



**COUNTY**

**GOVERNMENT OF**

**MARSABIT**

**DEPARTMENT OF PUBLIC WORKS**

**PROVISION OF SOLID WASTE MANAGEMENT FOR  
MOYALE TOWN-ZONE C**

TENDER NO. MBT/COU/LANDS-URBAN.....17...../2017-18

COUNTY WORKS OFFICER  
DEPARTMENT OF PUBLIC WORKS  
P.O BOX 73  
MARSABIT

COUNTY QUANTITY SURVEYOR  
DEPARTMENT OF PUBLIC WORKS  
P.O BOX 73  
MARSABIT

COUNTY ELEC/MECH ENGINEER (BS)  
DEPARTMENT OF PUBLIC WORKS  
P.O BOX 73  
MARSABIT

COUNTY ARCHITECT  
DEPARTMENT OF PUBLIC WORKS  
P.O BOX 73  
MARSABIT

**SECTION A**

# INSTRUCTIONS TO TENDERERS

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## **1. PURPOSE OF INSTRUCTIONS**

- (1) These INSTRUCTIONS TO TENDERERS are part of and are to be read in conjunction with all other Sections of the Tender Documents.
- (2) Their purpose is to inform Tenderers of the proper practices which must be adopted to satisfy the requirements of County Government of Marsabit (CGM) for the submission of Tenders and award of Contract. Deviations from these practices may result in the offered Tender being rejected.
- (3) The INSTRUCTIONS TO TENDERERS are printed in English. Queries regarding interpretation should be directed in writing to the Urban Public Health Officer, County Government of Marsabit.

## **2. TENDER ACKNOWLEDGEMENT**

- (1) Tenderers are required to complete the TENDER ACKNOWLEDGEMENT which is attached to the letter of invitation to tender and forward same within three (3) days of receipt of the Tender Documents, to the Head of Supply Chain Management, County Government of Marsabit.

## **3. REQUEST FOR FURTHER INFORMATION**

- (1) Any request for further information which may be required by the Tenderer in order to complete his/her Tender or any interpretation thereof, must be submitted by facsimile or in writing marked for the attention of The County Executive Committee[CEC], Department of Energy, Lands, Housing and Urban Development. Such request must be made not later than seven (7) days prior to the Closing Date for Tenders.
- (2) Any further information, interpretation, advice or modifications given by or agreed upon by the County Government of Marsabit pursuant to Clause 3(1) herein shall be distributed to all Tenderers if the CGM at its sole discretion deems necessary.
- (3) Except as provided above, Tenderers are not permitted to contact or communicate with any member of the CGM staff on any matter relating to this Tender.

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#### **4. SHAREHOLDING, JOINT VENTURE/PARTNERSHIPS & ELIGIBILITY**

- (1) Tenderer's intentions regarding the submission of joint venture or contractor partnership arrangements (if any) must be clearly indicated in the space provided in the Tender Documents or in a letter accompanying the Tender. Certified assurances regarding the financial structure and standing of any such partner companies may be required by CGM. Tenders by partnership shall disclose the full names of all partners and shall be signed with the partnership name by one of the members of the partnership or by an AUTHORISED REPRESENTATIVE.
- (2) Eligibility to provide solid waste management services is limited to individuals, firms/company or joint ventures which are legally incorporated or have their principal place of business in Kenya, and are more than 51% owned by the citizen(s) of Kenya.
- (3) There are one [1] TOWN OF OPERATION with two sub-sections and therefore two [2] CONTRACTS open for tender. A Tenderer is allowed to submit a Tender for the two contracts. However, there is no guarantee of winning both the contracts.

#### **5. PREPARATION OF TENDERS**

- (1) Prospective Tenderers who are in receipt of Tender Documents from CGM and who subsequently decide not to submit a Tender shall return all Tender Documents together with written notice prior to the Closing Date for Tender.
- (2) Tenderers are required to complete and return all Sections of the Tender Documents which along with any annotations on accompanying material must be in the English Language.
- (3) No Tender will be considered in which the particulars required are not completed in full. Tenders must be completed in ink or be typewritten. Tenders must not be completed in pencil.
- (4) The Tenderer shall confirm its proposal on the PROPOSAL OFFER LETTER included in the Tender Documents and return same together with all other Sections of the Tender Documents, completed as required and clearly marked "Original", in accordance with Clause 6.

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- (5) Tenders shall state in the PROPOSAL OFFER LETTER, the registered address of the Tenderer and be signed by the usual signature of its principal whose full name and position shall be typed or printed in the space provided below the signature.
  - (6) When requested by CGM, satisfactory evidence of the authority of the person signing on behalf of the Tenderer must be furnished.
  - (7) Alterations in the details submitted by the Tenderer shall be explained and initialed in the margin by such Tenderer. No Tender will be accepted unless such procedure is carried out. White correction fluid should not be used.
  - (8) Should the Tenderer consider that any of the items contained in these Tender Documents, for which it is not given specific opportunity to price individually, have a cash value, it will include the same into the appropriate element of its price.
  - (9) If a Tenderer should wish to submit an alternative Tender or a qualified Tender it may do so provided this is done by means of a separate document in addition to a Tender calculated on the basis set out in the Tender Documents. Any consideration of such alternative Tender shall be entirely at the discretion of County Government of Marsabit [CGM.]
  - (10) Tenderers are to bear responsibility for and pay all costs and expenses and other charges incurred in preparing their Tender.

## **6. RETURN OF TENDERS**

- (1) The Closing Date and Time for receipt of Tenders is 10.00 am on 26<sup>TH</sup> SEPTEMBER 2017
- (2) Tenders may be forwarded by Government post, courier service or delivered by hand.
- (3) Tenders forwarded by Government post or courier service must be address as follows:

The Head of Supply Chain Management  
County Government of Marsabit  
P.O.Box 384-60500  
Marsabit County, Kenya

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- (4) Tenders to be contained in separate sealed plain envelopes or packages and marked.  
“CONFIDENTIAL” : Attention, the Head of Supply Chain Management  
Tender for : SOLID WASTE MANAGEMENT
- (5) There must be no other mark on the envelope or package, except the Tenders, ~ Head of Supply Chain Management and address. Any envelope or package indicating the name of the Tenderer may be rejected.
- (6) Tenders received later than the Closing Date and Time stated will be rejected, notwithstanding the means of delivery to the Tenders addressee.
- (7) Except under exceptional circumstances no extension of the time and date by which Tenders must be submitted will be granted.
- (8) Tenders may be withdrawn by written or faxed requests only, which must be received by Tenders addressee at the address indicated in Clause 6(3) hereof and prior to the Closing Date for receipt of Tenders.
- (9) Tenderers shall retain a photocopy of the Tender Documents.

## **7. MANDATORY DOCUMENTS**

Tenders are required to have the following mandatory document:

- i. Certificate of incorporation
- ii. License to transport waste
- iii. Single business permit
- iv. Pin certificate
- v. Official receipt
- vi. Tax compliance
- vii. Certificate of youth women and people with disability.

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TO: The Head of Supply Chain Management  
County Government of Marsabit  
P.O.Box 384-60500  
Marsabit County, Kenya

Sir,

**PROPOSAL OFFER: SOLID WASTE MANAGEMENT SERVICES FOR  
MARSABIT TOWNS**

1. We propose to carry out the WORK for the SERVICES more specifically described elsewhere in the Tender Documents for the CONTRACT PRICE calculated in accordance with the method described in Appendix 6 herein.
2. We confirm that this Tender will be held firm and free of any adjustments whatsoever and open for acceptance for a period of ninety (90) days from the Closing Date of Tenders.
3. Our Tender is based upon and incorporates all this contract terms referred to in your Tender Documents along with the Appendices attached to this Form of Tender.
4. We agree that until a formal agreement is executed by both parties, this Tender together with your acceptance of it shall be considered a binding agreement between us.
5. The Tender Sums calculated on the basis of the specifications and quantities, contained under cover of these tender document are ksh..... / month.

Signature .....date this .....day of.....

Name.....

Position .....

Duly authorized to sign tender for and on behalf of  
(Tender name and register address)

**TENDER APPENDICES**

The Tenderer is requested to complete the following Appendices and is advised that failure to do so may result in its Tender being rejected.

In the event of an award of CONTRACT the Tenderer is advised that at CGM's sole discretion some or all of these Appendices will form part of the CONTRACT.

**APPENDIX 1 – BUSINESS STRUCTURE**

(1) The Tenderer shall include hereunder a statement of its business structure including:

(i) The identity of the tenderer including its precise name and trading title:

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(ii) The tenderer’s place of incorporation:

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(iii) The names of all principal partners of the tenderer:

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.....

(iv) The date when the tenderer was incorporated and first started trading:

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(v) The identity and place of incorporation of the tenderer’s parent company (if appropriate):

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(vi) A letter authorizing CGM to undertake a credit worthiness check with each bank and/or financial institution with whom the tenderer regularly undertakes business transactions.

- (vii) Details of any existing or proposed consortium, joint venture or support agreements.

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- (viii) The name and title of the individual authorized to sign on behalf of the tenderer:

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.....

**APPENDIX 2 – STATEMENT OF RESOURCES**

- (1) The Tenderer shall include hereinafter details of its resources and capability to perform the WORK.
- (2) Statements shall be provided within the appropriate spaces provided, or on separate pages if necessary, of the following:

2-I EXPERIENCE

- (A) GENERAL BUSINESS EXPERIENCE
- (B) RELEVANT SOLID WASTE MANAGEMENT CONTRACT EXPERIENCE
- (C) OTHER CONTRACT EXPERIENCE

2-II SUBCONTRACTING

2-III ORGANISATION

2-IV KEY PERSONNEL

2-V PERSONNEL

2-VI EQUIPMENT SPECIFICATIONS

- (A) EXISTING EQUIPMENT
- (B) PROPOSED EQUIPMENT

2-VII OFFICE/FACILITIES/WORKSHOP

**APPENDIX 2-I                      EXPERIENCE**

**APPENDIX 2-I (A)                      GENERAL BUSINESS EXPERIENCE**

- (1) Tenderer shall provide a general statement on a separate piece of paper, of each of its current and past business operations in Kenya and in any other country, stating for each:
- (a) Nature of business
  - (b) Name of business and/or company
  - (c) Number of years of operation, with start date and end date if appropriate
  - (d) Location of the business (country and district/town)

Please ensure that the answers are carefully numbers to correspond with the sub-component of the question.

**APPENDIX 2-III ORGANISATION**

- (1) Tenderer shall provide an Organization Chart on a separate page for execution of the SERVICES and undertaking the Scope of Work which should detail the following:
- names of senior management of the tenderer
  - key positions in the execution of the proposed SERVICES.

**APPENDIX 2-IV      KEY PERSONNEL**

- (1) The Tenderer shall submit the curriculum vitae of principal/key personnel which it proposes to employ in the execution of the CONTRACT.
  
- (2) The Tenderer shall provide a description of the functions of the key personnel.

