

# MULTIMEDIA UNIVERSITY OF KENYA



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## **PROPOSED WORKS TO THE MAIN KITCHEN HOOD EXTRACTOR & INSTALLATION OF A NEW HOOD AT THE CAFETERIA (SMALL WORKS)**

**TENDER No. MMU/KH/09/2020-2021/2021-2022**

**CLOSING DATE : FRIDAY 4<sup>TH</sup> SEPTEMBER, 2020 AT 10: 30 AM**

**OPEN TO THE GENERAL PUBLIC - NCA 7 and above**

P.O. BOX 15653 - 00503, NAIROBI, KENYA. MAGADI ROAD  
Tel. +254 20 2071391, Fax: +254 20 2071247

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**SECTION I****INVITATION TO TENDER**

Multimedia University of Kenya invites sealed tenders from eligible and competent contractors for **PROPOSED WORKS TO THE MAIN KITCHEN HOOD EXTRACTOR & INSTALLATION OF A NEW KITCHENHOOD AT THE CAFETERIA AS PER SPECIFICATIONS (SMALL WORKS) AT MULTIMEDIA UNIVERSITY OF KENYA**

Interested contractors must be registered in category NCA "7" and above and appear in the current Building Contractors register.

A complete set of tender documents may be *viewed and downloaded free of charge from the Multimedia University of Kenya (MMU)'s website: [www.mmu.ac.ke](http://www.mmu.ac.ke)* or the PPIP portal: [www.tenders.go.ke](http://www.tenders.go.ke) Tenderers who download the documents from the websites **MUST** forward their particulars (**Name and Contacts**) to [procurement@mmu.ac.ke](mailto:procurement@mmu.ac.ke) for recording and/or for the purposes of receiving any further clarifications/addenda.

Due to the COVID-19 pandemic and consequently the Presidential Directives issued, crowding of bidders at the Site is discouraged. However, bidders are encouraged to make personal arrangements to acquaint themselves with the site before submissions of their bids. Further guidance will be given from the Estates Manager's Office.

Prices quoted should be net inclusive of all taxes, must be in Kenya Shillings and should remain valid for ninety (90) days.

Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and be deposited in the **Tender Box** on the Ground Floor of the Administration Block I, Mbagathi Campus, addressed to:

Vice Chancellor,  
Multimedia University of Kenya,  
P.O. BOX 15653 - 00503, NAIROBI, KENYA. MAGADI ROAD

to be received on or before **FRIDAY 4<sup>TH</sup> SEPTEMBER, 2020 AT 10.30AM**

Tenders must be accompanied by a **Tender Security** of Kshs. 100,000.00 in form of a bank guarantee from a reputable bank or an insurance company approved by the Procurement Regulatory Authority. The **Tender Security** should **remain valid for 120 days** for the Tender Opening date.

Tender documents (Original & Copy) **MUST** be **properly bound** and **pages serialized** in line with Section 74 (1) (i) of the Public Procurement and Asset Disposal Act 2015. Pagination should be in format 1, 2, 3, 4.....to the last page. Tender with repeated pages, missing page numbers and other inconsistencies will be rejected.

Tenders will be opened immediately thereafter in **Admin Conference Hall**, Administration Block I, in the presence of Tenderers who choose to attend.

Late bids will not be accepted

**Vice Chancellor**

**NB - ALL INTERESTED BIDDERS ARE REQUIRED TO CONTINUALLY CHECK MULTIMEDIA UNIVERSITY WEBSITE: [WWW.MMU.AC.KE](http://WWW.MMU.AC.KE) FOR ANY TENDER ADDENDA OR CLARIFICATIONS THAT MAY ARISE BEFORE SUBMISSION DATE**

## SECTION II

### INSTRUCTIONS TO TENDERERS

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## **SECTION II: INSTRUCTIONS TO TENDERERS.**

