation for both the foreign currency (where applicable) and the local currency portions, the following payments shall be made:

Ten percent (10%) of the total local transportation amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of the Goods delivered to the site, as evidenced by shipping and delivery documents.

Ninety percent (90%) of the total or pro rata local transportation amount upon delivery to the site within forty-five (45) days after receipt of invoice.

Schedule No. 4. Installation Services

In respect of installation services for both the foreign and local currency portions, the following payments shall be made:

Ten percent (10%) of the total installation services amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of work performed by the Contractor as evidenced by the invoices for installation services.

Eighty percent (80%) of the measured value of work performed by the Contractor, as identified in the said Programme of Performance, during the preceding month, as evidenced by the Employer’s authorization of the Contractor’s application, will be made monthly within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata value of installation services performed by the Contractor as evidenced by the Employer’s authorization of the Contractor’s monthly applications, upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata value of installation services performed by the Contractor as evidenced by the Employer’s authorization of the Contractor’s monthly

applications, upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

In the event that the Employer fails to make any payment on its respective due date, the Employer shall pay to the Contractor interest on the amount of such delayed payment at the rate of *[insert a figure that may be different for the foreign and local currency portions and a figure that reflects the cost of money in the respective currencies]* percent (___%) per month for period of delay until payment has been made in full.

PAYMENT PROCEDURES

The procedures to be followed in applying for certification and making payments shall be as follows:

Appropriate procedures, normally through letters of credit, are to be inserted (including forms and certificates annexed as appropriate) by the Employer in the Tendering documents.

Appendix 2: Price Adjustment

Where the Contract Period (excluding the **Defects Liability Period** Period) exceeds eighteen (18) months, it is normal procedure that prices payable to the Contractor shall be subject to adjustment during the performance of the Contract to reflect changes occurring in the cost of labour and material components. In such cases the Tendering documents shall include in this Appendix 2 a formula of the following general type, pursuant to GCC sub-Clause 10.2.

Where Contracts are of a shorter duration than eighteen (18) months or in cases where there is to be no Price Adjustment, the following provision shall not be included. Instead, it shall be indicated under this Appendix 2 that the prices are to remain firm and fixed for the duration of the Contract.

Sample Price Adjustment Formula

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 labour and material components, in accordance with the following formula:

$$P_1 = P_0 \times \left(a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

in which:

P_1 = adjustment amount payable to the Contractor

P_0 = Contract price (base price)

a = fixed element representing profit and overhead in Contract price ($a = \underline{\quad}$ %)

b = estimated percent of labour component in Contract price ($b = \underline{\quad}$ %)

c = estimated percent of plant & equipment component in Contract price ($c = \underline{\quad}$ %)

L_0, L_1 = labour indexes 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 indexes for the major raw materials in the country of origin on the base date and the date for adjustment, respectively

The sum of the three coefficients a , b and c shall be one (1) in every application of the formula.

Conditions Applicable To Price Adjustment

The Tenderer shall indicate the source of labour and materials indexes and the base date indexes in its tender.

<u>Item</u>	<u>Source of Indexes Used</u>	<u>Base Date Indexes</u>
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The base date shall be the date thirty (30) 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) Price adjustment will be applied only if the resulting increase or decrease is more than two percent (2%) of the Contract price.
- (b) No price increase will be allowed beyond the original delivery date unless covered by an extension of time awarded by the Employer under the terms of the Contract. No price increase will be allowed for periods of delay for which the Contractor is responsible. The Employer will, however, be entitled to any price decrease occurring during such periods of delay.
- (c) The total adjustment (plus or minus) shall be subject to a ceiling amount of ___ percent (___%) of the Contract price.
- (d) If the currency in which the Contract price, P_0 , is expressed is different from the currency of the country of origin of the labour and/or materials indexes, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (e) No price adjustment shall be payable on the portion of the Contract price paid to the Contractor as an advance payment.

Note: For complex Plant supply and installation involving several sources of supply and/or a substantial amount of installation works, a family of formulas may be necessary, with provision for the usage of Contractor's equipment in the works formula.

Appendix 3: Insurance Requirements

Details to be completed by the Employer prior to issuing the Tendering documents. In the event that the Employer provides any insurances under the Contract, appropriate details must also be given.