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- (3) The Tenderer shall specify the academic or other qualifications and experience considered necessary of the personnel to fill the key positions:

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**APPENDIX 2-V PERSONNEL**

(1) The Tenderer shall list, within the table provided, details relating to all the personnel required to fulfill the CONTRACTOR’S obligations in the event of the award of the CONTRACT.

STAFF	ADMINISTRATIVE	TECHNICAL	SUPERVISORS	DRIVERS	OPERATORS
<b>NUMBERS PRESENTLY EMPLOYED</b>					
<b>TOTAL NUMBERS TO BE EMPLOYED UNDER THE CONTRACT</b>					
<b>PROPOSED SOURCE OF ADDITIONAL STAFF</b>					
<b>MOBILISATION PERIOD FOR ADDITIONAL STAFF</b>					
<b>NUMBER OF OUT-SIDE COUNTY PERSONNEL EMPLOYED</b>					
<b>NUMBER OF MARSABIT COUNTY CITIZENS EMPLOYED</b>					
<b>AVERAGE NORMAL AND OVERTIME TO BE WORKED EACH WEEK</b>					
<b>AVERAGE NORMAL AND OVERTIME PAYMENT RATES PER DAY</b>					



**APPENDIX 2-VI EQUIPMENT SPECIFICATIONS**

Tenderer shall detail, within the attached tables, the EQUIPMENT offered to fulfill the CONTRACTOR’S obligations in the event of award of CONTRACT.

**APPENDIX 2-VI EXISTING EQUIPMENT**

DESCRIPTION	MAKE	MODEL	YEAR OF MANUFACTURE	CONDITION	OWNERSHIP (state who owns the equipment)





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**APPENDIX 2-VII OFFICE/FACILITIES/WORKSHOP**

(1) Tenderer shall supply details hereunder of its office, workshop, and any other facilities (including location) which are proposed to be utilized in connection with the proposed contract.

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**APPENDIX 3 HEALTH, SAFETY AND ENVIRONMENT**

- (1) The Tenderer shall provide answers, on a separate sheet of paper, to the following questions concerning health, safety and environment.
- (2) Please ensure that the answers are carefully numbered to correspond with the relevant question. In cases where you are asked to provide a particular document and cannot comply, please explain why. If you do not currently operate a business in solid waste management, please indicate how you would comply with these requirements.

**A) HEALTH AND SAFETY POLICY**

- (i) Do you have a written Health and Safety policy? If so, please supply a copy.
- (ii) Supply a schedule (job categories/type and frequency of medical check-up) performed on the personnel who will be executing the SERVICES and providing WORK under a prospective contract which might ensue from the tender.

**B) SAFETY STANDARDS**

- (i) Do you have any emergency procedures? If so, please supply a copy.
- (ii) What safety equipment is supplied to your employees? Who pays for it? When is it replaced?

**C) SAFETY TARGETS**

- (i) What have you identified as the main hazards in the type of WORK contemplated by this tender invitation and what steps have you taken and do you continue to take to avoid accidents in these aspects of your business?

**D) SAFETY INSPECTIONS AND AUDITS**

- (i) Do you conduct regular safety audits or inspection? If so, state how often they are performed, who does them and provide a copy of a typical report.

- (ii) How do you make sure that findings are acted upon?

#### E) SAFETY TRAINING

- (i) State what safety training you provide for your personnel in the various job functions.

#### F) ACCIDENT INVESTIGATION

- (i) In case of an accident, how do you report and investigate it?

If you have a written procedure, please supply a copy, otherwise please provide a description of the process.

#### G) EFFECTIVE MOTIVATION AND COMMUNICATION

- (i) What safety meeting do you have?
- (ii) How often does each of these meetings take place, who attends and what do they discuss?
- (iii) How do you inform new employees of your safety requirements?



**APPENDIX 4            METHODOLOGY STATEMENT**

- (1) The Tenderer shall provide a general methodology statement which should broadly explain their overall approach to the CONTRACT.
  
- (2) The Tenderer shall also detail, on the appropriate maps provided, their approximate daily collection routes for SOLID WASTE. Separate maps may be submitted for each collection day or alternatively color coded daily routes can be placed on a single map as long as the information is clearly legible.

**APPENDIX 4-III      METHODOLOGY FOR HOUSEHOLD BINS AND COMMUNITY BINS**

- (2) The Tenderer shall provide the following information for each community in the AREAS OF OPERATION (communities are listed in the Attachment 1):
- (a) Community name
  - (b) Tenderer's estimate of number of households in community (due to the uncertainty of the accuracy of the available census data, Tenderers are required to provide their own estimates regarding the number of houses within the individual communities)
  - (c) For HOUSEHOLD bins:
    - (i) Number of household bins required, and capacities
    - (ii) Days of collection (specify which days of the week)
    - (iii) Types of vehicle(s) to be used (including capacities)
    - (iv) Number and type of staff
  - (d) For COMMUNITY bins:
    - (i) Number and capacity of bins
    - (ii) Days of collection (specify days of the week)
    - (iii) Location of bins (specify location of community bin for premises or communities not on main collection route as described in the route specification (Appendix 4-I (2))).
    - (iv) Type of vehicle(s) to be used (including capacity)
    - (v) Number and type of staff

This information may be provided in the form of a table if deemed appropriate by the Tenderer. A format for the table is suggested below. This format is a suggestion and does not have to be adhered to, although all sub-section (a) to (g) above must be addressed.

**APPENDIX 5            PAYMENT DETAILS**

(1) The Tenderer shall include hereunder details of the Tenderer's:

(a) Bank account number to which payment should be made: .....

(b) Name of Bank: .....

(c) Address of Bank: .....

.....

(d) Account Name: .....



**APPENDIX 6            CONTRACT PRICE**

- (1) Tenderer shall detail the proposed CONTRACT PRICE for the initial 12 months of operation for the required SERVICES. The title of this appendix reflects the intent, that if the Tenderer's offer is accepted this Appendix to the Form of Tender will be incorporated into the CONTRACT.
- (2) The Tenderer may propose a separate CONTRACT PRICE for any of zone A and B. The TOWN(s) for which a CONTRACT PRICE is being submitted must be clearly written in the allocated space given in page 1 of SECTION B – TENDER.
- (3) The Tenderer may **in addition** make an **alternative** proposal if it believes this would be beneficial to CGM.
- (4) The CONTRACT PRICE (Kshs/Month) shall be reviewed each anniversary of the COMMENCEMENT DATE on the REVIEW DATE and shall be increased or reduced by a percentage equivalent to the percentage increase or reduction (if any) on the variable elements, shown by the Consumer Price Index since the COMMENCEMENT DATE and such increase or decrease shall take effect in respect of the twelve-month period commencing on the REVIEW DATE.
- (5) The CONTRACT PRICE is Kshs..... per month.
- (6) The CONTRACT PRICE shall be the full compensation for fulfilling all obligations and liabilities of the CONTRACTOR in performance of the CONTRACT including, but not limited to, the following:
  - i) All the CONTRACTOR'S capital expenditure relating to the purchase of any plant and equipment.
  - ii) All cost of any duties, taxes and contributions and raised by law or regulations arising from the performance of the SERVICES; if not exempted could be recouped by submission of an invoice to CGM;
  - iii) All costs of the CONTRACTOR's standard employee benefits, including as many of the following as appropriate: salary, overtime, leave pay, sick leave with pay, retirement funds, health and life insurance, bonus programmes, profit, sharing schemes and share purchase schemes;

- iv) All the CONTRACTOR's direct and indirect expenses incurred including, but not limited to travel, subsistence and accommodation, mobilization and demobilization, printing and reprographic, computing costs, telephone, facsimile, and telex and the procurement of visas and travel documents;
  - v) All the CONTRACTOR's other direct and indirect costs, including all contributions to overheads, administration and profit;
  - vi) All PERSONNEL related costs including computing, word processing, secretarial, clerical and administrative costs;
  - vii) Any other costs not specifically mentioned above or not specifically excluded by any of the foregoing part of the CONTRACT.
- (7) The Tenderer shall complete the following tables detailing the overall contract price for the different components of the service. CGM may at its sole discretion choose to accept the contract price for all the component of the service or for selected components of the service only.

<b>ITEM</b>	<b>Tenderer's contract price In Kshs.</b>
<b>1. MOBILISATION – one off costs at startup of Contract, e.g. provision of public information on collection days</b>	

<b>ITEM</b>	<b>Tenderer's contract price In Kshs. per month</b>
DOMESTIC WASTE – Collection by community bins and household bin	

- (8) The Tenderer shall complete the following table which details the individual components of the Kshs/month costs. This information will be of assistance when determining the increase in the variable price elements for any extension period.

ITEM	% OF Kshs/MONTH
1. FIXED ELEMENT OF COST 1.1 Financing cost (interest, bank fees, etc.)	
2. VARIABLE ELEMENT OF COST 2.1 Salaries (include medical, leave, etc.)	
2.2 Maintenance and replacement of equipment	
2.3 Consumables/materials	
2.4 Insurance	
2.5 Safety gear/equipment	
2.6 Overheads, administrative costs	
2.7 Profit	

- (9) In addition, the CONTRACTOR shall provide details of his anticipated capital expenditure.





**SECTION 1**

**AGREEMENT**

THIS AGREEMENT is made this ..... day of ..... 20.....  
BETWEEN:

THE COUNTY GOVERNMENT OF MARSABIT (hereinafter referred to as “CGM”)

AND:

..... (Hereinafter referred to as the “CONTRACTOR”)

WHEREAS

CGM wishes to obtain a comprehensive solid waste management SERVICE within TOWN.-----  
-

-----  
and the CONTRACTOR is willing to provide the same on the terms of this Agreement.

NOW THIS AGREEMENT WITNESSES as follows:

ARTICLE 1 In this CONTRACT all words and expressions shall have the meanings as are respectively assigned to them in the GENERAL CONDITION OF CONTRACT referred to in ARTICLE 2 hereunder.

ARTICLE 2 The following documents shall be deemed to form and be and construed as part of this CONTRACT. The said documents shall be taken as mutually explanatory but if there is any conflict in the construction and interpretation of the CONTRACT then any document higher in the order given below shall prevail over all those listed beneath it.

- (1) AGREEMENT
- (2) GENERAL CONDITIONS OF CONTRACT
- (3) SPECIFICATION OF SERVICE
- (4) THE CONTRACTOR’S TENDER AND APPENDICES

ARTICLE 3 The CONTRACT Reference Number of this CONTRACT is. **MBT/CGM/UD/-/2016-2017**

ARTICLE 4 In consideration of the CONTRACTOR performing the CONTRACT, CGM shall pay the CONTRACTOR the CONTRACT PRICE ascertained in accordance with the provisions contained in the CONTRACT.

ARTICLE 5 In consideration of the payment provided for under the CONTRACT the CONTRACTOR shall perform the CONTRACT in conformity in all respects with the provisions of the CONTRACT.