### **1. General**

- 1.1 The Employer as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The successful Tenderer will be expected to complete the Works by the Intended Completion Date specified in the said Appendix.
- 1.2 Tenderers shall include the following information and documents with their tenders, unless otherwise stated:
  - (a) copies of certificates of registration, and principal place of business;
  - (b) total monetary value of construction work performed for each of the last five years;
  - (c) experience in works of a similar nature and size for each of the last five years, and clients who may be contacted for further information on these contracts;
  - (d) major items of construction equipment owned;
  - (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
  - (f) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the last five years;
  - (g) authority to seek references from the Tenderer's bankers.
- 1.3 The Tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.
- 1.4 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
- 1.5 The procurement entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 1.6 The price to be charged for the tender document shall not exceed Kshs. 1,000/=
- 1.7 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

## 2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed here below and any addenda issued in accordance with clause 2.4 herebelow: -
- (a) These instructions to Tenderers
  - (b) Form of Tender
  - (c) Conditions of Contract and Appendix to Conditions of Contract
  - (d) Specifications
  - (e) Drawings
  - (f) Bills of Quantities/Schedule of Rates (whichever is applicable)
  - (g) Other materials required to be filled and submitted in accordance with these Instructions and Conditions
- 2.2 The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.
- 2.3 A prospective Tenderer making inquiries of the tendering documents may notify the Employer in writing or by cable, telex or facsimile at the address indicated in the letter of invitation to tender. The Employer will respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.
- 2.4 Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing or by cable, telex or facsimile to all Tenderers. Prospective Tenderers shall acknowledge receipt of each addendum in writing to the Employer.
- 2.5 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend, as necessary, the deadline for submission of tenders in accordance with clause 4.2 herebelow.

## 3. Preparation of Tenders

- 3.1 All documents relating to the tender and any correspondence shall be in English Language.
- 3.2 The tender submitted by the Tenderer shall comprise the following: -
- (a) The Tender;
  - (b) Tender Security;
  - (c) Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts
  - (d) Any other materials required to be completed and submitted by Tenderers.
- 3.3 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. Items for which no rate or price

is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities/Schedule of Rates. All duties, taxes and other levies payable by the Contractor under the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the Tenderer.

- 3.4 The rates and prices quoted by the Tenderer shall not be subject to any adjustment during the performance of the Contract.
- 3.5 The unit rates and prices shall be in Kenya Shillings.
- 3.6 Tenders shall remain valid for a period of sixty (60) days from the date of submission. However in exceptional circumstances, the Employer may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.
- 3.7 The Tenderer shall prepare one original of the documents comprising the tender documents as described in these Instructions to Tenderers.
- 3.8 The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.
- 3.9 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 3.10 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

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

- 4.1 The tender duly filled and sealed in an envelope shall;-
  - (a) be addressed to the Employer at the address provided in the invitation to tender;
  - [b] bear the name and identification number of the Contract as defined in the invitation to tender; and
  - [c] provide a warning not to open before the specified time and date for tender opening.
- 4.2 Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to tender.

- 4.3 The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents.

Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.

- 4.4 Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.
- 4.5 The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with sub-clause 2.5 in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

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

- 5.1 The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.
- 5.2 The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by the Employer. Minutes of the tender opening, including the information disclosed to those present will also be prepared by the Employer.
- 5.3 Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his/her tender.
- 5.4 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
- (a) where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
  - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer's representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.



- (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail.
  - (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the Corrected Builder's Work (i.e. corrected tender sum less P.C. and Provisional Sums).
  - (e) The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
  - (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and with concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security forfeited.
- 5.5 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 5.6 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 5.7 Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.
- 5.8 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.
- 5.9 Preference where allowed in the evaluation of tenders shall not exceed 15%
- 5.10 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may request [in writing] any Tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile but no change in the tender price or substance of the tender shall be sought, offered or permitted.
- 5.11 The Tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

**6. Award of Contract**

- 6.1 The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.
- 6.2 Notwithstanding the provisions of clause 6.1 above, the Employer reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the action.
- 6.3 The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile. This notification (hereinafter and in all Contract documents called the “Letter of Acceptance”) will state the sum [hereinafter and in all Contract documents called the “Contract Price” which the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.
- 6.4 The Contract Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be signed by the Employer and sent to the successful Tenderer, within 30 days following the notification of award. Within 21 days of receipt ,the successful Tenderer will sign the Agreement and return it to the Employer.
- 6.5 Within 21 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Performance Security amount stipulated in the Appendix to Conditions of Contract.
- 6.6 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 6.7 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 6.8 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 das of receiving the request from any tenderer.