Insurances to be Taken Out by the Contractor

In accordance with the provisions of GCC Clause 33, 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. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, such approval not to be unreasonably withheld.

(a) Cargo Insurance

Covering loss or damage occurring, while in transit from the supplier's or manufacturer's works or stores until arrival at the Site, to the Facilities (including spare parts therefor) and to the construction equipment to be provided by the Contractor or its Subcontractors.

<u>Amount</u> <i>[in currency(ies)]</i>	<u>Deductible limits</u>	<u>Parties insured</u> <i>[names]</i>	<u>From</u> <i>[place]</i>	<u>To</u> <i>[place]</i>
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(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.

<u>Amount</u> <i>[in currency(ies)]</i>	<u>Deductible limits</u>	<u>Parties insured</u> <i>[names]</i>	<u>From</u> <i>[place]</i>	<u>To</u> <i>[place]</i>
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(c) Third Party Liability Insurance

Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property (including the Employer's property and any parts of the Facilities that have been accepted by the Employer) occurring in connection with the supply and installation of the Facilities.

<u>Amount</u> <i>[in currency(ies)]</i>	<u>Deductible limits</u>	<u>Parties insured</u> <i>[names]</i>	<u>From</u> <i>[place]</i>	<u>To</u> <i>[place]</i>
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- (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 supply and installation of the Facilities. Comprehensive insurance in accordance with statutory requirements.
- (e) Workers' Compensation
In accordance with the statutory requirements applicable in United Republic of Tanzania
- (f) Employer's Liability
In accordance with the statutory requirements applicable in United Republic of Tanzania
- (g) Other Insurances
The Contractor is also required to take out and maintain at its own cost the following insurances:

Details:

<u>Amount</u> <i>[in currency(ies)]</i>	<u>Deductible limits</u>	<u>Parties insured</u> <i>[names]</i>	<u>From</u> <i>[place]</i>	<u>To</u> <i>[place]</i>
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The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC sub-Clause 36.1, except for the Third-Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insured's under all insurance policies taken out by the Contractor pursuant to GCC sub-Clause 33.1, except for the Cargo, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insured's for losses or claims arising out of the performance of the Contract shall be waived under such policies.

Insurances to be taken out by the Employer

If the Employer is proposing to take out any or all of the above insurances itself, or any other insurances in respect of the Facilities, either in its own name or in the joint names of itself and the Contractor, it shall give details below prior to issuing the Tendering documents. Under the terms of the Contract, the Contractor and the Contractor's Subcontractors shall be named as co-insured's under all such policies.

The Employer shall at its expense take out and maintain in effect during the performance of the Contract the following insurances.

Details:

<u>Amount</u> <i>[in currency(ies)]</i>	<u>Deductible limits</u>	<u>Parties insured</u> <i>[names]</i>	<u>From</u> <i>[place]</i>	<u>To</u> <i>[place]</i>
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Appendix 4: Time Schedule

The Employer should normally provide a Time Schedule to be followed by the Contractor during the performance of the Contract. This schedule should be provided with the Tendering documents under this Appendix. All completion times indicated must be in accordance with the information regarding Time(s) for Completion given in the Tender Data Sheet.

Except under exceptional circumstances, the Time Schedule should indicate periods of time (e.g., weeks or months) and not specify calendar dates. All periods should be shown from the Effective Date of the Contract.

Should it become necessary to amend the Time Schedule to reflect any agreements made with the selected Tenderer prior to award of Contract, the amended Time Schedule shall replace the original Time Schedule prior to signature of the Contract Agreement.

If the Tendering documents contain no Time Schedule, the Tenderer shall be required to submit with its Tender a detailed programme, normally in the form of a bar chart, showing how and the order in which it intends to perform the Contract and showing the key events requiring action or decision by the Employer. In preparing this Programme, the Tenderer shall adhere to the Time(s) for Completion given in the Tender Data Sheet or give its reasons for not adhering thereto. The Time Schedule submitted by the selected Tenderer and amended as necessary prior to award of Contract shall be included as Appendix to the Contract Agreement before the Contract is signed.

If Tenderers, pursuant to the provisions of the Instructions to Tenderers, are to be permitted to offer an Alternative Tender based on a different Time Schedule, details of this and any resulting reduction in Price from their conforming tender based on the Time Schedule included in the Tendering documents shall be submitted as an Attachment to their tender.