ARTICLE 6 This CONTRACT shall come into force or be deemed to have come into Force and be legally binding as from the COMMENCEMENT DATE (.....)The contractor has been awarded a period of one year ( .....) to carry out the said responsibility, however the said period is subject to renewal.  
Therefore we would kindly request the county government to consider Renewing the contract, considering all that is at stake and the much we have accomplished, so that we can enjoy serving the citizens of Marsabit county

ARTICLE 7 The CONTRACTOR will be responsible for all the capital and optional costs for providing the SERVICE and shall invoice CGM on a monthly basis.

ARTICLE 8 The CONTRACTOR shall not assign any of its rights, duties or obligations under the CONTRACT without CGM's expressed written consent.

ARTICLE 9 CONTRACT VARIATIONS

The AUTHORISED OFFICER shall be entitled to issue to the CONTRACTOR instructions in writing in relation to all or any of the following:

- a) to provide the SERVICES or any part thereof in such manner as the AUTHORISED OFFER may reasonably require providing that a requirement to provide the SERVICES to the CONTRACT STANDARD shall not be a VARIATION;
- b) to provide such services additional to the SERVICES including additional or subtitled sites as the AUTHORISED OFFICER may reasonably require providing that such additional services shall be the same as or similar to the SERVICES;
- c) to vary permanently the SERVICES or any part thereof to be provided at the SITE.

The valuation of VARIATIONS shall be ascertained by the AUTHORISED OFFICER in accordance with the following provisions:

- a) where the VARIATION is of a similar character to and is executed

under similar conditions to the SERVICES the rates and prices for the work contained in the DAYWORKS

2 of 6

SCHEDULE or CONTRACT PRICE shall determine the valuation;

- b) Where the VARIATION is not of a similar character to and is not executed under similar conditions to the SERVICES the valuation shall be made at fair prices and rates having due regard where applicable to the rates and prices contained in the DAYWORKS SCHEDULE or CONTRACT PRICE.

The CONTRACTOR shall not make any VARIATION without an instruction from the AUTHORISED OFFICER.

## ARTICLE 11 CONTRACT TERMINATIONS

At any time after the COMMENCEMENT DATE, CGM may investigate each case where the CONTRACTOR has failed to properly perform the SERVICES in accordance with the provisions of the CONTRACT, has committed a breach of any of its obligations, or has committed any offence under the CONTRACT.

CGM shall be entitled to TEMRINATE the CONTRACT, where the CGM is satisfied that in any particular case the CONTRACTOR has failed to perform the SERVICES completely in accordance with the provisions of the CONTRACT.and terms of reference.

CGM may TERMINATE the CONTRACT if more than 50 DEFAULT POINTS are recorded against the CONTRACTOR in any four-week period. For the purpose of this condition a week shall be any 7 consecutive days. These TERMINATION provisions shall not apply during the 2 weeks immediately following the COMMENCEMENT DATE.

## ARTICLE 12 NOTICES

All notices required or authorized to be given under the CONTRACT must be given in writing or facsimile and must quote the CONTRACT reference number. All such notices must be served either by personal delivery, by courier delivery, or fax transmission at the address of the receiving party set out below:

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(a) For CGM

Address: Energy and Urban Development Office  
County Government of Marsabit  
P.O.Box 384-60500  
Marsabit County, Kenya

(b) For the CONTRACTOR

Address: .....  
.....  
.....

All notices served on CGM shall be marked "For the attention of the AUTHORISED OFFICER".

All notices served on the CONTRACTOR shall be marked "For the attention of the CONTRACTOR REPRESENTATIVE".

Either party may change its address for service by giving notice to that effect to the other party in accordance with this provision.

A notice shall be deemed to have been served upon receipt of the same by the receiving party unless receipt takes place after 5 p.m. on any day or on any weekend or public holiday in the place of receipt in which case the notice shall be deemed to have been served at 9 a.m. on the following working day.

Notices sent by facsimile shall be deemed to have been received when transmitted but shall be confirmed by immediately sending a copy thereof to the addressee by personal delivery or by courier.

ARTICLE 13 CORRESPONDENCES

Without prejudice to the provisions set out relating to Notices, subject to any provision to the contrary herein contained or to any specific agreement between the parties, all instructions, information, agreements, authorizations, approvals and acknowledgements shall be either by letter or by facsimile.

ARTICLE 14 AUDITED ACCOUNTS/FINANCIAL STATEMENTS

All contractors shall keep proper books of accounts, which must be audited each financial year by an independent qualified accountant or firm. CGM has the right to inspect these audited accounts.



In WITNESS whereof the parties hereto have hereunder set their hands and seals this day  
of..... 20.....

SIGNED for and on behalf of the County Government of Marsabit –

.....  
CO Energy and Urban  
Development

In the presence of:

Witness

Signed for and on behalf of the CONTRACTOR: .....

.....  
(Position held)

In the presence of: ....

Witness

## SECTION 2

### GENERAL CONDITIONS OF CONTRACT

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1. “CONTRACTOR” means the company who has signed the AGREEMENT for provision of the SERVICES listed herein.

“CONTRACT PRICE” means the sum or sums to be ascertained and paid in accordance with the provisions of the CONTRACT.

“CONTRACTOR REPRESENTATIVE” means the person designated from time to time by the CONTRACTOR to have the duties, rights and obligations outlined in Clause 4 hereof.

“CONTRACTOR STAFF” means all personnel specifically designated by the CONTRACTOR’s REPRESENTATIVE to be responsible for delivering services under this CONTRACT including SOLID WASTE collection workers, vehicle drivers, workshop mechanics, supervisors and administration staff.

“CONTRACT STANDARD” means such standard as complies in each and every respect with all relevant provisions of the CONTRACT and where and to the extent that no criteria are stated in the CONTRACT the standard is to the entire satisfaction of the AUTHORISED OFFICER.

“CONSTRUCTION OR DEMOLITION DEBRIS” means waste building materials resulting from construction remodeling, repair, or demolition operations, with sizes or volumes greater than those allowed in WASTE BINS.

“DEAD ANIMALS” means animals or portions thereof equal to or greater than 5 kilograms in weight which have expired from any cause, except those properly slaughtered or killed for human consumption.

“DISPOSE” means to deliver SOLID WASTE to the official waste disposal site at Moyale town (or any other officially designated site in the future), within the designated operational hours of the facility.

“DOMESTIC” means pertaining to residential properties.

“EQUIPMENT” means any consumables, equipment, materials, facilities, implements and plant or other things required or necessary for the satisfactory performance of the SERVICES.

“FINANCIAL PENALTIES” means penalties to be paid by the CONTRACTOR to CGM, through adjustments in payments by CGM to the CONTRACTOR or otherwise, upon issuance by CGM of a DEFAULT NOTICE.

“GARDEN WASTE” means organic waste, including leaves, grass, foliage and branched originating from the maintenance of garden, yards, parks and vegetation along public roads.

“GENERATORS” include all SOLID WASTE service customers, regulated by the laws of government represented by CGM.

“CGM” means County Government of Marsabit.

“CGM STAFF” means all personnel specifically designated by CGM’s AUTHORIZED OFFICER to be responsible for assuring proper delivery of SERVICES under this CONTRACT.

“GOVERNMENTAL INSTITUTIONS” includes all CGM office (all Ministries, Departments, Units and Section, including Governor’s Office), all offices of statutory bodies, court houses, parliamentary building, schools, hospitals, clinics, post offices, police stations and barracks, prisons, fire stations, airports and seaports, customs offices, sports facilities, and the office or location of any other CGM entity.

“HAZARDOUS WASTE” means any waste that by virtue of its nature or composition poses a severe threat to human health or the environment and will include, but not necessarily limited to, wastes listed.

“HOUSEHOLD BIN” means durable receptacle designed to store SOLID WASTE within domestic premises and of a design and weight that they be wheeled out to the edge of a premises by an average person. The bin can be lifted and emptied either manually or mechanically by the collection vehicle.

“INDUSTRIAL” means any manufacturing or trade process.

“LIEN” means the right to keep property until a debt is paid.

“LITTER” means any discarded SOLID WASTE lying in a public place.

“LOCATION” means the place where the SERVICES or any part thereof are to be performed by the CONTRACTOR or to which goods, equipment or materials are to be delivered or stored or where work is to be executed by the CONTRACTOR or where documents or records are held or stored by or on behalf of the CONTRACTOR in connection with the provision of the SERVICE.

“MONTH” means all the calendar days of the month.

“NATURAL DISASTER” means a severe event or volcanic activity that warrants evacuation of an area of SERVICE.

“NOTICE” means either a RECTIFICATION NOTICE, a DEFAULT NOTICE, or a SUPPLEMENTARY DEFAULT NOTICE served upon the CONTRACTOR by CGM for failure to properly perform the SERVICES in accordance with the provisions of the CONTRACT.

“PREMISES” means any land, building, and or structure, or portion thereof.

“PRIMARY ROUTE is the main highway, as specified in Attachment 2, for the purpose of identifying locations for HOUSEHOLDS BINS.

“PUBLIC BINS” are bins located in public area such as Central Business Districts, Stadium, Bus parks and recreational areas.

“RECYCLING” means the process of sorting, collecting and turning used materials and/or products into new products by reprocessing or re-manufacturing.

“REGULATORY FRAMEWORK” means any laws, regulations, decrees and policies officially developed and approved by the government, for the purposes of regulating SOLID WASTE generation, collection, transport, recycling, reuse, treatment and disposal. A reference to any Act, or to any Order, Regulation, Statutory Instrument or the like shall be deemed to include a reference to any amendment or re-enactment of the same.

“REVIEW DATE” occurs on each anniversary of the COMMENCEMENT DATE. On the REVIEW DATE the CONTRACT PRICE is reviewed and revised in line with the Consumer Price Index on the variable elements of the CONTRACT.

“SAFETY REGULATION” means any applicable safety law or regulation or any documented safety requirements notified to the CONTRACTOR by CGM. In the event of any conflict between the aforesaid and the safety regulations of the CONTRACTOR or the specifications of an equipment manufacturer, the conflict shall be referred to CGM for resolution although in the immediate instance the stricter standard shall apply.

“SCHEDULE” means the SCHEDULE hereto prepared by the CONTRACTOR to achieve the expeditious and efficient performance of the SERVICES in accordance with the CONTRACT.

“SERVICES” means all things to be created under the CONTRACT including all things to be done by the CONTRACTOR in accordance with the CONTRACT.

“SOLID WASTE” means all waste material generated and discharges for collection; all litter and clandestine piles of such wastes; and includes roadside litter, BULKY WASTE, GARDEN WASTE, DEAD ANIMALS and other waste materials, except HAZARDOUS WASTE and BIOMEDICAL WASTE. (For the purpose of this CONTRACT, the CONTRACTOR is not required to collect SOLID WASTE from industrial premises, volcanic ash

“SUBCONTRACT” means any CONTRACT between the CONTRACTOR and any party (other than CGM or the CONTRACTOR’s STAFF) for the performance of any part of the SERVICES.

of his delegated authority shall be as if from the CONTRACTOR REPRESENTATIVE.