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

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

## SECTION III: TENDER DATA SHEET (TDS)

TDS Reference Number	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
<b>A. Introduction</b>	
1.	The Procuring Entity is <b>Multimedia University of Kenya</b>
2.	Name of Project is : <b>Proposed Works &amp; Installation to Main Kitchen Hood Extractor and Installation of a New at the Staff Cafeteria (small works) at Multimedia University of Kenya</b>
3.	The expected completion date of the works is as stated in the letter of acceptance
4.	The Objectives of the Project is to: (as 2 above)
5.	Name of financing institution is <b>Multimedia University of Kenya</b>
6.	Name of the Procuring entity is <b>Multimedia University of Kenya</b>
7.	Financial Year <b>2020/2021</b>
8.	Description of the works under the contracts: (as 2 above)
9.	The loan/ credit number is <b>N/A</b>
10.	Alternative Tenders are <b>not allowed</b> in this Tender.
11.	Alternative time for completion is <b>N/A</b>
12.	Only Tenderers registered as
	<b>Category NCA “ 7 “ and above and should be in the current register of the national construction authority</b>
	This Tender is: National Open tender open to all eligible and Competent contractors as indicated above
13.	<p><b>Site Visit:</b> Due to the COVID-19 pandemic and consequently the Presidential Directives issued, crowding of bidders at the Site is discouraged. However, bidders are encouraged to make personal arrangements to acquaint themselves with the site before submissions of their bids. Further guidance will be given from the Estates Manager's Office.</p> <p><b>All Ministry of Health protocols on Covid-19 pandemic shall be observed</b></p>
14.	The minutes of the pre-Tender meeting are <b>N/A</b>
<b>B. Tendering Documents</b>	
15.	The number of copies to be completed and returned with the Tender is <b>One (1) original and One (1) copy of the Tender Document</b>
16.	<p>Address for clarification of Tendering Document is:</p> <p>Vice Chancellor Multimedia University of Kenya P.O. BOX 15653 - 00503, NAIROBI, KENYA. MAGADI ROAD Tel. +254 20 2071391, Fax: +254 20 2071247</p>
17.	Period to Respond to request for clarification by the Procuring Entity [ <b>Seven (7) Days</b> after the receipt of the request]

18.	Period Prior to deadline for submission of Tenders for Tenderers to request clarification [ <b>Seven (7)</b> days before the close of the tender]
	<b>C. Preparation of Tenders</b>
19	Language of Tender and all correspondence shall be <b>English</b> Language
20.	Other information or materials required to be completed submitted by Tenderers :  (a) Copies of original documents defining the constitution or legal status, place of registration, and principal, place of business; written power of attorney is authorizing the signatory of the Tender to commit the Tenderer.  (b) Experience as prime contractor in the construction of at least one project of a nature and complexity equivalent to the Works the last 2 years or the period stated in a) above (to comply with this requirement, works cited should be at least 70 percent complete).  (c) The essential equipment to be made available for the Contract by the successful Tenderer (proposals for timely acquisition or own, lease, hire, etc) are <b>N/A</b> (d) A Site Manager with a minimum of 3 years experience in all works of an equivalent working capital for this contract
21	Evidence of adequate working capital for this contract.
22	In the case of joint venture each partner shall submit information required under Clause ITT Clause 13.4. In addition the Tenderer shall furnish the following a Joint Venture Agreement
23.	The price shall be <b>Fixed</b>
24.	Information to be submitted with the Tender are <b>N/A</b>
25.	The currency in which the prices shall be quoted shall be: <b>Kenya Shilling</b>
26.	The authority for establishing the rates of exchange shall be Central Bank of Kenya. The applicable date for exchange rates for tendering and evaluation purposes is 30 days earlier than the final deadline for the submission of tenders.
27.	The Tender validity period shall be <b>ninety (90)</b> days.
28.	The amount of <b>Tender Security: Kshs. 100,000.00</b> in form of a Bank Guarantee or from an Insurance Company approved by the Public Procurement Regulatory Authority (PPRA). <b>The Tender Security should remain valid for 120 days from the date of Tender Opening</b>
	<b>D. Submission of Tenders</b>
29.	Tenders shall be submitted to [Specify below]:

	<p>The Vice Chancellor Multimedia University of Kenya P.O. BOX 15653 - 00503, NAIROBI, KENYA. MAGADI ROAD Tel. +254 20 2071391, Fax: +254 20 2071247 Building/Plot No. <b>Administration Block</b> Floor/Room No. <b>Ground</b></p>
30.	<p>The deadline for Tender submission is a) <b>Day: Friday</b> b) <b>Date: 4<sup>th</sup> September 2020</b> c) <b>Time: 10:30am</b></p>
31.	The extension of the deadline for submission of Tenders shall be made not later than seven (7) day before the expiry of the original Deadline.
32.	Expiry of Tender validity is <b>90 days</b> from the date of the opening the tender bids
33.	The Tender opening shall take place at: Multimedia University of Kenya- Mbagathi Campus Administration Conference Hall, Ground floor; <b>FRIDAY 4<sup>TH</sup> SEPTEMBER, 2020 AT 10:30 AM</b>
34.	Additional Preference <b>N/A</b>
35.	Post- qualification will be undertaken: <b>YES</b>
36.	The evaluation criteria will be applied in the evaluation of tenders
	<b>F. Award of Contract</b>
37.	The amount of Performance Security shall be [ <b>8% of the total contract price</b> ]
38.	The Advance Payment <b>IS NOT APPLICABLE</b>
39.	The proposed adjudicator for the project is: <b>N/A</b>
40	whose hourly rate shall be <b>N/A</b>
	<b>G. Review of Procurement Decisions</b>
41	<p>The address for submitting appeals to Administrative Review Board: The Secretary, Public Procurement Administrative Review Board, The Public Procurement Regulatory Authority, 10th Floor, National Bank House, P.O. Box 58583-00200, NAIROBI, Kenya. Tel: +254 (0) 20 3244000 Email: info@ppra.go.ke Website: www.ppra.go.ke</p>

## SECTION IV

## CONDITIONS OF CONTRACT

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## SECTION IV - CONDITIONS OF CONTRACT

### 1. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

## **2. Contract Documents**

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

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

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

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

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

- 4.1 The Contractor shall construct and install the Works in accordance with the Contract documents. The Works may commence on the Start Date and shall be carried out in accordance with the Program submitted by the Contractor, as updated with the approval of the Employer's Representative, and complete them by the Intended Completion Date.
- 4.2 The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya.

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

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

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

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

#### **7 The site**

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

#### **8 Instructions**

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

#### **9 Extension of Completion Date**

- 9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.

- 9.2 For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by:-

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

## 10 Management Meetings

- 10.1 A Contract management meeting shall be held regularly and attended by the Employer's Representative and the Contractor. Its business shall be to review the plans for the remaining Work. The Employer's

Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer's Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.

10.2 Communication between parties shall be effective only when in writing.

## **11 Defects**

- 11.1 The Employer's Representative shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Employer's Representative may instruct the Contractor to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor. However if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.
- 11.2 The Employer's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.
- 11.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Contractor has not corrected a defect within the time specified in the Employer's Representative's notice, the Employer's Representative will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