Appendix 5: List of Approved Subcontractors

Prior to award of Contract, the following details shall be completed, indicating those Subcontractors proposed by the Tenderer in the corresponding Attachment to its Tender that are approved by the Employer for engagement by the Contractor during the performance of the Contract.

The following Subcontractors are approved for carrying out the item of the facilities indicated. Where more than one Subcontractor is listed, the Contractor is free to choose between them, but it must notify the Employer of its choice in good time prior to appointing any selected Subcontractor. In accordance with GCC Sub-Clause 18.1, the Contractor is free to submit proposals for Subcontractors for additional items from time to time. No Subcontracts shall be placed with any such Subcontractors for additional items until the Subcontractors have been approved in writing by the Employer and their names have been added to this list of Approved Subcontractors.

Item of Facilities

Approved Subcontractors

Nationality

Appendix 6: Scope of Works and Supply by the Employer

Prior to issuing the Tendering documents, the Employer shall indicate in this Appendix details of all personnel and Facilities it will provide for use by the Contractor and indicate, where applicable, the charges that it will make in respect of their use.

The Employer shall also identify any part(s) of the facilities it intends to carry out itself (or by other contractors), and any plant, equipment, or materials that it proposes to purchase itself and supply to the Contractor for incorporation in the facilities, indicating, where applicable, the charges that it will make in respect thereof.

The following personnel, facilities, works and supplies will be provided/supplied by the Employer, and the provisions of GCC Clauses 12, 23 and 26 shall apply as appropriate.

All personnel, facilities, works and supplies will be provided by the Employer in good time so as not to delay the performance of the Contractor, in accordance with the approved Time Schedule and Programme of Performance pursuant to GCC sub-Clause 17.2.

Unless otherwise indicated, all personnel, facilities, works and supplies will be provided free of charge to the Contractor.

Personnel

Charge to Contractor (if any)

Facilities

Charge to Contractor (if any)

Works

Charge to Contractor (if any)

Supplies

Charge to Contractor (if any)

Appendix 7: List of Documents for Approval or Review

Pursuant to GCC sub-Clause 19.3.1, the Contractor shall prepare, or cause its Subcontractor to prepare, and present to the Project Manager in accordance with the requirements of GCC sub-Clause 17.2 (Programme of Performance), the following documents for

A. Approval

- 1.
- 2.
- 3.

B. Review

- 1.
- 2.
- 3.

Appendix 8: Functional Guarantees

1. General

This Appendix sets out

- (a) the functional guarantees referred to in GCC Clause 27 (Functional Guarantees)
- (b) the preconditions to the validity of the functional guarantees, either in production and/or consumption, set forth below
- (c) the minimum level of the functional guarantees
- (d) the formula for calculation of liquidated damages for failure to attain the functional guarantees.

2. Preconditions

The Contractor gives the functional guarantees (specified herein) for the facilities, subject to the following preconditions being fully satisfied:

[List any conditions for the carrying out of the Guarantee Test referred to in GCC sub-Clause 244.2.]

3. Functional Guarantees

Subject to compliance with the foregoing preconditions, the Contractor guarantees as follows:

3.1 Production Capacity

*[List here the production capacity that the Contractor is to guarantee, **making sure to use, as functional guarantees, the figures offered by the Contractor in its tender.**]*

and/or

3.2 Raw Materials and Utilities Consumption

*[List here the guaranteed items of consumption per unit of production (e.g., kg, tons, kcal, kWh, etc.) that the Contractor is to guarantee, **making sure to use, as functional guarantees, the figures offered by the Contractor in its tender.**]*

4. Failure in Guarantees and Liquidated Damages

4.1 Failure to Attain Guaranteed Production Capacity

If the production capacity of the facilities attained in the guarantee test, pursuant to GCC sub-Clause 24.2, is less than the guaranteed figure specified in para. 3.1 above, but the actual production capacity attained in the guarantee test is not less than the minimum level specified in para. 4.3 below, and the Contractor elects to pay liquidated damages to the Employer in lieu of making changes, modifications and/or

additions to the Facilities, pursuant to GCC sub-Clause 27.3, then the Contractor shall pay liquidated damages at the rate of *[amount in the contract currency]* for every complete one percent (1%) of the deficiency in the production capacity of the Facilities, or at a proportionately reduced rate for any deficiency, or part thereof, of less than a complete one percent (1%).