- (2) Only the CONTRACTOR REPRESENTATIVE or his nominated deputy is authorized to receive, on behalf of the CONTRACTOR, notifications, information and decisions of CGM made under the provisions of the CONTRACT and notification to the CONTRACTOR REPRESENTATIVE shall be deemed to be notification to the CONTRACTOR.
- (3) While the SERVICES are being performed the CONTRACTOR REPRESENTATIVE or his nominated deputy shall be readily available to discharge his responsibilities in accordance with the CONTRACT.
- (4) The CONTRACTOR REPRESENTATIVE shall not be replaced except with the prior agreement of CGM to the choice of a successor.

## **5. THE RESPONSIBILITY OF THE CONTRACTOR TO INFORM ITSELF**

- (1) The CONTRACTOR agrees that the CONTRACTOR has visited the LOCATION before tendering and has satisfied itself as to the nature of the SERVICES, including but not limited to the supervision, SERVICES and all labor, MATERIALS and EQUIPMENT required for the performance of SERVICES, the correctness and sufficiency of the rates and prices stated in the CONTRACT PRICE. Any failure by the CONTRACTOR to take account of matters which affect the SERVICES shall not relieve the CONTRACTOR from its obligations under the CONTRACT, nor entitle it to claim against CGM.

## **6. THE RESPONSIBILITY OF THE CONTRACTOR TO INFORM CGM**

- (1)The CONTRACTOR shall notify CGM as soon as possible of all things which in the opinion of the CONTRACTOR appear to be deficiencies, omission, Contradictions or ambiguities or conflicts with applicable law in the CONTRACT. The AUTHORISED OFFICER will review these items and issue the necessary instructions before the CONTRACTOR proceeds with any part of the SERVICES Affected.
- (2)The CONTRACTOR shall notify CGM immediately whenever accidents (Whether first aid only or involving lost time), incidents or near miss incidents occur. The CONTRACTOR shall also notify CGM of any other incidents arising out of the performance of the CONTRACT which might affect the interests or other operations Of CGM, or others.
- (3)The CONTRACTOR shall notify CGM immediately of any impending or actual stoppages of SERVICES, industrial disputes or other matter affecting or likely

to affect the performance of the CONTRACT or lead to a delay in the time schedule referred to in Clause 13 hereof.

- (4)The CONTRACTOR shall keep CGM fully informed of the progress of the SERVICES.

## 7. **CONTRACTOR'S OBLIGATIONS**

- (1)During the CONTRACT PERIOD the CONTRACTOR shall upon and subject to the terms of the CONTRACT with due care and diligence provide the SERVICES in a proper, skillful and workmanlike manner, to the CONTRACT STANDARD, in accordance with the written instructions and to the entire satisfaction of the AUTHORISED OFFICER.
- (2)Should the CONTRACTOR require any further instruction or information in connection with the performance of the SERVICES, the CONTRACTOR shall make a written application for the same to the AUTHORISED OFFICER in which the requirement is stated in adequate detail. Such application shall be made on a date which, having regard to the date upon which the CONTRACTOR reasonably needs the same for or in connection with the performance of the SERVICES, is neither too far away from nor too close to that date having regard to all the circumstances including the time likely to be required by the AUTHORISED OFFICER.
- (3) The CONTRACTOR shall at all times during the CONTRACT PERIOD allow the AUTHORISED OFFICER and such persons as may from time to time be nominated by the AUTHORISED OFFICER access to:
- (a) All locations for the purpose of inspecting work being performed pursuant to the provision of the SERVICES.
  - (b) All locations for the purpose of inspecting records and documents in the Possession of the CONTRACTOR in connection with the provision of the SERVICES.
  - (c) Materials, stores, and spare parts in order to ensure that such items comply with manufacturers' specifications and have been obtained from such suppliers as are specified in the specification.
  - (d) Any employee or agent or SUBCONTRACTOR of the CONTRACTOR for the purpose of interviewing him/her/them in connection with the carrying out of all or any part of the SERVICES.
  - (e) EQUIPMENT used or proposed to be used in connection with the performance of the SERVICES for the purpose of ensuring that such EQUIPMENT meets the requirements of the specification and the relevant statutory requirements.

- (4) In the event of the CONTRACTOR being unable to perform the SERVICES Or any part thereof, the CONTRACTOR shall immediately inform the AUTHORISED OFFICER giving details of the circumstances, reasons and likely duration and action taken to rectify the situation. Nothing in this condition shall in any way alter, modify, relieve or in any way vary the CONTRACTOR's obligation to provide the SERVICES.
- (5) If the CONTRACTOR fails to provide the SERVICES or any part thereof with due diligence or in a proper, skillful and workmanlike manner, or to the CONTRACT STANDARD and to the entire satisfaction of the AUTHORISED OFFICER, the CGM may itself provide or may employ and pay other persons to provide the SERVICES or any part thereof and all costs incurred thereby may be deducted from any sums due or to become due to the CONTRACTOR under the CONTRACT, and shall be recoverable from the CONTRACTOR by the CGM as a debt.
- (6) Upon arrival at the waste disposal site the CONTRACTOR will comply with all instructions given by the site staff. No SOLID WASTE shall be dumped into drains, roadways, sewers, open lands, quarries, rivers, channels, swamps or other locations not Officially designated.

## **8. SUBCONTRACTS**

- (1) The CONTRACTOR shall ensure that the rights of CGM and the requirements in the CONTRACT regarding SUBCONTRACTORS are effectively provided for in any SUBCONTRACT.
- (2) The CONTRACTOR shall not SUBCONTRACT the whole or the majority Of the SERVICES but where a SUBCONTRACT is provided for in the CONTRACT or where the CONTRACTOR wishes to enter into SUBCONTRACT, then before the CONTRACTOR enters into any SUBCONTRACT, CGM shall be given adequate opportunity to review the form of the SUBCONTRACT, the choice of the SUBCONTRACTOR, the part of the SERVICES which shall be covered under the SUBCONTRACT, and any other details CGM shall request or specify. The CONTRACTOR shall not enter into the proposed SUBCONTRACT until CGM has given its written consent to the proposed SUBCONTRACT.
- (3) No SUBCONTRACT shall bind or purport to bind CGM and each SUBCONTRACT shall provide for its immediate termination in the event of termination of the CONTRACT or suspension in the event of suspension of the SERVICES. Each SUBCONTRACT shall provide that it shall be assigned to CGM or its nominee if CGM gives written notice to the SUBCONTRACTOR that it requires such an assignment if CGM terminates the CONTRACT. Unless such an assignment takes place the SUBCONTRACTOR shall only be responsible to the CONTRACTOR, who shall in turn be responsible to CGM.
- (4) The CONTRACTOR shall be responsible for all work, acts, defaults and breaches of duty of any SUBCONTRACTOR or its employees or agents as full as if they were the work, acts, defaults or breaches of duty of the CONTRACTOR.

- (5) Where applicable the CONTRACTOR shall ensure that appropriate Kenya organizations and supplier are given full and fair opportunity to tender for the supply of goods and SERVICES.
- (6) The CONTRACTOR agrees that it shall furnish to CGM, if requested, satisfactory evidence that all SUBCONTRACTORS (including suppliers to the CONTRACTOR) have been paid on time and in full for work done or goods supplied in connection with the performance of the SERVICES.
- (7) If such satisfactory evidence is not supplied then CGM shall not be bound to make any further payment to the CONTRACTOR for that part of the SERVICES until it is supplied.
- (8) Furthermore CGM may by the issue of a VARIATION reduce the CONTRACT PRICE by the amount not paid to such SUBCONTRACTORS, and may then make such payment directly to such SUBCONTRACTORS. Such direct payment to SUBCONTRACTORS shall be deemed to be payment under the CONTRACT and the CONTRACTOR shall have no further entitlement to such amount.

**9. PERSONNEL OF THE CONTRACTOR AND SUBCONTRACTORS**

- (1) The CONTRACTOR warrants that it has and will throughout the CONTRACT have the experience and capability including sufficient and competent supervisors and other personnel to efficiently and expeditiously perform the SERVICES. If in the opinion of the AUTHORISED OFFICER there is any inadequacy in the number or competence of persons engaged in performing the SERVICES, then the CONTRACTOR shall on request, at no extra cost to CGM, provide additional or alternative competent persons.
- (2) The CONTRACTOR shall ensure that all CONTRACTOR STAFF employed under the CONTRACT are at all times properly and sufficiently qualified, trained, competent, careful, skilled, honest, experienced, instructed and supervised as the case may be with regard to the SERVICES and in particular:
  - (a) The task or tasks such person has to perform;
  - (b) All relevant provisions of the CONTRACT;
  - (c) All relevant policies, rules, procedures and standards of the CGM;
  - (d) All relevant rules, procedures and statutory requirements concerning health and safety at work;
  - (e) Fire risks and fire precautions;



- (f) The need to maintain the highest standards of hygiene, courtesy and consideration; and
  - (g) The need to minimize situations which may involve any actual or potential danger of personal injury to any person at any LOCATION and, where possible, without personal risk, to make safe such situations, and forthwith to report such situations to the AUTHORISED OFFICER and where the LOCATION belongs to the CGM to the member of the CGM's staff with responsibility for the LOCATION.
- (3) All monies or other items of value found by the CONTRACTOR's STAFF at any LOCATION other than the premises of the CONTRACTOR, shall be handed to the AUTHORISED OFFICER or his/her representative as soon as possible and a written receipt obtained thereof.
- (4) All supervisory personnel of the CONTRACTOR and any SUBCONTRACTOR shall be able to read, write and communicate fluently in English and shall be able to directly communicate fluently in the language of the personnel they are supervising.
- (5) The CONTRACTOR shall make its own arrangements for the engagement of personnel, local or otherwise.
- (6) The CONTRACTOR shall at its own cost forthwith replace any of its employees or agents or any SUBCONTRACTOR or procure the replacement of any person employed by any SUBCONTRACTOR whom CGM, in its sole discretion, considers to be incompetent, to have acted in a manner prejudicial to CGM's best interests, to have failed to comply with CGM's safety or other rules or regulations, to have produced sub-standard work or whom CGM, in its sole discretion, wishes to be replaced for any other good reason. CGM shall not exercise this right frivolously.

**10. CONTROL AND SUPERVISION OF CONTRACTOR's STAFF**

- (1) The CONTRACTOR shall provide and maintain an office and shall notify CGM of its location. The CONTRACTOR's office shall be staffed by the CONTRACTOR with competent and responsible persons and shall be open during regular work days between 8:00 a.m. and 5:00 p.m. One telephone/fax line shall be

provided by the CONTRACTOR to be used primarily for communication between the CONTRACTOR and CGM.