## **12 Bills of Quantities/Schedule of Rates**

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

### 13 Variations

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

### 14 Payment Certificates and Final Account

- 14.1 The Contractor shall be paid after each of the following stages of Work listed herebelow (subject to re-measurement by the Employer's Representative of the Work done in each stage before payment is made). In case of lump-sum Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.
- (i) Advance payment \_\_\_\_\_ (percent of Contract Price, [after Contract execution] to be inserted by the Employer).
  - (ii) First stage (*define stage*) \_\_\_\_\_
  - (iii) Second stage (*define stage*) \_\_\_\_\_
  - (iv) Third stage (*define stage*) \_\_\_\_\_
  - (v) After defects liability period .
- 14.2 Upon deciding that Works included in a particular stage are complete, the Contractor shall submit to the Employer's Representative his application for payment. The Employer's Representative shall check, adjust if necessary and certify the amount to be paid to the Contractor within 21 days of receipt of the Contractor's application. The Employer shall pay the Contractor the amounts so certified within 30 days of the date of issue of each Interim Certificate.
- 14.3 The Contractor shall supply the Employer's Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect Liability Certificate and

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

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

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

## **15. Insurance**

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

## **16. Liquidated Damages**

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

## **17. Completion and Taking Over**

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

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

## **18. Termination**

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

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

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

## **19. Payment Upon Termination**

- 19.1 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works.
- 19.2 The Contractor shall, during the execution or after the completion of the Works under this clause, remove from the Site as and when required within such reasonable time as the Employer's Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.
- 19.3 Until after completion of the Works under this clause, the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefor the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

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

- 20.1 The Contractor shall not;

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

## **21. Settlement of Disputes**

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



## APPENDIX TO CONDITIONS OF CONTRACT

## 1. THE EMPLOYER IS

Name: **MULTIMEDIA UNIVERSITY OF KENYA**Address: **P.O. BOX 15653 - 00503, NAIROBI, KENYA. MAGADI ROAD**

## 2. Name of Employer's Representative: to be nominated by the Employer

Title; \_\_\_\_\_ *to be nominated by the Employer* \_\_\_\_\_

Telephone: \_\_\_\_\_

## 3. The name (and identification number) of the Contract is

***Proposed Works and Installation to Main Kitchen Hood Extractor and Installation of a New at the Staff Cafeteria (small works) at Multimedia University of Kenya***

Contract No. MMU/KH/09/2020-2021/2021-2022

4. The Works consist of ***Installation of Kitchen hood to Main Kitchen Extractor and Installation of a New Kitchen hood at the Staff Cafeteria (small works) at Multimedia University of Kenya***5. The Start Date shall be \_\_\_\_\_ *to be agreed at contract signing* \_\_\_\_\_6. The Intended Completion Date for the whole of the Works shall be *to be agreed at contract signing*

## 7. The following documents also form part of the Contract:

- (1) Agreement,
- (2) Letter of Notification of award
- (3) Letter of Acceptance,
- (4) Contractor's Tender,
- (5) Conditions of Contract,
- (6) Specifications,
- (7) Bill of Quantities

8. The Site Possession Date shall be *to be agreed at contract signing*9. The Site is located at ***The Main Kitchen and at the Cafeteria at Multimedia University of Kenya, Mbagathi, Magadi Road***

## 10. The Defects Liability Period is 180 days.

## 11. Amount of Tender Security is Kshs 100,000.00

12. The name and Address of the Employer for the purposes of submission of tenders is:

***Vice Chancellor,  
Multimedia University of Kenya,  
P.O. BOX 15653 - 00503, NAIROBI, KENYA. MAGADI ROAD***

13. **Site Visit:** Due to the COVID-19 pandemic and consequently the Presidential Directives issued, crowding of bidders at the Site is discouraged. However, bidders are encouraged to make personal arrangements to acquaint themselves with the site before submissions of their bids. Further guidance will be given from the Estates Manager's Office.