4.2 Raw Materials and Utilities Consumption in Excess of Guaranteed Level

[To be specified in the appropriate wording for the type of facilities if there are consumption guarantees.]

If the actual measured figure of specified raw materials and utilities consumed per unit (or their average total cost of consumption) exceeds the guaranteed figure specified in para. 3.2 above (or their specified average total cost of consumption), but the actual consumption attained in the guarantee test, pursuant to GCC sub-Clause 24.2, is not more than the maximum level specified in para. 4.3 below, and the Contractor elects to pay liquidated damages to the Employer in lieu of making changes, modifications and/or additions to the Facilities pursuant to GCC sub-Clause 27.3, then the Contractor shall pay liquidated damages at the rate of *[amount in the contract currency]* for every complete one percent (1%) of the excess consumption of the Facilities, or part thereof, of less than a complete one percent (1%).

[The rate of liquidated damages specified in paras. 4.1 and 4.2 above shall be at least equivalent to the rate specified in the SCC for the comparison of functional guarantees provided by the Tenderers]

4.3 Minimum Levels

Notwithstanding the provisions of this paragraph, if as a result of the guarantee test(s), the following minimum levels of performance guarantees (and consumption guarantees) are not attained by the Contractor, the Contractor shall at its own cost make good any deficiencies until the Facilities reach any of such minimum performance levels, pursuant to GCC sub-Clause 27.2:

- (a) production capacity of the Facilities attained in the guarantee test: ninety-five percent (95%) of the guaranteed production capacity

and/or

- (b) average total cost of consumption of all the raw materials and utilities of the Facilities: one hundred and five percent (105%) of the guaranteed figures.

4.4 Limitation of Liability

Subject to para. 4.3 above, the Contractor's aggregate liability to pay liquidated damages for failure to attain the functional guarantees shall not exceed _____ percent (___ %) of the Contract price *[the percentage specified shall not exceed ten percent (10%)]*.

Performance Bank Guarantee (Unconditional)

_____ [Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: [Name and Address of Employer]

Date: _____

PERFORMANCE GUARANTEE No.: _____

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has to be awarded a contract No. [reference number of the contract] dated [insert date] with you, for the execution of [name of contract and brief description of Facilities] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures] (____) [amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall be reduced by half upon our receipt of:

- (a) a copy of the Operational Acceptance Certificate; or
- (b) a registered letter from the Contractor (i) attaching a copy of its notice requesting issuance of the Operational Acceptance Certificate and (ii) stating that the project manager has failed to issue such Certificate within the time required or provide in writing justifiable reasons why such Certificate has not been issued, so that Operational Acceptance is deemed to have occurred.

This guarantee shall expire no later than the earlier of:

- (a) twelve months after our receipt of either (a) or (b) above; or
- (b) eighteen months after our receipt of:
 - (i) a copy of the Completion Certificate; or
 - (ii) a registered letter from the Contractor, attaching a copy of the notice to the project manager that the Facilities are ready for commissioning, and stating that fourteen days have elapsed from receipt of such notice (or seven days have elapsed if the notice was a repeated notice) and the project manager has failed to issue a Completion Certificate or inform the Contractor in writing of any defects or deficiencies; or
 - (iii) a registered letter from the Contractor stating that no Completion Certificate has been issued but the Employer is making use of the Facilities; or
- (c) the ____ day of _____, 20____.

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

[signature(s)]

4. Bank Guarantee—Conditional

[Name of Contract]

To: *[Name and address of Employer]*

Dear Ladies and/or Gentlemen,

We refer to the Contract Agreement (“the Contract”) signed on *[date]* between you and *[name of Contractor]* (“the Contractor”) concerning design, execution and completion of *[Brief description of the Facilities]*.

By this letter we, the undersigned, *[name of Bank]*, a Bank (or company) organized under the laws of *[country of Bank]* and having its registered/principal office at *[address of Bank]*, do hereby jointly and severally with the Contractor irrevocably guarantee payment owed to you by the Contractor, pursuant to the Contract, up to the sum of *[amount]*, equivalent to *[number]* percent (%) *[amount shall not exceed ten percent (10%) in any case]* of the Contract Price until the date of the Operational Acceptance Certificate and thereafter up to a sum of *[amount]*, equivalent to *[number]* percent (%) *[amount shall not exceed five percent (5%) in any case]* of the Contract Price, until twelve (12) months after the date of Operational Acceptance, or eighteen (18) months after Completion of the Facilities, whichever comes first.