- (2) The CONTRACTOR shall appoint a CONTRACTOR REPRESENTATIVE to act on behalf of the CONTRACTOR for all purposes connected with the CONTRACT. Any notice, information, instruction or other communication given or made to the CONTRACTOR REPRESENTATIVE shall be deemed to have been given or made to the CONTRACTOR.
- (3) The CONTRACTOR shall forthwith give notice in writing to the AUTHORISED OFFICER of the identity, home address and telephone numbers of the person appointed as CONTRACTOR REPRESENTATIVE and of any subsequent appointment.
- (4) The CONTRACTOR shall forthwith give notice in writing to the AUTHORISED OFFICER of the identity, address and telephone number of any person authorized to act for any period as deputy for the CONTRACTOR REPRESENTATIVE and when such deputy ceases to be so authorized.
- (5) The CONTRACTOR shall ensure that the CONTRACTOR REPRESENTATIVE, or a competent deputy, duly authorized by the CONTRACTOR to act on its behalf, is present at each location and available to meet the AUTHORISED OFFICER or the AUTHORISED OFFICER's representative at all reasonable times during which the SERVICES are provided.
- (6) The CONTRACTOR REPRESENTATIVE shall inform the AUTHORISED OFFICER promptly of and confirm, in writing, any instances of activity or omission on the part of the CGM which prevent or hinder, or which may prevent or hinder the CONTRACTOR from complying with the CONTRACT. The provision information under this Condition shall not in any way release or excuse the CONTRACTOR from any of its obligations under the CONTRACT.
- (7) The CONTRACTOR shall provide a sufficient number of supervisors to ensure that the CONTRACTOR STAFF engaged in and about the provision of the SERVICES are at all times adequately supervised and properly perform their duties to the CONTRACT STANDARD.
- (8) The CONTRACTOR shall ensure that its employees perform their duties in an orderly and as quiet a manner as may reasonable be practicable having regard to the nature of the duties being performed by them.
- (9) The CONTRACTOR shall ensure that when requested to do so any employee of the CONTRACTOR shall disclose his/her identity and status as an employee of the CONTRACTOR and shall not avoid so doing.
- (10) The CONTRACTOR shall require its employees at all times while engaged in the provision of the SERVICES to be properly and presentably dressed in appropriate

uniforms, or work wear, including personal protective equipment such as, but not limited to, overall, protective footwear and gloves to the satisfaction of the CGM. Such uniforms and personal protective equipment to be worn by the CONTRACTOR's STAFF shall be provided, maintained and replaced as necessary by the CONTRACTOR and kept in a clean and hygienic condition.

## **11. STAFF AND OPERATIONAL RECORDS**

- (1)The CONTRACTOR shall maintain current, accurate and adequate records of all employees who are or who are to be engaged in connection with the provision of the SERVICES. These records shall be kept at the appropriate location and shall include employee attendances and shall differentiate between those engaged as operative and those exercising supervisions. These records shall be open for inspection by the AUTHORISED OFFICER or his/her representative at all reasonable times, and a copy of these records shall be provided to the AUTHORISED OFFICER's representative if so requested.
- (2)The CONTRACTOR shall prepare a SCHEDULE of routine operations for each LOCATION which shall be available for reference by the AUTHORISED OFFICER or his/her representative and for the CONTRACTOR's STAFF. The CONTRACTOR shall provide a copy of the SCHEDULE to the AUTHORISED OFFICER or his/her representative.
- (3)The CONTRACTOR shall maintain current and accurate records of all Work carried out in the provision of the SERVICES. These records shall be open for inspection by the AUTHORISED OFFICER or his/her representative at all reasonable times.
- (4)The CONTRACTOR shall at all times be fully responsible for the payment of any taxes, social security contributions, or levies of any kind, related to or arising out of the employment of any person by the CONTRACTOR.

## **12. COMPLAINTS IN RESPECT OF SERVICE**

- (1)The CONTRACTOR shall deal with any complaints received from whatever source in a prompt, courteous and efficient manner, and in accordance with the CONTRACT. The CONTRACTOR shall keep a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for inspection by the AUTHORISED OFFICER at all reasonable times. The CONTRACTOR shall notify the AUTHORISED OFFICER forthwith in writing within 24 hours of all complaints received and of all steps taken in response thereto.

## **13. SCHEDULE**

- (1) The CONTRACTOR shall be responsible at all times for scheduling, progress reporting, forecasting and independently controlling progress to achieve the expeditious and efficient performance of the SERVICES in accordance with the CONTRACT.

**14. GRATUITIES**

- (1) The CONTRACT shall not, whether itself, or by any person employed by it to provide the SERVICES, solicit or accept any gratuity, tip or any form of money or reward, collection, or charge for any part of the SERVICE other than charges properly approved by the CGM in accordance with the provisions of the CONTRACT.

**15. EQUIPMENT**

- (1) The CONTRACTOR shall provide all EQUIPMENT necessary for the provision of the SERVICE.
- (2) The CONTRACTOR shall be responsible for the security of all EQUIPMENT used by the CONTRACTOR in connection with the provision of the SERVICE and CGM shall be under no liability in respect thereof.

**16. FORCE MAJEURE**

- (1) Neither party shall be liable for any failure to perform any obligation under the CONTRACT to the extent to which performance is prevented, hindered or delayed by a force majeure occurrence. A FORCE MAJEURE occurrence shall mean an occurrence beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the said party is unable to prevent or provide against, including without limiting the generality of the foregoing, war (declared or undeclared), insurrection, acts of terrorism, maritime disasters, NATURAL DISASTER, boycotts or strikes limited to the workforce of, or provided by, the CONTRACTOR and/or SUBCONTRACTORS.

A FORCE MAJEURE occurrence shall not include the following:-

- (a) breakdown of any item of EQUIPMENT used by the CONTRACTOR or any SUBCONTRACTOR;
- (b) contractual commitment made by the CONTRACTOR or any SUBCONTRACTOR to third parties which limits the ability of the CONTRACTOR or any SUBCONTRACTOR to perform the SERVICES;

- (c) Inclement weather;
  - (d) Inability to hire or utilize staff or personnel due to difficulties in obtaining or Withdrawal of government quotas, licenses or permits.
- (2) Should either party be delayed in performing the CONTRACT by a FORCE MAJEURE occurrence, that party shall notify the other party immediately giving the full particulars thereof, shall use its best efforts to remedy the situation immediately and shall notify the other party of the steps being taken to remedy the situation.
- (3) Should the CONTRACTOR be delayed in the performance of the SERVICES by an occurrence which the CONTRACTOR considers is a FORCE MAJEURE occurrence and the CONTRACTOR is unable to avoid or prevent such delay by any reasonable effort within 7 (seven) days of such occurrence the CONTRACTOR shall request in writing that CGM initiate the procedure for a VARIATION. If CGM agrees that the occurrence is a FORCE MAJEURE occurrence, then, as soon as practicable CGM shall authorize a VARIATION. Such a VARIATION shall also reimburse the CONTRACTOR for such extra costs as the CONTRACTOR unavoidably incurs by reason of such FORCE MAJEURE occurrence to the extent that the CONTRACTOR cannot reduce or mitigate them by exercising best endeavors to do so.

**17. RESPONSIBILITY FOR THE SERVICES**

- (1) The CONTRACTOR shall perform the SERVICES in accordance with the CONTRACT and with all proper skill and care and shall ensure that the SERVICES and facilities, materials and EQUIPMENT used to produce or incorporated into the SERVICES shall be fit for their intended purpose and of good quality and workmanship
- (2) In the event of a breach of Clause 17(1) herein the CONTRACTOR shall be responsible at its cost for the correction of any defective SERVICES.
- (3) In the event of a breach of Clause 17(1) herein then CGM shall notify the CONTRACTOR of the breach. Upon receipt of such notification from CGM the CONTRACTOR shall immediately carry out the CONTRACTOR's responsibilities. Alternatively CGM may undertake at its option any of the CONTRACTOR's responsibilities under this Clause 17 in which case CGM shall notify the CONTRACTOR of its intention and shall be entitled to recover from the CONTRACTOR all costs incurred by CGM in carrying out such responsibilities.

**18. TERMINATION**

- (1) If the CONTRACTOR shall have offered, or given, or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or having done or forborne to do any action in relation to the obtaining of the CONTRACT, or any other CONTRACT with CGM, or for showing or forbearing to show favor, or disfavor, to any person in relation to the CONTRACT, or any other

CONTRACT with CGM, or if the like acts shall have been done by any person employed by the CONTRACTOR, or acting on the CONTRACTOR's behalf (whether with or without the knowledge of the CONTRACTOR), or if in relation to the CONTRACT, or any other CONTRACT with CGM, the CONTRACTOR or any person employed by the CONTRACTOR, or acting on the CONTRACTOR's behalf, shall have committed any offence under the relevant laws dealing with bribery and corrupt practices or shall have given any fee or reward to any member or officer of CGM, which shall have been exacted or accepted by such member or officer by virtue of office or employment and is otherwise than such member or officer's proper remuneration, CGM shall be entitled to TERMINATE the CONTRACT and to recover from the CONTRACTOR the amount of any loss resulting from such TERMINATION.

(2) If the CONTRACTOR:

- (a) Commits a breach of any of its obligations under the CONTRACT;
- (b) Becomes bankrupt, or makes a composition or arrangement with its creditors, or has a proposal in respect of his company for voluntary arrangement for a composition of debts;
- (c) Has an application made to the Court, under the insolvency legislation for the appointment of administrative receiver;
- (d) Has a winding-up order made, or (except for the purpose of amalgamation or reconstruction) a resolution for voluntary winding-up passed;
- (e) Has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed;
- (f) Has an administrative receiver, as defined in the insolvency legislation appointed;
- (g) Has possession taken, by or on behalf of the holder of any debentures secured by a floating charge, of any property compromised in, or subject to, the floating charge;
- (h) Is in circumstances which entitle the court or a creditor to appoint, or have appointed, a receiver, a manager, or administrative receiver, or which entitle the court to make a winding-up order;

Then in any such circumstances CGM may, but not unreasonably, without prejudice to any accrued rights or remedies under the CONTRACT, terminate the CONTRACTOR's employment under the CONTRACT by notice in writing having immediate effect.

(3) If the CONTRACTOR's employment is terminated and is not reinstated, CGM shall:

- (a) Cease to be under any obligation to make further payment until the costs, loss and/or damage resulting from or arising out of the termination of the CONTRACTOR's employment shall have been calculated and provided such calculation shows a sum or sums due to the CONTRACTOR;
  - (b) Be entitled to exercise a LIEN over any of the EQUIPMENT belonging to the CONTRACTOR for any sum due hereunder or otherwise from the CONTRACTOR to CGM;
  - (c) Be entitled to employ and pay other persons to provide and complete the provision of the SERVICES or any part thereof and to use all such CONTRACTOR's materials, clothing, EQUIPMENT, vehicles or other goods for the purposes thereof;
  - (d) Be entitled to deduct from any sum or sums which would have been due from CGM to the CONTRACTOR under this CONTRACT or any other CONTRACT or be entitled to recover the same from the CONTRACTOR as a debt, any loss or damage to CGM resulting from or arising out of the termination of the CONTRACTOR's employment. Such loss or damage shall include the reasonable cost to CGM of the time spent by its officers in terminating the CONTRACTOR's employment and in making alternative arrangements for the provision of the SERVICES or any part thereof;
- (4) When the total cost, loss and/or damage resulting from or arising out of the termination of the CONTRACTOR's employment have been calculated and deducted so far as practicable from any sum or sums which would have been due to the CONTRACTOR in respect of SERVICES performed up to the time of TERMINATION of the CONTRACT, any balance shown as due to CGM shall be recoverable as a debt, or alternatively, CGM, shall pay to the CONTRACTOR any balance shown as due to the CONTRACTOR.