14. The tender opening date and time is ***FRIDAY 4<sup>TH</sup> SEPTEMBER, 2020 AT 10.30AM***

15. The amount of ***Performance Security is 8%*** of the Contract Price in the form of a **Bank Guarantee.**

16. The proportion of **payments retained is ten percent (10%)** of the Contract Price.

17. The **Completion Period** for the Works is **Eight (8) Weeks.**

18. **Advance Payment SHALL NOT be granted.**

19. Prices should be inclusive of Value Added Tax (VAT) and any other taxes

**BILL OF QUANTITIES (BQs)**

ITEM	DESCRIPTION	UNIT	QTY	RATE	COST
	<b><u>ELEMENT NO. 1</u></b> <b><u>NEW HOOD INSTALLATION</u></b>				
A	Remove existing hood with its fitting and hand over to Client	No	1		
B	Remove existing fabricated chimney in make shift kitchen	ITEM	ITEM		
C	Supply and install new Hood overall canopy dimension 4800 x 3600 of gauge 14 galvanized steel to match the existing consisting of adjustable 900 – 1200mm x 1500mm long chimney with automatic air suppression system with 5 – 3 zoning for sound control	No	1		
D	Ditto 3600 x 2400mm	No	1		
E	Ditto 3600 x 1800mm	No	1		
F	Supply and install mortar of same capacity to existing one (450v) APS	No	3		
G	Extractor fan ditto APS	No	3		
H	Supply and install washable new charcoal filter.	No	12		
I	Ditto Mesh grease filter.	No	12		
J	Apply one under coat and two coats of aluminium paint to metal surfaces 100 – 600mm girth.	SM	60		
K	Allow for making good all disturbed surfaces including roof , ceilingboard painting	ITEM	ITEM		
L	Approved LED Lights	No	12		
M	Supply and weld heavy duty BRC mesh to open kitchen as directed on site	SM	20		
N		SUM	SUM	50,000	

O	<p>Allow for a sum of 50,000 for new wiring/installation and testing</p> <p>Wash down existing make shift kitchen before installation</p> <p><b>A six (6) months guarantee period be allowed by the Contractor/supplier from the date of testing and commission.</b></p>	ITEM	ITEM		
	<b>CARRIED TO SUMMARY</b>				

ITEM	DESCRIPTION	UNIT	QTY	RATE	COST
	<b><u>ELEMENT NO. 2</u></b> <b><u>NEW HOOD</u></b>				
A	Supply and install new Hood overall dimension 3600 x 1500 of gauge 14 galvanized steel to match the existing consisting of adjustable 900 - 1200mm x 1500mm long chimney.	No	1		
B	Supply and install mortar of same capacity to existing one	No	1		
C	Extractor fan ditto.	No	1		
D	Supply and install washable new charcoal filter.	No	4		
E	Ditto grease filter.	No	4		
F	Apply one under coat and two coats of aluminum paint to metal surfaces 100 - 600mm girth.	SM	20		
G	Allow for making good all disturbed surfaces including roof, ceiling and painting	ITEM	ITEM		
H	Approved LED Lights	No	2		
	<b>A six (6) months guarantee period be allowed by the Contractor/supplier from the date of testing and commission.</b>				
	<b>CARRIED TO SUMMARY</b>				

**SUMMARY OF BILL OF QUANTITIES**

S/No	ITEM DESCRIPTION	AMOUNT (KSHS)
1	<b>ELEMENT NO. 1: NEW HOOD INSTALLATION (MAIN KITCHEN)</b>	
2	<b>ELEMENT NO. 2 NEW HOOD (CAFETERIA)</b>	
	<b>GRAND TOTAL (Inclusive of all taxes)</b>	

## SECTION V: EVALUATION CRITERIA

Table 1: Preliminary Evaluation Criteria

S/No	Mandatory Requirements(MR)
MR1	Valid Copy of Certificate of Incorporation/ Registration.
MR2	Valid Copy of Current KRA Tax Compliance Certificate or Exemption
MR3	Proof of Registration with National Construction Authority 'NCA7' and above in the relevant Category
MR4	Confidential Business Questionnaire Duly Completed
MR5	Declaration that the Bidder shall not engage in any corrupt or fraudulent practice. The form must be duly signed by a person lawfully authorized - <b>Form SD2</b> (attached)
MR6	<b>Serialization /Pagination of the Tender Document</b>
MR7	Tender Security of <b>Kshs. 100,000.00</b> in the form of Bank Guarantee or from an Insurance Company approved by PPRA. The Tender Security should have a <b>validity of 120 days</b> from the date of Tender Opening
MR8	Submission of Valid CR12 form showing the list directors /Shareholding  or  National Identity Card for Sole Proprietor

Tender Document submitted without the above mentioned Mandatory documents shall be rejected by MMU and will therefore not proceed to the Technical and financial Evaluation.