Where it is agreed between you and the Contractor that the Facilities are to be accepted in parts, and thus where there are separate Completion and Operational Acceptance Certificates for each part, this Letter of Guarantee shall be apportioned to the value of each such part and shall reduce or expire as provided above on or following Completion or Operational Acceptance of each part.

We shall only undertake to make payment under this Letter of Guarantee upon our receipt of a written demand signed by your duly authorized officer for a specified sum, where such demand sets out the reasons for your claim under this Letter of Guarantee and is accompanied by

- (a) a copy of the written notice sent by you to the Contractor before making the claim under this Guarantee, specifying the Contractor’s breach of contract and requesting the Contractor to remedy it
- (b) a letter signed by your duly authorized officer certifying that the Contractor has failed to remedy the default within the period allowed for remedial action
- (c) a copy of your written notice to the Contractor stating your intent to claim under this Letter of Guarantee because of the Contractor’s failure to remedy the default in accordance with the request referred to in para. (a) above.

Our liability under this Letter of Guarantee shall be to pay to you whichever is the lesser of the sum so requested or the amount then guaranteed hereunder in respect of any demand duly made hereunder prior to expiry of this Letter of Guarantee, without being entitled to inquire whether or not this payment is lawfully demanded.

This Letter of Guarantee shall be valid from the date of issue until the earlier of twelve (12) months after the date of Operational Acceptance or eighteen (18) months after the date of Completion of the Facilities or, where the Facilities are to be accepted in parts, twelve (12) months after the date of Operational Acceptance or eighteen (18) months after the date of Completion of the last part or *[date]*, whichever comes first.

Except for the documents herein specified, no other documents or other action shall be required, notwithstanding any applicable law or regulation.

If the Defect Liability Period is extended with respect to any part of the Facilities in accordance with the Contract, you shall notify us, and the validity of this Letter of Guarantee shall be extended with respect to the percentage of the Contract Price stipulated in the notification until expiry of such extended Defect Liability Period.

Our liability under this Letter of Guarantee shall become null and void immediately upon its expiry, whether it is returned or not, and no claim may be made hereunder after such expiry or after the aggregate of the sums paid by us to you shall equal the sums guaranteed hereunder, whichever is the earlier.

All notices to be given hereunder shall be given by registered (airmail) post to the addressee at the address herein set out or as otherwise advised by and between the parties hereto.

We hereby agree that any part of the Contract may be amended, renewed, extended, modified, compromised, released or discharged by mutual agreement between you and the Contractor, and this security may be exchanged or surrendered without in any way impairing or affecting our liabilities hereunder without notice to us and without the necessity for any additional endorsement, consent or guarantee by us, provided, however, that the sum guaranteed shall not be increased or decreased.

No action, event or condition which by any applicable law should operate to discharge us from liability hereunder shall have any effect and we hereby waive any right we may have to apply such law, so that in all respects our liability hereunder shall be irrevocable and, except as stated herein, unconditional in all respects.

Yours truly,
[Name of the Bank]

Authorized Signature

5. Bank Guarantee Form for Advance Payment

[Bank's Name and Address of Issuing Branch or Office]

Beneficiary: *[Name and Address of Employer]*

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that *[name of Contractor]* (hereinafter called "the Contractor") has entered into Contract No. *[reference number of the contract]* dated *[date]* with you, for the execution of *[name of contract and brief description of Facilities]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum *[amount in figures]* (____) *[amount in words]* is to be made against an advance payment guarantee.

At the request of the Contractor, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (____) *[amount in words]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than toward the execution of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on his account number _____ at *[name and address of Bank]*.