**19. RECOVERY OF SUMS DUE TO CGM**

- (1) Whenever under the CONTRACT any sum of money shall be recoverable from or payable by the CONTRACTOR to CGM the same may be deducted from sum then due or which at any time thereafter may become due to the CONTRACTOR under this CONTRACT or any other CONTRACT with CGM.

**20. DEFAULTS IN PERFORMANCE OF SERVICE**

- (1) At any time after the commencement date of the CONTRACT the AUTHORISED OFFICER may investigate each case where the CONTRACTOR has failed to properly perform the SERVICES in accordance with the provisions of the CONTRACT. Where the AUTHORISED OFFICER is satisfied that in any particular case the CONTRACTOR has failed to perform the SERVICES completely in accordance with the provisions of the CONTRACT he shall be entitled to issue to the

## SOLID WASTE MANAGEMENT – SECTION 2 –GENERAL CONDITONS OF CONTRACT

CONTRACTOR a notice instructing the CONTRACTOR to remedy the failure within a reasonable period of times (RECTIFICATION NOTICE). In addition, where the SERVICE which has not been performed in accordance with the provisions of the CONTRACT is, in the opinion of the AUTHORISED OFFICER, of such a type or provided at such a frequency that the issuing of a RECTIFICATION NOTICE would be inappropriate and/or of no effect the AUTHORISED OFFICER shall be entitled to issue a DEFAULT NOTICE.

- (2) If the CONTRACTOR fails to remedy the SERVICES deficiency which is the subject of a RECTIFICATION NOTICE the AUTHORISED OFFICER shall be entitled to issue a DEFAULT NOTICE. Further failure on the part of the CONTRACTOR to remedy the SERVICE deficiency may result in the issuing of SUPPLEMENTARY DEFAULT NOTICES. Each DEFAULT and SUPPLEMENTARY DEFAULT NOTICE will require the CONTRACTOR to remedy the SERVICE deficiency within a set or defined period.
- (3) Without prejudice to the generality of the foregoing, the following matters shall be included in the types of SERVICES deficiencies for which notices may be issued.
- (i) Failure to properly collect, in compliance with the SCHEDULE, any SOLID WASTE within the TOWNS OF OPERATION
  - (ii) Failure to transport and DISPOSE of SOLID WASTE in the required manner and in accordance with the law
  - (iii) Failure to clear spillages
  - (iv) Failure to clear backlogs of waste
  - (v) Unsafe Working Practices
  - (vi) Misuse of Vehicles and Equipment
  - (vii) Overloading of Vehicles
  - (viii) Failure to make returns and reports
- (4) The time periods during which the CONTRACTOR is to remedy deficiencies shall be reasonable having regard to, *inter alia*, the nature and frequency of the SERVICES. Each time period shall commence when the CONTRACTOR is initially notified and shall require the CONTRACTOR to effect the following in respect of any deficiency involving or associated with the collection of SOLID WASTE:
- (a) In respect of each Notification made to the CONTRACTOR by 1:00 p.m. on any working day, the CONTRACTOR is to remedy each deficiency by 6:00 p.m. on the same day.
  - (b) In respect of each Notification made to the CONTRACTOR after 1:00 p.m. on any working day, the CONTRACTOR is to remedy each deficiency by 1:00 p.m. on the following working day.



(5)Each NOTICE may refer to one or more than one elemental SERVICE deficiency, each of which shall be rectified by the CONTRACTOR.

(6)All NOTICES shall be recorded and used by the AUTHORISED OFFICER in determining the CONTRACTOR's overall SERVICES performance and has also used in determining FINANCIAL PENALTIES and whether CGM may TERMINATE the CONTRACT.

(7)During the four (4) weeks immediately following the COMMENCEMENT DATE no DEFAULT POINTS shall be recorded in respect of RECTIFICATION NOTICES. However, DEFAULT POINTS may be recorded in respect of DEFAULT NOTICES and SUPPLEMENTARY DEFAULT NOTICES and the FINANCIAL PENALTIES. Provisions above shall apply at all times after the COMMENCEMENT DATE.

## **21. FINANCIAL PENALTIES**

(1)For the purposes of assessing whether FINANCIAL PENALTIES are recoverable by CGM from the CONTRACTOR the following method shall be used:

Each NOTICE issued shall correspond to a deduction from the monthly payment to the CONTRACTOR as follows:

<b>Type of notice</b>	<b>Deduction from monthly Payment for each such notice</b>
RECTIFICATION NOTICE	Kshs.12,750.00
DEFAULT NOTICE	Kshs.25,500.00
SUPPLEMENATARY DEFAULT NOTICE	Kshs.42,500.00

## **22. TERMINATION DUE TTO DEFAULTS IN PERFORMANCE**

(1)In addition to the financial penalties associated with the issuing of any type of NOTICE, each NOTICE carries a point score as follows:

RECTIFICATION NOTICE	1 point
DEFAULT NOTICE	2 points
SUPPLEMENTARY DEFAULT NOTICE	3 points

(2)In addition to the financial penalties which may be made under Clause 21 above, CGM may terminate a contract if more than 50 DEFAULT POINTS are Recorded against the CONTRACTOR in any four-week period. For the purpose of this

condition a week shall be any 7 consecutive days. These termination provisions shall not apply during the 4 weeks immediately following the COMMENCEMENT DATE.

**24. CONTRACT PAYMENT**

- (1) For the performance of the SERVICES, CGM shall pay the CONTRACT PRICE to the CONTRACTOR, at the times and in the manner specified in Clause 26 hereof.
- (2) All things required to be supplied or performed by the CONTRACTOR under the CONTRACT shall be at the CONTRACTOR's cost and deemed to be included in the CONTRACT PRICE.

**25. FLUCTUATIONS**

- (1) The CONTRACT PRICE shall be reviewed on each anniversary of the COMMENCEMENT DATE (the REVIEW DATE) and any variable element of cost shall be increased or reduced through negotiation by a percentage based on inflation and fluctuations in population since the COMMENCEMENT DATE and such increase or reduction shall take effect in respect of the twelve-month period commencing on the relevant REVIEW DATE.
- (2) The CONTRACTOR shall keep records of any new or vacated premises to which a SERVICE is provided to assist with determining any fluctuations due to variations in population.

**26. TAXES**

- (1) The CONTRACTOR shall in respect of this CONTRACT assume full and exclusive liability for payment of any taxes, duties, levies, charges and contributions of any nature whatsoever that are imposed by either:-
  - (a) the County Government of Marsabit; or
  - (b) any other fiscal or other authority whatsoever, in respect of:-
    - (i) employees or agents of the CONTRACTOR and its SUBCONTRACTORS (whether or not such taxes, duties, levies, charges and contributions are measured by wages, salaries and/or other remuneration); and
    - (ii) the gains of the CONTRACTOR and its SUBCONTRACTORS arising directly or indirectly out of the performance of the SERVICES.
- (2) The CONTRACTOR shall, and shall cause its SUBCONTRACTORS to report and pay all such taxes, duties, levies, charges and contributions directly to the appropriate authorities and otherwise comply with any applicable laws and regulations.
- (3) The CONTRACTOR hereby covenants and undertakes to defend, indemnify and hold harmless CGM from any and all claims, suits, costs, liabilities, judgments,

finances, penalties, demands, loss or damage including any and all expenses, disbursements, costs, legal fees sums and amounts which CGM suffers, incurs or is put to resulting from, or in any way connected with, any assessment or imposition, for which the CONTRACTOR is liable.

## **27. TERMS OF PAYMENT**

- (1) Invoices submitted by the CONTRACTOR shall be in Kenya Shillings (Kshs.) for the amounts as set out in the CONTRACT PRICE.
- (2) The CONTRACTOR shall submit invoices for each calendar month of operation.
- (3) Invoices shall be submitted by the CONTRACTOR within one working week from the completion of the month.
- (4) Each invoice shall include the CONTRACT title.
- (5) Only original invoices will be accepted for payment. If the original invoice is lost in transit or mislaid, a certified true copy of such invoice signed by the CONTRACTOR REPRESENTATIVE shall be submitted.
- (6) Eraser or white ink shall not be used for alteration, and invoices amended in the way shall be rejected.
- (7) If CGM finds the invoice so submitted to be correctly prepared, adequately supported and in conformity with the requirements of the CONTRACT, then CGM shall within 5 (five) days of receipt of the invoice in question remit the invoiced amount into the bank account nominated by the CONTRACTOR.
- (8) In the event of CGM disputing any item of any invoice submitted by the CONTRACTOR, CGM shall within 5 (five) days notify to the CONTRACTOR the item in dispute and shall specify its reasons for dispute. Payment in respect of such item in dispute shall be withheld until settlement of the dispute but all undisputed items of such invoice shall be paid in accordance with Clause 26(7) herein.
- (9) From any sum due to the CONTRACTOR under the CONTRACT, CGM may deduct the amount of any sum which it in good faith regards as being owed by the CONTRACTOR to CGM under the CONTRACT or otherwise.
- (10) Insofar as the CONTRACT or any part thereof is cost reimbursable the CONTRACT PRICE shall constitute the only income of the CONTRACTOR in connection with the CONTRACT which *inter alia* implies that it shall not accept any trade commission, discount allowance or indirect payment or other consideration in connection with the CONTRACT, without notifying and accounting for same to CGM.

**28. AUDIT RIGHTS OF CGM**

- (1) CGM or its duly authorized representative shall at any time during the execution of the SERVICES under this CONTRACT, have the right to carry out audits of all the records and related documents, procedures and controls of the CONTRACTOR insofar as they relate to this CONTRACT.
- (2) The CONTRACTOR shall maintain or cause to have maintained its books and records, insofar as they relate to this CONTRACT, in accordance with generally accepted practices. CGM or its authorized representative shall have the right to reproduce any of the aforementioned records and documents.
- (3) The CONTRACTOR shall ensure that the provisions of Clauses 27(1) and 27(2) herein are included in any SUBCONTRACT thereby providing CGM with the same rights to carry out audits of any SUBCONTRACTOR as it has in respect of this CONTRACT.

**29. LIENS**

- (1) The CONTRACTOR agrees that it shall not, and that it will cause any SUBCONTRACTOR not to, claim any LIEN, attachment or charge on the SERVICES or any property of CGM in the possession of the CONTRACTOR or any SUBCONTRACTOR or at any SITE or other location.
- (2) The CONTRACTOR shall indemnify CGM against all costs and expenses of any nature whatsoever that it suffers, incurs or is put to by virtue of a breach of Clause 28(1) herein.

**30. OWNERSHIP**

- (1) Risk in and the care and custody of any or all part of the SERVICES and all EQUIPMENT shall remain with the CONTRACTOR throughout the duration of the CONTRACT.
- (2) All WASTE BINS are the property of the CGM.