Table II: Detailed Technical Evaluation Criteria

Item No.	Criteria / Factor		Max Score
A.	Technical Evaluation		Max Score
1.	Proof of works of similar magnitude and complexity		20
a.	Work references (General <b>Builders works</b> ) of similar <b>magnitude</b> or more in the format  Attach copies of completion certificates or payment certificates or award letters  (4x4marks ) (four clients for maximum points)	16	
b.	Avail at least two (2) recommendation letters from your current or previous major reputable clients or firms with work of equivalent nature and volume for the last 2 years	4	
2.	Qualifications and competence of key staff  Detail is to be given in the format in Confidential Business Questionnaire Attach biographic data  <b>ATTACH CVS AND COPIES OF CERTIFICATES</b>		15
a	Site manager/agent: minimum Diploma in Architecture, Engineering, Quantity Surveying with 3 years' experience  (1x5 marks)	5	
b	General Foreman (at least 2 No )with minimum <b>certificate</b> in construction related field with two (2) years experience  Each 2 x3mark	6	
c	Skilled Artisans with minimum GTT with 5 years experience at least 2 in Masonry, Welding, Electrical and Carpentry  (Each 2x2 marks)	4	
4	Details of Equipment & Workshop: <i>(Attach log books for vehicles, purchase receipts for equipment or hire/lease agreements)</i>		15
a	7 tones Lorry and above (attach copy of logbook)	3	



b	<b>Concrete Mixer</b> ( <i>attach copies of purchase receipts or hire/lease agreement</i> )	1	
c	<b>Pickup</b> ( <i>attach copy of logbook</i> )	3	
d	List of assorted hand tools (e.g. Welding machine, Vibrators, Grinder, Rollers etc) ( <i>attach copies of purchase receipts or hire/lease agreement</i> )	3	
e	<b>Evidence of workshop</b> (Please attach Proof e.g. Lease agreement, Utility Bills, Current Single Business Permit) Etc	5	
<b>5</b>	<b>Financial Standing/Experience</b>		<b>25</b>
a	Audited accounts for the last financial years 2017, 2018 & 2019 (3yrs - 15pts; 2yrs - 10pts; 1yr - 5pts)	15	
b	Number of years the firm has been in the construction Industry (work experience (Certificate of Incorporation/Registration)) i. 0-5 years - 5 Marks ii. 5-10 years - 10 Marks	10	
6	How well the bidder's documentation is presented. i) Table of contents mapped to bid document - 2 Marks ii) <i>Bid document paginated and referenced by separators</i> - 3 Marks		<b>5</b>
	<b>Total Technical Score</b>		<b>80</b>
	<b>Minimum technical score required to pass (70%)</b>		<b>56/80</b>

**Only bidders who will attain 56/80 (70%) and above at this stage will proceed to Financial Evaluation**

### Financial Evaluation Criteria

Tenderers shall state their tender bid as detailed outlined in the price schedule section. Tenders will be evaluated on the basis of this base price.

Tenders shall be ranked according to their evaluated price and the successful tender shall be the tender with the lowest evaluated Tender Sum from the bidders who qualify at the technical stage (70% points and above). The comparison shall be of the price including all costs as well as duties and taxes payable in the provision of the services.

## SECTION VI: STANDARD FORMS

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**A. FORM OF TENDER**

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

Dear Sir,

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

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

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

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

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

(Amend accordingly if provided by Insurance Company)

## B. LETTER OF ACCEPTANCE

[letterhead paper of the Employer]

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

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

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

Dear Sir,

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

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

Authorized Signature .....

Name and Title of Signatory .....