The maximum amount of this guarantee shall be progressively reduced in proportion to the value of each part-shipment or part-delivery of goods to the site, as indicated in copies of the relevant shipping and delivery documents that shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of documentation indicating full repayment by the Contractor of the amount of the advance payment, or on the ___ day of _____, 2___, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[signature(s)]

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Form of Completion Certificate

Date: _____

TENDER NO. N°: _____

[Name of Contract]

To: *[Name and address of Contractor]*

Dear Ladies and/or Gentlemen,

Pursuant to **GCC** 23 (Completion of the Facilities) of the **GCC** entered into between yourselves and the Employer dated *[insert date]*, relating to the *[brief description of the Facilities]*, we hereby notify you that the following part(s) of the Facilities was (were) 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: *[description]*
2. Date of Completion: *[date]*

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)

Form of Operational Acceptance Certificate

Date: _____

TENDER NO. N°: _____

[Name of Contract]

To: *[Name and address of Contractor]*

Dear Ladies and/or Gentlemen,

Pursuant to **GCC** 24.3 (Commissioning and Operational Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated *[insert date]*, relating to the *[brief description of the Facilities]*, we hereby notify you that the Functional 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: *[description]*
2. Date of Operational Acceptance: *[insert date]*

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)

Change Order Procedure and Forms

Change Order Procedure

1. General

This section provides samples of procedures and forms for implementing changes in the Facilities during the performance of the Contract in accordance with **GCC** Clause 38 (Change in the Facilities) of the General Conditions of Contract.

2. Change Order Log

The Contractor shall keep an up-to-date Change Order Log to show the current status of Requests for Change and Changes authorized or pending, as Annex 8. Entries of the Changes in the Change Order Log shall be made to ensure that the log is up-to-date. The Contractor shall attach a copy of the current Change Order Log in the monthly progress report to be submitted to the Employer.

3. References for Changes

- (1) Request for Change as referred to in **GCC** Clause 38 shall be serially numbered CR-X-nnn.
- (2) Estimate for Change Proposal as referred to in **GCC** Clause 38 shall be serially numbered CN-X-nnn.
- (3) Acceptance of Estimate as referred to in **GCC** Clause 38 shall be serially numbered CA-X-nnn.
- (4) Change Proposal as referred to in **GCC** Clause 38 shall be serially numbered CP-X-nnn.
- (5) Change Order as referred to in **GCC** Clause 38 shall be serially numbered CO-X-nnn.

Note: (a) Requests for Change issued from the Employer's Home Office and the Site representatives of the Employer shall have the following respective references:

Home Office	CR-H-nnn
Site	CR-S-nnn

- (b) The above number "nnn" is the same for Request for Change, Estimate for Change Proposal, Acceptance of Estimate, Change Proposal and Change Order.

Annex 1. Request for Change Proposal

(Employer's Letterhead)

To: [*Contractor's name and address*]

Date: _____

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*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 [*number*] days of the date of this letter [*or on or before (date)*].

1. Title of Change: [*Title*]
2. Change Request No./Rev.: [*Number*]
3. Originator of Change: Employer: [*Name*]
Contractor (by Application for Change Proposal No. [*Number*]¹⁵:

4. Brief Description of Change: [*Description*]
5. Facilities and/or Item No. of equipment related to the requested Change: [*Description*]
6. Reference drawings and/or technical documents for the request of Change:

<u>Drawing No./Document No.</u>	<u>Description</u>
---------------------------------	--------------------

7. Detailed conditions or special requirements on the requested Change: [*Description*]
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.

¹⁵ Refer to Annex 7.

- (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 the amount and nature in writing.

(Employer's Name)

(Signature)

(Name of signatory)

(Title of signatory)

Annex 2. Estimate for Change Proposal

(Contractor's Letterhead)

To: *[Employer's name and address]*

Date: _____

Attention: *[Name and title]*

Contract Name: *[Contract name]*

Contract Number: *[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 **GCC38.2.1** of the General Conditions of Contract. We acknowledge that your agreement to the cost of preparing the Change Proposal, in accordance with **GCC38.2.2**, is required before estimating the cost for change work.

1. Title of Change: *[Title]*
2. Change Request No./Rev.: *[Number]*
3. Brief Description of Change: *[Description]*
4. Scheduled Impact of Change: *[Description]*
5. Cost for Preparation of Change Proposal: *[Cost]*¹⁶

(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)

¹⁶ Costs shall be in the currencies of the Contract.

Annex 3. Acceptance of Estimate

(Employer's Letterhead)

To: [*Contractor's name and address*]

Date: _____

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

We hereby accept your Estimate for Change Proposal and agree that you should proceed with the preparation of the Change Proposal.