**31. LIMITATION OF LIABILITY OF THE CONTRACTOR AND CGM**

- (1) CGM on the one hand and the CONTRACTOR and its SUBCONTRACTORS on the other hand shall in no even be liable one to the other for, and hereby give an indemnity one to the other against, indirect losses (including consequential losses), and loss of revenue, profit or anticipated profit arising out of or in connection with this CONTRACT except to the extent of any agreed liquidated damages provided for in the CONTRACT and except for any monies due in accordance with any Clause that may be included in the CONDITIONS OF CONTRACT.

(2)The CONTRACTOR shall include provisions in all SUBCONTRACTS to ensure that all SUBCONTRACTORS comply with the provisions of Clause 30(1) herein.

**32. RESPONSIBILITIES AND IDEMNITIES**

- (1)The CONTRACTOR shall be liable for and hereby indemnifies CGM and any and all of its respective employees and agents against all claims in respect of all injuries to, including fatal injuries or disease to, all employees and agents of the CONTRACTOR and any of its SUBCONTRACTORS and any of their employees and agents and for all loss of and any damage to any and all property of the CONTRACTOR and any of its SUBCONTRACTORS and its respective employees and agents arising out of or in connection with this CONTRACT. This liability shall apply in full even though the cause of the injuries (including death), loss or damage was the negligence of CGM or any of its respective employees and the CONTRACTOR shall not seek contribution from such person or persons for such reason.
- (2)Without prejudice to Clause 31(1) above CGM shall be liable for and hereby indemnifies the CONTRACTOR, its SUBCONTRACTORS and any and all of their respective employees and agents against all claims in respect of all injuries to, including fatal injury or disease to all employees and agents of CGM and for all loss of and any damage to any and all of the property of CGM and of its respective employees and agents arising out of or in connection with this CONTRACT. This liability shall apply in full even though the cause of the injuries (including death), loss or damage was the negligence of the CONTRACTOR, its SUBCONTRACTORS or any of their respective employees and CGM shall not seek contribution from such person or persons for such reason.
- (3) The CONTRACTOR shall indemnify and hold harmless CGM, and all of their respective employees and agents against all claims, demands, loss, costs (including costs as between attorney or solicitor and own client), damages, liabilities and expenses which they or any of them suffer, incur, or are put to resulting from:-
- (a) personal injury, including fatal injury and disease to and/or
  - (b) loss of or damage to property of third parties arising out of or in connection with the performance of the CONTRACT.
- (4) In entering into the agreement contained in Clause 30 hereof and in this Clause 31 and only for that purpose each party contracts both on its own behalf and as agent on behalf of its employees and agent, its SUBCONTRACTORS, and its SUBCONTRACTOR's employees and agents and also as trustee for the benefit of such persons. For the purposes of this Clause 31, CGM's other CONTRACTORS shall not be regarded as agents of CGM.

(5) In construing the foregoing provisions of this Clause 31, the parties agree that the reasonableness of any provision should not be considered in isolation but rather that all the foregoing provisions should be construed together and in conjunction with the insurance provisions of this CONTRACT in the light of the parties' desire to obtain a clear cut delineation of risks to each party.

(6) If the CONTRACTOR or any SUBCONTRACTOR does any SERVICES pursuant to the provisions of Clause 17 headed RESPONSIBILITY FOR THE SERVICES then the liabilities and indemnities provided for in this Clause 31 shall, from the commencement of the SERVICES just referred to, revive and shall remain in force until the departure of the CONTRACTOR and all its SUBCONTRACTORS engaged thereon and the removal of all their goods and effects is complete, the reference in the said sub-clauses of this Clause 31 to the SERVICES being, for the purposes of this sub-clause, taken to be references to SERVICES pursuant to the provisions of Clause 17.

### **33. INSURANCE**

(1) The CONTRACTOR shall be responsible to maintain for the duration of the CONTRACT adequate health and accident insurance for its workers.

(2) The CONTRACTOR shall maintain for the duration of the CONTRACT adequate vehicle insurance for owned, non-owned or hired motor vehicles, in accordance with Kenyan law. This shall cover liabilities arising from the use and/or operation of the vehicles including liability contractually assumed to third parties under this CONTRACT, liability to passengers and liability for damage due to collision.

(3) The CONTRACTOR shall be responsible for ensuring that its SUBCONTRACTORS maintain such insurances where applicable as referred to above.

(4) CGM shall have the right to inspect all policies of insurances provided for in the CONTRACT and the receipts for the current premiums.

(5) The CONTRACTOR is responsible for all costs associated with insurance, including but not limited to premiums, policy excesses and claims.

(6) The CONTRACTOR shall notify CGM of any occurrence likely to give rise to a claim under any insurance policy as soon as possible and in any event within fifteen (15) days of such occurrence. Thereafter the CONTRACTOR shall handle the claim directly with the relevant insurers, and shall act in the best interests of both parties to this CONTRACT and keep CGM fully advised of all developments.

### **34. PERMITS, LAWS AND REGULATIONS**

- (1)The CONTRACTOR shall abide by and comply, and secure compliance by its SUBCONTRACTORS, with all applicable law, rules and regulations of any Governmental or regulatory body having jurisdiction over the SERVICES.
- (2)The CONTRACTOR shall obtain and renew each year a Waste Collection License from CGM in addition to all licenses and permits for the CONTRACTOR to do.



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## SECTION 3

### SPECIFICATIONS OF SERVICE

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SOLID WASTE MANAGEMENT – SECTION 3 –GENERAL  
SPECIFICATIONS OF SERVICE

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**1. SERVICE GOALS**

- (1) It is CGM's goal to promote and preserve the health of the residents of Marsabit and improve the aesthetics of the environment through the provision of effective, reliable, cost effective sustainable solid waste management services.

**2. BASIC SERVICES**

- (1) During the term of this CONTRACT the CONTRACTOR shall collect, remove, transport and DISPOSE of SOLID WASTE (except BIOMEDICAL WASTE and HAZARDOUS WASTE) from DOMESTIC sources, PUBLIC BINS, COMMERCIAL sources up to a volume of 260 litres per week and from GOVERNMENTAL INSTITUTIONS in the TOWNS OF OPERATION.
- (2) The CONTRACTOR shall only DISPOSE of collected SOLID WASTE at the disposal site during the designated operational hours of that facility.
- (3) The CONTRACTOR will not under the terms of this CONTRACT be responsible for collection from INDUSTRIAL properties.
- (4) The CONTRACTOR shall not be required by CGM or any GENERATOR to collect BIOMEDICAL WASTE or HAZARDOUS WASTE, (see Clause 12). COMMERCIAL or INDUSTRIAL GENERATORS OF BIOMEDICAL or HAZARDOUS WASTE are responsible for the disposal of that waste, to the satisfaction of CGM. Any discharge of HAZARDOUS WASTE shall be reported to CGM within four hours, and it shall be the responsibility of CGM and/or the GENERATOR to promptly resolve safe management of the HAZARDOUS WASTE.
- (5) The CONTRACTOR shall be solely responsible to furnish all STAFF and EQUIPMENT, in a manner consistent with the CONTRACT and considered good professional practice, and to the satisfaction of CGM. This includes but is not limited to the provision of SOLID WASTE COLLECTION VEHICLE(S) and safety and clothing and equipment.

**3. COMMISSIONING PERIOD**

- (1) The COMMISSIONING PERIOD comprises the twelve (12) weeks prior to the COMMENCEMENT DATE. During the COMMISSIONING PERIOD the CONTRACTOR shall notify GENERATORS about the details of the new SERVICES to be provided under this CONTRACT.

SOLID WASTE MANAGEMENT – SECTION 3 –GENERAL  
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- (2) The CONTRACTOR shall instruct GENERATORS about waste placement and disposal requirements including provisions for SPECIAL COLLECTIONS as defined herein. The CONTRACTOR shall also advise the GENERATORS about the mechanisms to address incomplete performance by CONTRACTOR or other complaints.
- (3) During the COMMISSIONING PERIOD, the CONTRACTOR shall fully prepare for the performance for SERVICES, and shall obtain any additional vehicles and equipment required to train the CONTRACTOR'S STAFF, and shall secure any other facilities as it may require.
  - 1) The contractor shall cover all mapped areas of operation under this contract and ensure that there are adequate ,effective and there is no waste in the street
  - 2) The contractor shall share the daily collection route with urban public health officer and any changes to be notified immediately for easy supervision
  - 3) Contractor shall ensure all waste containers ,litter bins or paper bin do not become an eye sore on street by regularly removal and timely manner transport of waste to disposal site

**4. GENERATOR EDUCATION AND COMPLIANCE**

- (1) The CONTRACTOR shall be prepared to assist CGM to educate the GENERATORS in the TOWNS OF OPERATION about the SERVICE and with the distribution of information about the rights and responsibilities of the GENERATORS.
- (2) Any additional cost to the CONTRACTOR for the activities described in 4(1) above, are outside the bounds of this contract. Any additional costs will be decided upon through negotiation between CGM and the CONTRACTOR prior to the onset of such activities.
- (3) In the case where HOUSEHOLDS BINS will be used, it is the responsibility of the CONTRACTOR to instruct GENERATORS to place the bin at curbside or as close as practicable to collection vehicle routes by a specified time on the designates days of collection service.
- (4) After the COMMISSIONING PERIOD, the CONTRACTOR'S STAFF shall record and report to the CONTRACTOR'S REPRESENTATIVE the time and location of any unauthorized, illegal, or clandestine dumping of SOLID WASTE that they observe. These reports shall be sent to CGM the following working day. It is the CONTRACTOR'S responsibility to remove all unauthorized, illegal or clandestine dumps of SOLID WASTE within the AREAS OF OPERATION.

**5. HOURS OF SERVICE**

- (1) Except as otherwise provided herein, SOLID WASTE collections at the premises of GENERATORS shall not start before 6:00 a.m. or continue after 5:00 p.m., unless the permission of the AUTHORISED PERSON is sought in advance by the CONTRACTOR's REPRESENTATIVE, and permission is given.

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**6. HOLIDAYS**

- (1) If a public holiday occurs or fall on collection days, the collection ordinarily made on that day by the CONTRACTOR will be made by the CONTRACTOR on

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BINS are to be kept on the householder's premises and only brought out on the day of collection. The CONTRACTOR has responsibility for informing the householder of the day of collection. Where used, cleaning and maintenance of HOUSEHOLD BINS shall be the responsibility of the householder. The CONTRACTOR has a responsibility for informing the household of the householder's responsibilities for the HOUSEHOLD BIN which will include, but not limited to, where it is to be positioned, maintenance and cleaning, SOLID WASTE to be placed within the HOUSEHOLD BIN.