Attachment : Agreement

### C. FORM OF AGREEMENT

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

WHEREAS THE Employer is desirous that the Contractor executes

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

NOW THIS AGREEMENT WITNESSETH as follows:

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

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

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

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

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

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

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

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

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

Address \_\_\_\_\_

Signature \_\_\_\_\_

## D. FORM OF TENDER SECURITY

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

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

THE CONDITIONS of this obligation are:

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

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

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

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

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

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

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

## E. PERFORMANCE BANK GUARANTEE

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

Dear Sir,

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

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

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

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

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

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

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

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

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

Address \_\_\_\_\_

Date \_\_\_\_\_



## F. QUALIFICATION INFORMATION

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

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

Place of registration: \_\_\_\_\_

Principal place of business \_\_\_\_\_

Power of attorney of signatory of tender \_\_\_\_\_

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

Year	Volume	
	Currency	Value

1.3 Work performed as Main Contractor on works of a similar nature and volume over the last five years. Also list details of work under way or committed, including expected completion date.

Project name	Name of client and contact person	Type of work performed and year of completion	Value of Contract

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

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

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data.

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

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 1.10 Proposed program (work method and schedule) for the whole of the Works.

## 2 Joint Ventures

- 2.0 The information listed in 1.1 - 2.0 above shall be provided for each partner of the joint venture.

- 2.1 The information required in 1.11 above shall be provided for the joint venture.

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

## G. TENDER QUESTIONNAIRE

Please fill in block letters.

1. Full names of tenderer;  
.....
2. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below);  
.....
3. Telephone number (s) of tenderer;  
.....
4. Telex of tenderer;  
.....
5. Name of tenderer's representative to be contacted on matters of the tender during the tender period;  
.....
6. Details of tenderer's nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, telephone, telex);  
.....  
.....

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

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

## H. CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

### *Part 1 - General*

Business Name .....

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

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

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

Nature of Business.....

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

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

Name of your bankers.....

Branch.....

### *Part 2 (a) - Sole Proprietor*

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

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

Citizenship details .....

### *Part 2 (b) - Partnership*

*Give details of partners as follows:*

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

**I. DETAILS OF SUB-CONTRACTORS**

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

Failure to comply with this requirement may invalidate the tender.

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

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

.....

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

.....

.....

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

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

.....

.....

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

.....

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

\_\_\_\_\_  
Date

## J. LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

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

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

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

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

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

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

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

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

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

SIGNED FOR ACCOUNTING OFFICER

## SELF DECLARATION FORMS

### FORM SD1 : SELF DECLARATION FORMS

(r.47)

#### SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I, ....., of Post Office Box ..... being a resident of ..... In the Republic of ..... do hereby make a statement as follows:-

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

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

3. THAT what is mentioned to hereinabove is true to the best of my knowledge, information and belief.

.....

(Title)

.....

(Signature)

(Date)

Bidder Official Stamp



**FORM SD2: SELF DECLARATION FORMS****SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.**

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

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of  
 .....  
 ..... (Insert name of the Company) who is a Bidder in respect of Tender No.  
 ..... For ..... (Insert tender title/description) for ..... (insert  
 name of the Procuring entity) and duly authorized and competent to make this statement.
  
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not  
 engage in any corrupt or fraudulent practice and has not been requested to pay any  
 inducement to any member of the Board, Management, Staff and/or employees and/or  
 agents of ..... (insert name of the Procuring entity) which is the procuring entity.
  
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not  
 offered any inducement to any member of the Board, Management, Staff and/or employees  
 and/or agents of ..... (name of the procuring entity)
  
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive  
 practice with other bidders participating in the subject tender
  
5. THAT what is mentioned to hereinabove is true to the best of my knowledge  
 information and belief.

.....

(Title)

.....

(Signature)

.....

(Date)

Bidder's Official Stamp

FORM RB 1

REPUBLIC OF KENYA  
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT

AND

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

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

**REQUEST FOR REVIEW**

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED .....(Applicant)

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

---

**FOR OFFICIAL USE ONLY**

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

SIGNED

Board Secretary