1. Title of Change: [*Title*]
2. Change Request No./Rev.: [*Request number/revision*]
3. Estimate for Change Proposal No./Rev.: [*Proposal number/revision*]
4. Acceptance of Estimate No./Rev.: [*Estimate number/revision*]
5. Brief Description of Change: [*Description*]
6. 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 mentioned in para. 3 above in accordance with **GCC Clause 38** of the General Conditions.

(Employer's Name)

(Signature)

(Name and Title of signatory)

Annex 4. Change Proposal

(Contractor's Letterhead)

To: *[Employer's name and address]*

Date: _____

Attention: *[Name and title]*

Contract Name: *[Contract name]*

Contract Number: *[Contract number]*

Dear Ladies and/or Gentlemen:

In response to your Request for Change Proposal No. *[Number]*, we hereby submit our proposal as follows:

1. Title of Change: *[Name]*
2. Change Proposal No./Rev.: *[Proposal number/revision]*
3. Originator of Change: Employer: *[Name]*
Contractor: *[Name]*
4. Brief Description of Change: *[Description]*
5. Reasons for Change: *[Reason]*
6. Facilities and/or Item No. of Equipment related to the requested Change: *[Facilities]*
7. Reference drawings and/or technical documents for the requested Change:

<u>Drawing/Document No.</u>	<u>Description</u>
-----------------------------	--------------------

8. Estimate of increase/decrease to the Contract Price resulting from Change Proposal:¹⁷

(Amount)

- | | |
|--|-------|
| (a) Direct material | _____ |
| (b) Major construction equipment | _____ |
| (c) Direct field labor (Total _____ hrs) | _____ |
| (d) Subcontracts | _____ |
| (e) Indirect material and labor | _____ |

¹⁷ Costs shall be in the currencies of the Contract.

- (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:²

 (Contractor's Name)

 (Signature)

 (Name of signatory)

 (Title of signatory)

² Specify where necessary.

Annex 5. Change Order

(Employer's Letterhead)

To: *[Contractor's name and address]*

Date: _____

Attention: *[Name and title]*

Contract Name: *[Contract name]*

Contract Number: *[Contract number]*

Dear Ladies and/or Gentlemen:

We approve the Change Order for the work specified in the Change Proposal (No. *[Number]*), and agree to adjust the Contract Price, Time for Completion and/or other conditions of the Contract in accordance with **GCC38** of the General Conditions of Contract.

1. Title of Change: *[Name]*
2. Change Request No./Rev.: *[Request number/revision]*
3. Change Order No./Rev.: *[Order number/revision]*
4. Originator of Change: Employer: *[Name]*
Contractor: *[Name]*
5. Authorized Price:

Ref. No.: *[Number]*

Date: *[Date]*

Foreign currency portion *[Amount]* plus Local currency portion *[Amount]*

6. Adjustment of Time for Completion

None

Increase _____ days

Decrease _____ days

7. Other effects, if any

Authorized by: _____
(Employer)

Date: _____

Accepted by: _____
(Contractor)

Date: _____

Annex 6. Pending Agreement Change Order

(Employer's Letterhead)

To: *[Contractor's name and address]*

Date: _____

Attention: *[Name and title]*

Contract Name: *[Contract name]*

Contract Number: *[Contract number]*

Dear Ladies and/or Gentlemen:

We instruct you to carry out the work in the Change Order detailed below in accordance with **GCC38** of the General Conditions of Contract.

1. Title of Change: *[Name]*
2. Employer's Request for Change Proposal No. /Rev.: *[Number/revision]* dated: *[Date]*
3. Contractor's Change Proposal No./Rev.: *[Number/revision]* dated: *[Date]*
4. Brief Description of Change: *[Description]*
5. Facilities and/or Item No. of equipment related to the requested Change: *[Facilities]*
6. Reference Drawings and/or technical documents for the requested Change:

<u>Drawing/Document No.</u>	<u>Description</u>
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)

Annex 7. Application for Change Proposal

(Contractor's Letterhead)

To: *[Employer's name and address]*

Date: _____

Attention: *[Name and title]*

Contract Name: *[Contract name]*

Contract Number: *[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: *[Name]*
2. Application for Change Proposal No. /Rev.: *[Number/revision]* dated: *[Date]*
3. Brief Description of Change: *[Description]*
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)