- (7) The PRIMARY ROUTES are specified in Attachment 2.
- (8) Where COMMUNITY BINS are used, GENERATORS are required to carry their own SOLID WASTE to the COMMUNITY BINS. Where used, COMMUNITY BINS shall be placed along the roadside, in suitable locations to allow access for the collection vehicle, at a maximum spacing of 200 metres apart. The CONTRACTOR has a responsibility for informing the GENERATORS using this facility of the day of collection and the requirement to place SOLID WASTE within the COMMUNITY BIN.
- (9) The CONTRACTOR shall be responsible for regular cleaning and maintenance of all COMMUNITY BINS provided under this CONTRACT. COMMUNITY BINS shall be washed and disinfected twice per month, and serviced to ensure they remain functional and do not become malodorous or unsightly.
- (10) The CONTRACTOR is free to market the sale of special bags for the containment of SOLID WASTE to GENERATORS. In no way shall any GENERATOR be required to buy such items from the CONTRACTOR.
- (11) The CONTRACTOR may decline to collect any category of SOLID WASTE which does not form part of the SERVICE. The CONTRACTOR may also decline to collect any SOLID WASTE which contains sharp objects or liquids. Where the CONTRACTOR has reason to leave SOLID WASTE uncollected, it shall inform the GENERATOR by written notice within 24 hours as to why the SOLID WASTE was not collected, and provide CGM with a copy of the notice.
- (12) The CONTRACTOR shall be responsible for any damage to private or public property caused by negligence by the CONTRACTOR's STAFF during the performance under this CONTRACT. The CONTRACTOR shall replace or restore to its original condition any property damaged by the CONTRACTOR at no cost to CGM. If the CONTRACTOR fails to repair, restore or replace such damaged property within fifteen days of receipt of notice from CGM, CGM shall deduct an amount equal to the cost of replacement, restoration or repair of



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the property from the next payment due to the CONTRACTOR. Such deductions, once made, will not be returned or reimbursed to the CONTRACTOR.

**9. PUBLIC BINS**

- (1) The CONTRACTOR is responsible for the collection and disposal of SOLID WASTE from all PUBLIC BINS in the AREAS OF OPERATION. PUBLIC BINS are defined in Attachment 3. The price of this service is to be included by the CONTRACTOR in the CONTRACT PRICE.
- (2) Following a public event, e.g. a football match, National celebration, etc. where a PUBLIC BIN is located the CONTRACTOR will provide a collection SERVICE to that PUBLIC BIN the day immediately following the event, except when that day falls within 6(2) when the collection SERVICE will be the day following.
- (3) The CONTRACTOR will provide a collection SERVICE from all PUBLIC BINS located at public places in the AREAS OF OPERATION each Monday or Tuesday, except when one of these days falls within 6(2) when the collection SERVICE can take place on the Wednesday.
- (4) The frequency of collection from all PUBLIC BINS shall be at least once a week.

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**11. INDISCRIMINATE DUMP SITES**

- (1) The CONTRACTOR shall be responsible for the Clearance and removal of all indiscriminate dump sites in their AREAS OF OPERATION within 24 hours of the occurrence being brought to the CONTRACTOR's attention.
- (2) The CONTRACTOR shall notify the (CGM) Urban Development Department in writing within 24 hours of the occurrence of an indiscriminate dump site in their AREAS OF OPERATION being brought to the CONTRACTOR's attention and of the date and time of clearance and removal of the indiscriminate dump site.
- (3) The CONTRACTOR shall, having first sought the approval of the AUTHORISED OFFICER, erect anti-litter signs at problematic areas within the AREAS OF OPERATION.

**12. INTRODUCTION OF RECYCLING PROGRAMS**

- (1) During the term of this CONTRACT, specific objectives may require the separate collection of suitable SOLID WASTE for RECYCLING. The CONTRACTOR shall maintain the right to decline participation in such initiatives. Where the CONTRACTOR chooses to participate, it will be entitled to an adjustment of the CONTRACT PRICE to reflect the additional cost which would be incurred for the recycling program.

**13. VEHICLES**

- (1) The CONTRACTOR's vehicles and equipment used for performing SERVICES shall be adequate to perform the SERVICES required by the CONTRACT as may reasonably be determined by CGM from time to time.
- (2) For the collection of non-hazardous SOLID WASTE specialized COLLECTION VEHICLES shall be used. These are advised to have hydraulic multi-lift systems and must fully contain the waste, eliminating potential nuisance such as odours, windblown litter and uncontrolled leachate discharge, and may possess compaction mechanisms for increasing payloads.
- (3) The CONTRACTOR shall paint all vehicles used for the routine collection non-hazardous SOLID WASTE in the same color as the uniforms provided to the workers. The CONTRACTOR's name, telephone number, and vehicle number

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shall be visibly displayed on all collection vehicles in letters and figures not less than fifteen (15) cm high.

- (4) As vehicles and equipment become fully depreciated or reach the end of their useful life, the CONTRACTOR shall immediately purchase, rent, or lease vehicle and equipment to satisfy such requirements or replace such retired vehicle and equipment.
- (5) The CONTRACTOR shall ensure that all vehicles are registered and operate in compliance with all applicable laws and regulations.
- (6) The CONTRACTOR shall keep all vehicles and equipment used for performing SERVICES in good repair, appearance and sanitary condition. All vehicles shall be washed and thoroughly disinfected every day. Wash water must be appropriately disposed of and not discharged into the natural environment.
- (7) Each vehicle shall have at least one broom and shovel at all times to clean up SOLID WASTE that may be spilled or otherwise scattered during the process of collection and transportation.
- (8) All lights, horns, warning devices, mufflers, fuel tanks and emission controls on said vehicle and equipment shall be kept operable at all times, with an average fleet downtime of no more than twenty five percent. A sufficient supply of spare parts shall be kept on hand to ensure the timely and continuous fulfillment of this CONTRACT.
- (9) When vehicles are down for maintenance or repair, it shall be the CONTRACTOR's obligation to provide a replacement vehicle from the spares in its fleet or a comparable replacement through rental or leasing arrangements.
- (10) All vehicles and equipment shall be operated by qualified and licensed operators.
- (11) All vehicles shall be sufficiently secure so as to prevent any spilling or littering of SOLID WASTE. No vehicles shall be willfully overloaded.
- (12) All vehicles shall maintain a log of time and movement, including: departure time from the parking area at the start of work, arrival time at and departure time from the officially designated discharge location, and arrival time at the parking area at the end of work.

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(13) Vehicles which have their loads weighed or measured shall have this data included in their logs. Downtime and the nature of any break down and repair activities shall also be recorded. Data from the vehicle logs shall be collated and presented in a monthly report of service delivery from the CONTRACTOR to CGM. In addition, CGM shall have access to the vehicle logs upon demand.

(14) The waste collection vehicles shall be required to have carrying capacity of 8-10 tones for efficient, effective and timely collection of garbage

(15) The contractor shall be required to Ensure all the waste collection vehicles are NEMA licensed

#### **14. VEHICLES ROUTES AND LOGS**

- (1) The CONTRACTOR shall provide CGM with the planned and scheduled route for each vehicle, so as to facilitate monitoring of performance of all work to be conducted under this CONTRACT.
- (2) All employees of the CONTRACTOR shall perform their duties in accordance with the planned and scheduled routes assigned to them. Whenever routes are changed by the CONTRACTOR, the CONTRACTOR shall provide CGM with the new routes, and a justification for the changes, within one day of the changes. The CONTRACTOR shall make all driver's logs and record available for inspection on a daily basis, and whenever requested by CGM. GENERATORS who will be affected by the change must be notified at least one day prior to such change being effected.

#### **15. WASTE DISPOSAL**

- (1) CGM shall provide and designate a safe and accessible disposal site for the duration of the CONTRACT.
- (2) The CONTRACTOR shall at all times properly discharge SOLID WASTES only to the officially designated disposal site during its official hours of operation. No dumping of SOLID WASTE shall be made to any location whatsoever. The CONTRACTOR shall at all times supervise its workers and inspect their activities to ensure that unauthorized dumping does not occur.
- (3) Unauthorized dumping of SOLID WASTE will be investigated thoroughly by CGM and may result in the termination of the CONTRACT, revocation of the license, and other punitive action prescribed by law.
- (4) No waste shall be imported or exported from the designated dumpsite under this contract without the authority of CGM

#### **16. TIPPING FEES**

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(1) At the commencement of the CONTRACT there will be no TIPPING FEES at the existing dump sites. However, CGM may introduce TIPPING FEES in the duration of the CONTRACT, and CONTRACTORS may be responsible for the payment of all TIPPING FEES levied. The CONTRACT PRICE shall be renegotiated at an appropriate time to reflect this potential additional expense to the CONTRACTOR.

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### **Operation and Maintenance of Dumpsite**

1. The contractor shall Ensure security and control of the Dumpsite to eliminate illegal activities and scavengers are within the dump site area.
2. The gate of dumpsite shall be required to remain closed after daily operation
3. All waste shall be segregated into biodegradable non –degradable matter and any recyclable materials can be set aside to be reused for other purposes
4. Non recyclable waste shall be spread at regular intervals, compacted and covered with soil to ensure control tipping landfill.
5. The contractor shall develop and install proper control system for dumpsite fires and extinguish all fires at site.

**17. SERVICE ADDITIONS AND DELTIONS**

- (1) The SERVICE shall be extended to all new or addition GENERATORS, units and streets in the AREAS OF OPERATION immediately upon request by CGM or by the GENERATOR. The CONTRACTOR shall provide this extension within the CONTRACT PRICE. Any VARIATION to the SERVICES will be taken into account on each anniversary of the COMMENCEMENT DATE (the REVIEW DATE) when the CONTRACT PRICE is reviewed, and such increase or reduction shall take effect in respect of the twelve month period commencing on the relevant REVIEW DATE.

**18. REGULATORY FRAMEWORK**

- (1) CGM shall implement the REGULATORY FRAMEWORK. CGM shall inspect GENERATORS for compliance with regulation regarding use of proper receptacles for SOLID WASTE storage, collection, disposal, littering, unauthorized dumping and management of HAZARDOUS WASTES.

**19. UNIFORMS**

- (1) The CONTRACTOR shall provide readily, brightly coloured, shirts (or vests) and pants of a single design and colour to all its workers, to be worn at all times when performing SERVICES under this CONTRACT, so that they be readily observed and their performance can be readily monitored. Uniforms shall be kept clean and in good condition and replenished as they become work or damaged, and on at least a semi-annual basis.

**20. PROTECTIVE EQUIPMENT**

- (1) The CONTRACTOR shall provide protective shoes and gloves to all workers, for use at all times during performance of SERVICES under this CONTRACT.
- (2) Protective equipment shall be kept clean and in good condition, and replaced by the CONTRACTOR as it becomes worn or damaged, and at least on a semi-annual basis.
- (3) The CONTRACTOR shall be responsible for providing regular medical check-ups for its STAFF, on at least a semi-annual basis, and for providing a

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programme of suitable inoculations, having first obtained medical advice from a medical practitioner.

**SECTION 4**

**THE CONTRACTOR'S TENDER**

**CONTRACTOR'S TENDER**

- (1) CGM will include hereinafter, particular details supplied by the CONTRACTOR either during a tender or in subsequent clarification meetings.



